

NOTICE

A meeting of the City of Evansville Plan Commission will be held on the date and time stated below. Notice is further given that members of the City Council and Historic Preservation Commission may be in attendance. Requests for persons with disabilities who need assistance to participate in this meeting should be made by calling City Hall at (608)-882-2266 with as much notice as possible.

City of Evansville **Plan Commission**
Regular Meeting
City Hall, 31 S Madison St., Evansville, WI 53536
Tuesday, December 5th, 2023, 6:00 pm

REVISED AGENDA

1. Call to Order
2. Roll Call
3. Motion to Approve Agenda
4. Motion to waive the reading of the minutes from the November 7th, 2023 meeting and approve them as printed.
5. Civility Reminder
6. Citizen appearances other than agenda items listed.
7. Action Items
 - A. Review and Action on Site Plan Application 2023-0274 and Conditional Use Permit Application 2023-0275 for a 5 unit mixed use building on parcel 6-27-959.3A (702 through 710 Brown School Road)
 1. Review Staff Report and Applicant Comments
 2. Public Hearing
 3. Plan Commissioner Questions and Comments
 4. Motion with Conditions
 - B. Review and Action on Annexation Application 2023-0344 to attach parcel 6-20-232 to the City of Evansville
 1. Review Staff Report and Applicant Comments
 2. Public Hearing
 3. Plan Commissioner Questions and Comments
 4. Motion with Conditions
 - C. Review and Action on Conditional Use Permit Applications 2023-0351 and 2023-0352 to build one duplex each on parcels 6-27-559.5168 and 6-27-559.5169 (Lot 168 and Lot 169, Westfield Meadows First Addition)
 1. Review Staff Report and Applicant Comments
 2. Public Hearing
 3. Plan Commissioner Questions and Comments
 4. Motion with Conditions
 - D. Review and Action on Land Division Application 2023-0353 to split a lot with a duplex in

-Mayor Dianne Duggan, Plan Commission Chair

two along the shared wall on parcel 6-27-533.505 (648 and 650 Locust Lane)

1. Review Staff Report and Applicant Comments
2. Public Hearing
3. Plan Commissioner Questions and Comments
4. Motion with Conditions

E. Review and Action on Ordinance 2023-15, Amending Chapter 130 (Zoning) of the City of Evansville Municipal Code

1. Review Proposed Changes
2. Public Hearing
3. Plan Commissioner Questions and Comments
4. Motion with Conditions

F. Closed Session: Motion to convene in closed session pursuant to section 19.85(1)(e) of the Wisconsin statutes where discussion in open session would negatively impact the city's competitive or bargaining position and pursuant to Sec. 19.85(1)(e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session. Upon completion, Plan Commission will reconvene in open session.

G. Possible Discussion and Possible Action of a Development Agreement between the City of Evansville and CHS Oilseed Processing LLC

H. Discussion and Possible Motion to Recommend Approval for City purchase of a lot for the Youth Center

8. Discussion Items

9. Community Development Report

A. CHS update (standing item)

10. Upcoming Meeting: Tuesday, January 2nd, 2023 at 6:00pm

11. Motion to Adjourn

-Mayor Dianne Duggan, Plan Commission Chair

These minutes are not official until approved by the City of Evansville Plan Commission.

**City of Evansville Plan Commission
Regular Meeting
Tuesday, November 7, 2023, 6:00 p.m.**

MINUTES

1. Call to Order at 6:00pm.

2. Roll Call:

Members	Present/Absent	Others Present
Mayor Dianne Duggan	P	Colette Spranger (Community Dev. Director)
Aldersperson Gene Lewis	P	Greg Johnson, Ehlers
Aldersperson Abbey Barnes	P	
Susan Becker	P	
John Gishnock	P	
Mike Scarmon	P	
Eric Klar	P	

- 3. Motion to approve the agenda, by Klar, seconded by Becker. Approved unanimously**
- 4. Motion to waive the reading of the minutes from the October 3, 2023 meeting and approve them as printed, by Becker, seconded by Lewis. Approved unanimously.**
- 5. Civility Reminder.** Duggan noted the City's commitment to conducting meetings with civility.
- 6. Citizen appearances other than agenda items listed.** None.
- 7. Action Items**
- A. Public Hearing for proposed creating of Tax Incremental District 10, the proposed boundaries of the District, and the proposed Project Plan for the District.**
- 1. Staff Report and Applicant Comments**
Greg Johnson went through a presentation on TIF, the requirements for the approval process, and an overview of the project plan for TID 10.
- 2. Public Hearing**
Duggan opened the public hearing at 6:30pm. No comments. Public hearing closed at 6:30pm.
- 3. Plan Commissioner Questions and Comments.**
Commissioners had questions regarding the TIF value limit for the city. This project is likely to exceed the 12% value limit.

These minutes are not official until approved by the City of Evansville Plan Commission.

B. Consideration and possible motion to approve Resolution 2023-26 Establishing the Boundaries of and Approving the Project Plan for Tax Incremental District No. 10.

1. Staff Report and Applicant Comments

Spranger summarized the report, noting that the parcel was coming in to access City services and was otherwise surrounded by City property. R-3 district zoning is suggested.

2. Public Hearing

Duggan opened the public hearing at 6:36pm. No comments. Public hearing closed at 6:36pm.

3. Plan Commissioner Questions and Comments

Motion to approve Resolution 2023-26.

Motion by Becker, Second by Barnes. Approved unanimously by roll-call vote.

8. Discussion Items. None

9. Community Development Report

Spranger discussed the CHS development being in the Janesville Gazette and the Wisconsin State Journal. The Business Summit was a Success. The Janesville Gazette is proposed as the new paper of record for the City. Spranger and Sergeant attended the WEDC summit. The building inspector search continues.

10. Next Meeting Date:

A. Tuesday, December 5, 2023 at 6:00 p.m.

11. Motion to Adjourn by Becker, seconded by Scarmon. Approved unanimously.



SITE PLAN AND CONDITIONAL USE PERMIT APPLICATION – STAFF REPORT

Applications: SP-2023-0274, CUP-2023-0275

Applicants: Phillips Construction

Parcel: 6-27-958.3A

Location: 702 to 710 Brown School Road

Presented October 3, 2023

Prepared by: Colette Spranger, Community Development Director

Direct questions and comments to: colette.spranger@ci.evansville.wi.gov or 608-882-2263

Description of request: The applicant is seeking approval of a site plan for a mixed use building with 8 residential units and 1 commercial space on a 16,847 square foot undeveloped lot on 702 to 710 Brown School Road. The first floor would contain a commercial space with 1,257 square feet (plus a utility area) for one user. 8 apartments (4 one-bedroom and 4 two-bedroom) would be on the second and third floor with entrances separate from the commercial use. Mixed use buildings of this nature require a conditional use permit in the B-3 Community Business District.



Rendering of south-facing elevation

Staff Analysis of Request:

The applicants have submitted a site plan that depicts one building with separate entrances for the residences and commercial space. There are two entrances for the apartment on the north elevation of the building.

Previous submittals from this applicant have been for a similar building with minor variations. The latest was back in 2020, which was approved by Plan Commission with 8 residential units and an additional floor. When staff received the initial submittal in September, there was no issue with the building or its appearance, but the number of required parking space did not meet zoning code standards by an amount that would have difficult to make up for with street parking. The applicant resubmitted the plan, lowering the number of residential units to 4.

Sidewalk around the commercial space of the building has been added to the tune of ~250 square feet, by staff estimate. However, the impervious surface area listed on the plan sheet has not changed from prior submittals with otherwise identical building footprint and parking areas. This number will need to be updated, as it affects the landscape plan requirements.

The landscape plan submitted as part of this proposal seems to have adjusted with erroneous data. Landscape points in Evansville are calculated based on total impervious surface on site. In this case, the site has more than 11,350 square feet of impervious surface. Per the code, the landscape requirement is 80 points per 1,000 square feet. This landscape plan instead uses the green space square footage to calculate points, leaving the plan short several hundred points.

The applicant received approval for a landscape plan in 2020 for the same building footprint and sufficient points. Staff is comfortable either approving that landscape plan as part of tonight's approval process or waiting for an updated landscape plan showing more plantings, which can be easily added around the building foundation and between this parcel and its neighbor to the north, creating a buffer between the residential parking spaces and residential lot. (While completely up to the applicant, staff would like to express a slight preference for the types of plants selected on the most recent landscape plan.)

The 2020 approval also included other conditions that staff is no longer recommending or has adjusted.

- **Balconies:** These were added and requested in 2020. However, these would violate building setbacks with respect to neighboring properties. An argument was made in favor of balconies because the site lacked usable green space and multifamily units were not subject to park improvement fees. Since 2020, the City introduced improvement fees for multifamily units. In general, multifamily units of this size and configuration (<2 bedrooms per unit) tend not to generate children and the location is well connected with intersecting sidewalks and walking paths. Eventually, this will be an area where the City will consider adding park space.
- **Apple Tree as a Street Tree:** A former plan commissioner requested that one of the required street trees be an apple tree to honor the location's history as a former apple orchard. City staff was charmed by this request and are asking it to be remain as a condition. The City has a goal of "preserving and protecting the historic resource of the City to promote the [...] general welfare of residents of Evansville and provide for a more interesting, attractive, and vital community." This is a small way of acknowledging and maintaining the City's history. Small touches such as this build over time.

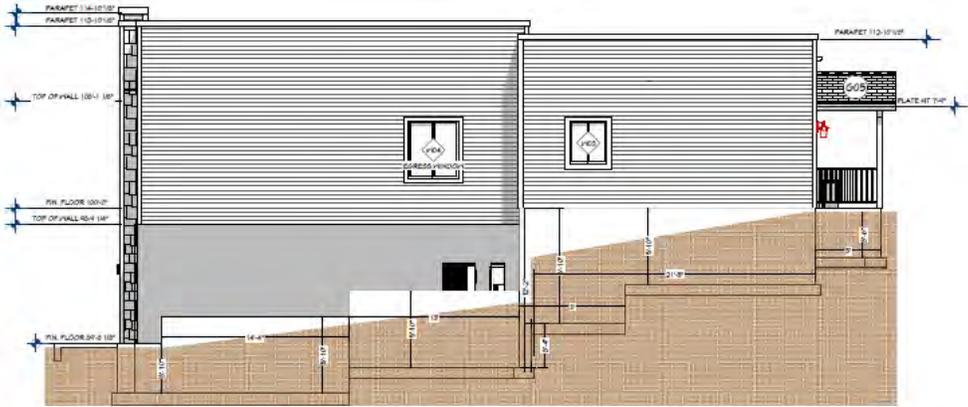
- **Number of street trees:** Prior approvals also requested four street trees. Given the comments and concerns of residents and others of visibility along that particular curve of the Brown School Road, three trees should provide for greater visibility and still meet the requirements in Section 130-265(7) of the landscape ordinance, which calls for street trees every "40 to 60 feet".

Engineering Plans

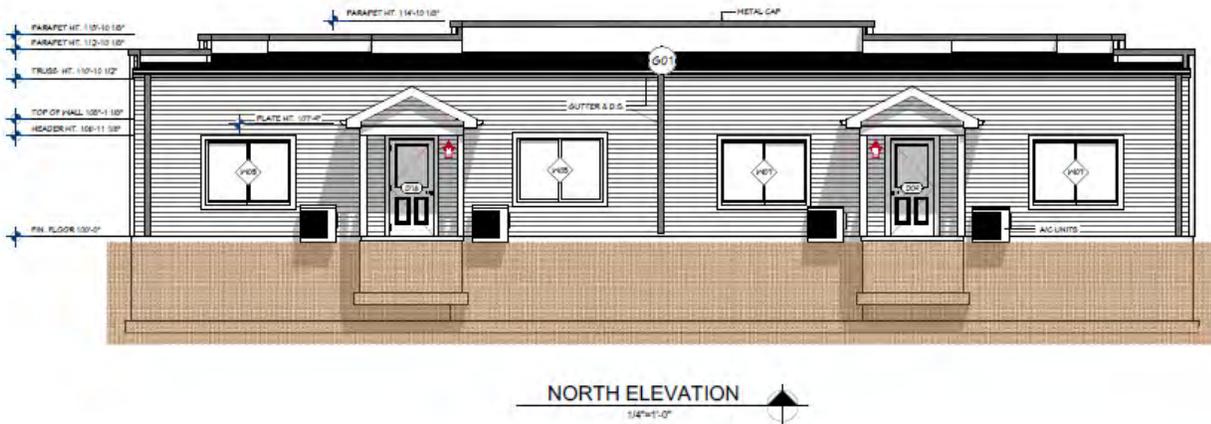
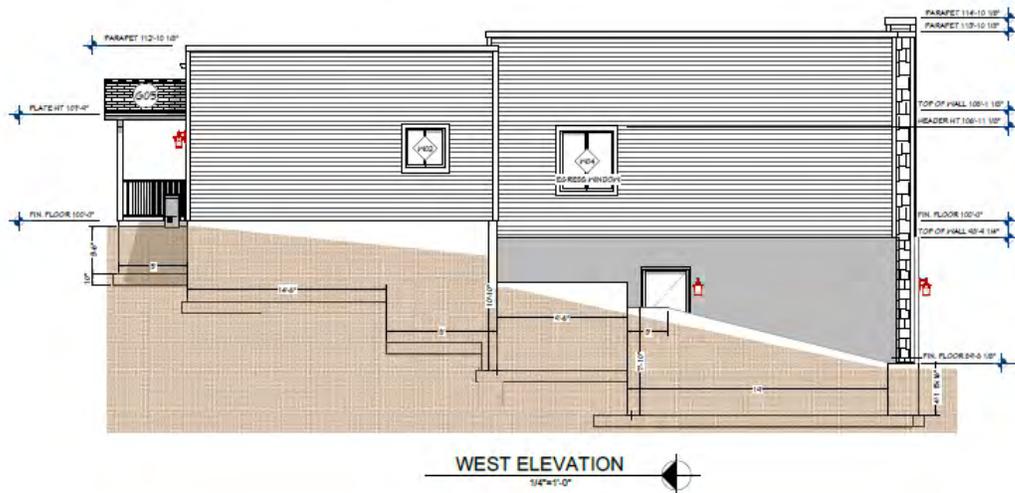
The erosion control and utility/grading/drainage plan have been sent to the City Engineer for review and comment. Building permits will only be issued once any concerns from the engineer have been satisfied.



SOUTH ELEVATION
1/4"=1'-0"



EAST ELEVATION
1/4"=1'-0"



Plan Commission Motion

Plan Commission approves the Site Plan and Conditional Use Permit to allow new construction of a mixed commercial and residential building per section 130-421 on parcel 6-27-959.A3, finding that the benefits of the use outweigh any potential adverse impacts, and that the proposed use is consistent with the required standards and criteria for issuance of a CUP and Site Plan set forth in Section 130-104(3)(a) through (e) of the Zoning Ordinance, subject to the following conditions:

1. *Conditional Use Permit is recorded with Register of Deeds*
2. *Any variation from plans approved by staff or Plan Commission if necessary.*
3. *Erosion control and utility/grading/drainage plan approval by City Engineer prior to building permit issuance.*
4. *3 Street trees are planted per Section 130-265(7), with one being an edible apple tree.*
5. *Physical dumpster enclosure to be built using similar materials as building.*
6. *Staff to review and approve a resubmitted landscape plan with sufficient points or applicant to use approved landscape plan from 2020 submittal.*
7. *Use cannot create a public nuisance as defined by local and state law.*

Chapter 130 Review Criteria and Standards

The following section compares the site plan with the basic provisions of the base zoning district and other considerations of how the site functions, both internally and within its environs.

Site Plan Criteria Evaluation

Section 130-131 of the Municipal Code, includes factors for evaluating site plans.

Criteria	Staff Comment
1. Site Design and Physical Characteristics	<ul style="list-style-type: none"> Materials proposed are OK, provides visual variety Landscape plan: Good mixture of species but need more plants to satisfy required points. This is already a very tight space. City Engineer to comment on utility, grading, and drainage plan
2. Site location relative to public road network	<ul style="list-style-type: none"> Two new access points along Brown School Road No road improvements anticipated
3. Land Use	<ul style="list-style-type: none"> Comprehensive Plan Future Land Use Category: Walkable Business Largely compatible with surrounding uses
4. Traffic Generation	<ul style="list-style-type: none"> Sufficient parking per zoning code standards Majority of complaints from neighboring property owners and residents have been about increased traffic
5. Community Effects	<ul style="list-style-type: none"> The proposed development would add much-needed multifamily dwelling units and sought-after commercial space
6. Other Relevant Factors	<ul style="list-style-type: none"> Staff has been made aware that the American Transmission Company has been requesting expanded easements from 25' to 40' in this location. This does not affect the site plan or conditional use permit process.

Zoning District Requirements (Ch 130, Article VIII, Division 5)			
Sec. 130-827. Requirements for non-residential uses.	B-3 Community Business District	702-710 Brown School Road	OK?
1. Non-Residential Intensity			
a. Max # of Floors	4	2	
b. Min Landscape Surface Ratio	15%	31%	
c. Maximum Building Coverage	60%	21%	
d. Maximum Floor Area Ratio	1.5	0.52	
e. Min lot area	9,000 sq ft	16,847 sq feet	
f. Max building size	20,000 sq ft per floor	OK	
g. Max Parking Lot Street Frontage	50%	OK	

Zoning District Requirements (Ch 130, Article VIII, Division 5)			
Sec. 130-827. Requirements for non-residential uses.	B-3 Community Business District	702-710 Brown School Road	OK?
2. Nonresidential bulk/lot dimensions			
a. Min lot area	9,000 sq ft	OK	
b. Min lot width	70 feet	OK	
c. Min street frontage	50 feet	OK	
3. Minimum setbacks and building separation			
a. Building to Front Lot Line Building to Street Side Lot Line Either of above next to ROW of 100+ feet	10 feet 10 feet 35 feet	OK	
b. Building to resident. side lot line	10 feet	OK	
c. Building to resident. rear lot line	25 feet	n/a	
d. Building to nonres. side lot line	10 feet or zero feet on zero lot line side	OK	
e. Building to nonres. rear lot line	25 feet	n/a	
f. Min paved surface setback- Side/rear	5 feet	OK	
Min paved surface setback -Street	10 feet	n/a	
a. Min building separation	12 feet, or zero feet on zero lot line side	OK	
4. Max Building Height	40 feet	24 feet, 10 inches	

Key:

Green = compliant

Yellow = legal but may require further inspection

Red = non-compliant

“OK” denotes a condition that is currently existing and conforming the zoning district.

Other Relevant Zoning Code Standards

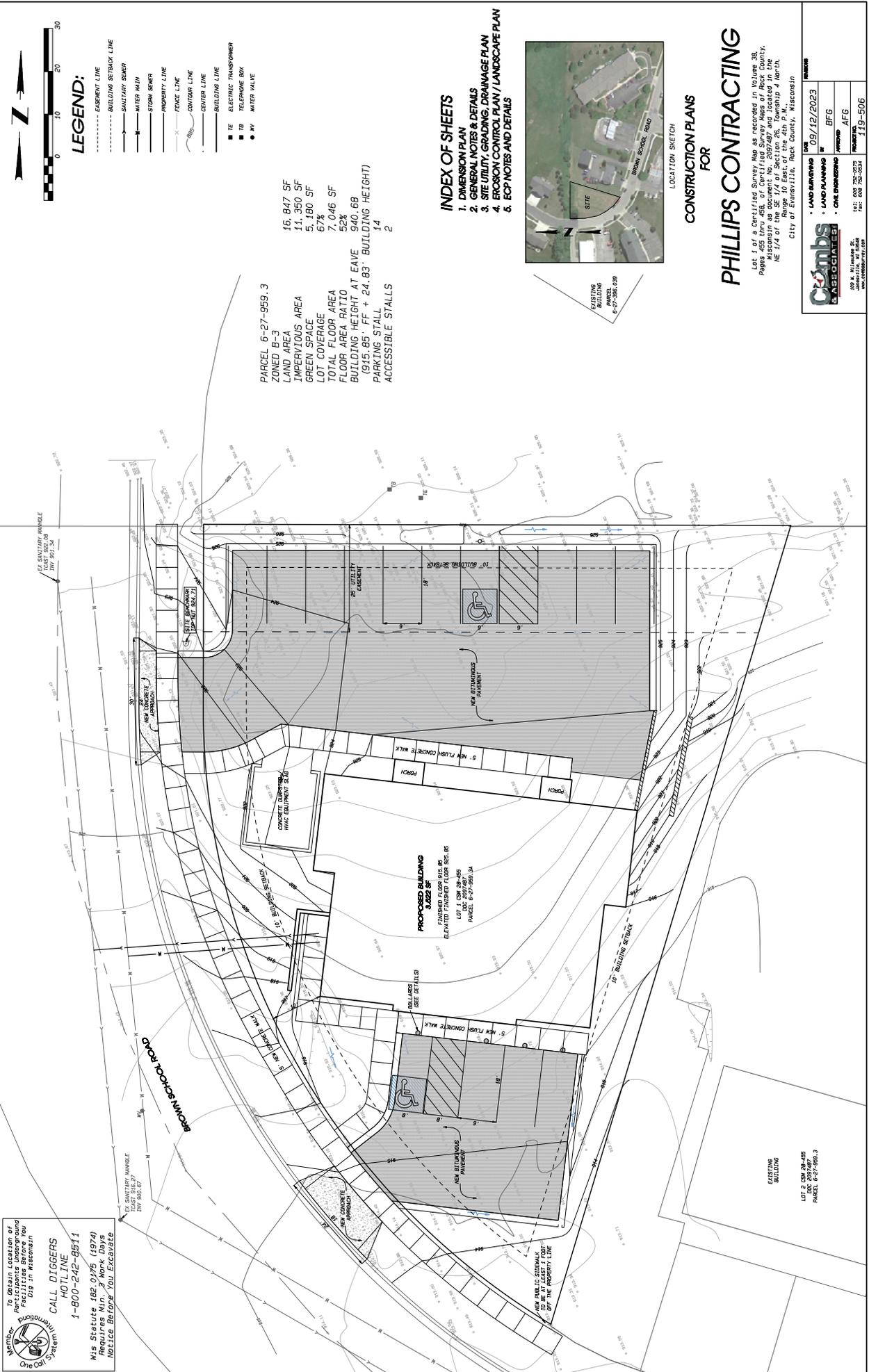
Landscape Regulations (Article IV, Ch. 130)	
80 points per 1,000 sq ft of new impervious surface	908 pts
Total Landscape Points Needed	908 pts
Total Landscape Points Depicted	574 pts

Performance Standards (Article III, Ch. 130)	
No concerns regarding this site plan causing nuisances or adverse impacts related to air pollution, fire/explosive hazards, glare/heat, liquid/solid wastes, noise, odors, radioactivity, electrical disturbances, vibration, or water quality	

Signs (Article X, Ch. 130)	
Any new signs -- wall signs, monument signs, or similar -- will require a separate sign permit.	

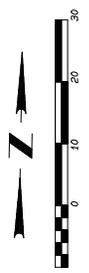
Parking (Article XI, Ch. 130)	
1 parking stalls per 300 sq feet of gross floor area is required for the commercial space. <i>This site: 1,257 square feet of commercial space</i> <i>4 stalls needed; 4 shown</i> 1.5 parking stalls needed for each one bedroom apartment 2 parking stalls needed for each two bedroom apartment <i>2 two-bedroom apartments and 2 one-bedroom apartments:</i> <i>9 stalls needed; 10 stalls shown</i> 1 Accessible parking stall required per 1 to 25 total parking spaces on site. <i>Plan shows 14 total stalls, 2 of which are accessible.</i>	

Member
 To Obtain Location of
 Participants Background
 Information
 Call
DIGGERS
 HOTLINE
 1-800-242-8511
 Miss Statute 197.0175 (1974)
 NOTICE BEFORE YOU EXCAVATE



PARCEL 6-27-959.3
 ZONED B-3
 LAND AREA
 IMPERVIOUS AREA
 GREEN SPACE
 LOT COVERAGE
 TOTAL FLOOR AREA
 FLOOR AREA RATIO
 BUILDING HEIGHT AT EAVE
 (915.85' FF + 24.83' BUILDING HEIGHT)
 PARKING STALLS
 ACCESSIBLE STALLS

- LEGEND:**
- EASEMENT LINE
 - BUILDING SETBACK LINE
 - SANITARY SEWER
 - WATER MAIN
 - STORM SEWER
 - PROPERTY LINE
 - FENCE LINE
 - CENTER LINE
 - BUILDING LINE
 - TE ELECTRIC TRANSFORMER
 - TB TELEPHONE BOX
 - MW WATER VALVE



- INDEX OF SHEETS**
1. DIMENSION PLAN
 2. GENERAL NOTES & DETAILS
 3. SITE UTILITY, GRADING, DRAINAGE PLAN
 4. EROSION CONTROL PLAN / LANDSCAPE PLAN
 5. ECP NOTES AND DETAILS



Lot 1 of a Certified Survey Map as recorded in Volume 38, Pages 455 thru 459, of Certified Survey Maps of Rock County, Wisconsin as document No. 2092467 and located in the NE 1/4 of Section 4, Township 4 North, Range 10 East of the 4th P.M., County 4 North, City of Evansville, Rock County, Wisconsin

DATE	09/12/2023
BY	BFG
FOR	AFG
PROJECT NO.	119-506
PROJECT NAME	PHILLIPS CONTRACTING
PROJECT ADDRESS	109 N. Milwaukee St., Evansville, WI 53120
PROJECT PHONE	608.792.3232
PROJECT FAX	608.792.3234
PROJECT EMAIL	PHILLIPS@PHILLIPS-CONTRACTING.COM

30 VIEWS ARE NOT TO BE SCALE AND MAY NOT BE AVAILABLE FOR THE ARCHITECT'S REPRESENTATIONS OF LOOK LIKE NOT WHAT IT SUPERSEDES 30 VIEWS



1349 West Third Street, Suite 201
 Evansville, IN 47610
 812.426.1111 | info@kamarchitect.com

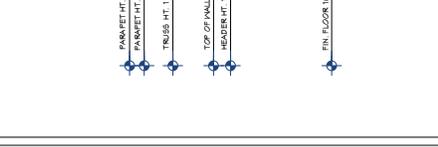
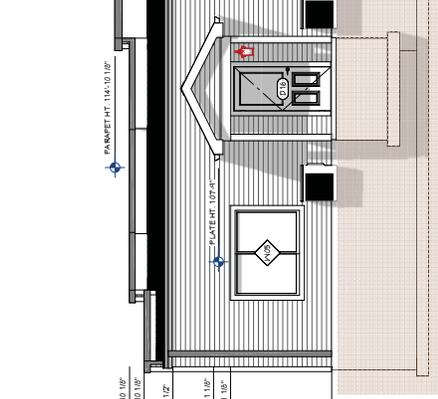
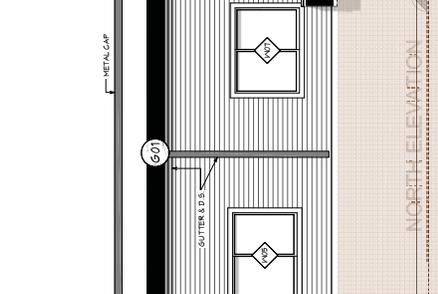
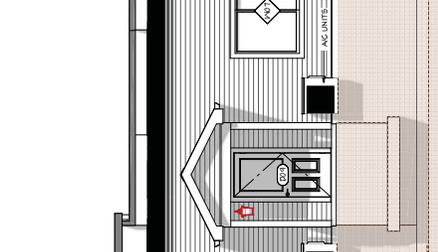
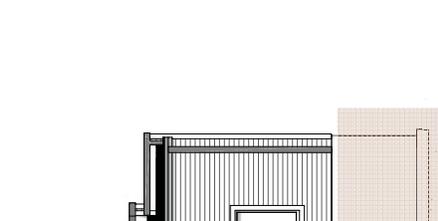
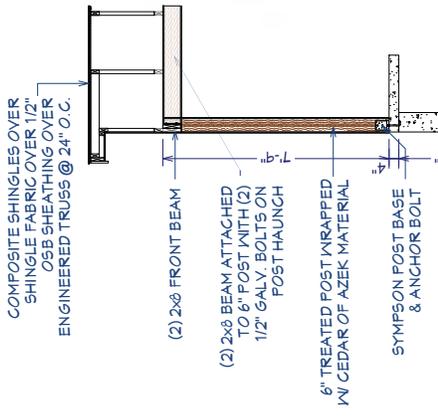
NEW APARTMENT BUILDING FOR:
 4 UNIT APARTMENT &
 1 UNIT COMMERCIAL BUILDING
 BROWN SCHOOL RD,
 EVANSVILLE, WISCONSIN, 53536
 CELL PHONE: 608-290-2833

PAGE TITLE:
EXTERIOR ELEVATIONS

DRAWN BY: JMH
 DATE: 10/23/2023
 SCALE: 1/4"=1'-0"
 SHEET #: 23

David L. Jenkins & Associates, P.C.
 PHILLIPS CONTRACTING
 8 UNIT APARTMENT &
 1 UNIT COMMERCIAL BUILDING
 BROWN SCHOOL RD, EVANSVILLE, IN 47610
 812.426.1111

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COMPOSITE SHINGLES OVER SHINGLE FABRIC OVER 1/2\" OSB SHEATHING OVER ENGINEERED TRUSSES @ 24\" O.C.

(2) 2x8 FRONT BEAM

(2) 2x8 BEAM ATTACHED TO 6\" POST WITH (2) 1/2\" GALV. BOLTS ON 1/2\" POST HAUNCH

6\" TREATED POST WRAPPED W/ CEDAR OF AZEK MATERIAL

SYMPSON POST BASE & ANCHOR BOLT

#4 BAR T&B

2 #4 BARS CONT.

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SYMPSON POST BASE & ANCHOR BOLT

#4 BAR T&B

2 #4 BARS CONT.

2x8 SUB FASCIA & 1x8 FASCIA

VENTED ALUM. SOFFIT

(2) 2x8 FRONT BEAM

4\" REINFORCED CONG. 6x6x10\" W.W.M.

#4 BAR T&B

2 #4 BARS CONT.

PARAMET HT. 114'-01.00\"

PARAMET HT. 113'-01.00\"

TRUSS HT. 100'-01.00\"

TOP OF P.F. WALL 109'-11.00\"

HEADER HT. 108'-11.00\"

FIN. FLOOR 107'-0\"

FIN. FLOOR #1 & #2 107'-0\"

PARAMET HT. 114'-01.00\"

PARAMET HT. 112'-01.00\"

TOP OF P.F. WALL 108'-11.00\"

HEADER HT. 108'-11.00\"

FIN. FLOOR 107'-0\"

TOP OF P.F. WALL #1 & #2 107'-0\"

FIN. FLOOR #1 & #2 107'-0\"

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FIN. FLOOR 107'-0\"

TOP OF P.F. WALL #1 & #2 107'-0\"

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FIN. FLOOR #1 & #2 107'-0\"



APPLICATION FOR PETITION FOR ANNEXATION – STAFF REPORT

Application No.: A-2023-0344 Applicant: Premier Evansville LLC

Parcel 6-20-232 (Tax ID 040 043004)

Presented December 5th, 2023

Prepared by: Colette Spranger, Community Development Director
Direct questions and comments to: colette.spranger@ci.evansville.wi.gov or 608-882-2263



Figure 1: Location Map

Description of request: The applicant has submitted a petition to annex approximately 47.19 acres from the Town of Union into the City of Evansville. The subject property is located on County Road C as generally depicted in the map above. The parcel is proposed to temporarily be in the City's A Agriculture zoning district. Formal rezoning is expected to occur when a land division application is submitted.

Staff Analysis of Request: The applicant is looking to annex the subject parcel to build a multifamily apartment development within City limits on part, not all, of the 47 acres. Part of City approval will be executing an annexation agreement with the landowner and/or agent. The proposed annexation agreement includes the amount of taxes owed to the Town of Union, to be covered by the applicant, and acknowledges timing of connections to City utilities will be negotiated and decided later via a developer's agreement.

While the City has not received a formal application for any kind of development, the following list represents comments made by residents and staff regarding infrastructure needs and traffic patterns. While not directly related to the annexation, these and other issues ought to be explored in advance of further development occurring.

- **Water.** It has long been understood that a booster station is needed to provide water to this area. A booster station would have the benefit of improving water pressure to existing development adjacent to this land.
- **Street Extensions:** Existing streets, such as North Sixth, Campion Drive, and Windmill Ridge Road, will all eventually be extended to County Highway C. It has long been a policy of the City to encourage road extensions to improve connectivity. (e.g. not approving new cul-de-sacs, connecting dead end roads, etc.) and such extensions have been depicted on the Transportation Plan map of the Comprehensive Plan.
- **Traffic Along County C.** Commuting patterns and population growth suggest that this road has seen increased traffic in recent years. The City intends to work with Rock County and the police department to address road conditions, traffic speed, and limiting conflicts for the wide range of uses experienced in this corridor.
- **Future uses.** The Future Land Use Map designates "Mixed Use" for these lands. Mixed use is defined as highly walkable development with a mix of neighborhood commercial and housing. While the applicant demonstrates intention to build multifamily housing, what is planned on the rest of the property is yet to be determined.

Specific to annexation, City decision makers should consider the following items:

1. **Consistency with Comprehensive Plan:** The proposed annexation is consistent with the City's future land use map, which depicts the property within the City's 2035 expected land use boundary.
2. **Environmental constraints:** The land has some slope to it. There appear to be drainage ways and environmentally significant areas present, especially in the western part of the parcel. Some reports from neighboring properties, especially at the City/Town boundary, report stormwater issues.
3. **Man-made constraints:** To the best of staff's knowledge, the subject properties do not contain underground storage tanks or contaminated soils, buried waste, or other man-made constraints to development. Future development requiring utilities will be properly supplied to the parcel per approval and coordination with the City Engineer.
4. **Septic systems and wells:** Per the application and consistent with records kept by the DNR, there are no septic systems or wells on site.
5. **Payment to Town of Union:** The subject property is currently located in the Town of Union. Pursuant to State law, the City must pay the Town the property taxes that would have been paid over the next five years. The applicant will pay this amount to the City to cover this expense as a condition of annexation.
6. **Proposed zoning:** The land is currently zoned for agriculture within the Town of Union. Staff suggests the parcel remain zoned for Agriculture until formal plans for development or land division are submitted.
7. **Wisconsin Department of Administration:** Consistent with State law, the petition must be forwarded to the Department of Administration (DOA) for its review. The annexation is currently in review with the DOA.

Site Plan Summary: Planning staff finds the proposed annexation largely complies with state law, city ordinances and Comprehensive Plan. The City is also waiting on the DOA for its determination. Staff recommends approval of the annexation and annexation agreement with conditions.

Staff recommended motion: *Finding the annexation is consistent with the Comprehensive Plan, the Plan Commission recommends Common Council approval of Ordinance 2023-14 and the annexation agreement with the following conditions:*

- 1. DOA deems annexation to be in the public interest.*
- 2. The applicant signs and accepts the Annexation agreement.*

PETITION FOR DIRECT ANNEXATION
BY UNANIMOUS CONSENT
PURSUANT TO SECTION 66.0217(2) OF THE WISCONSIN STATUTES

TO: City of Evansville
Attn: Leah Hurlley, City Clerk
31 S. Madison Street
P.O. Box 529
Evansville, WI 53536

Town of Union
Attn: Regina Riedel, Clerk
15331 W. Green Bay Rd
Evansville, WI 53536

State of Wisconsin
Department of Administration
101 E. Wilson St FL 9
P.O. Box 1645
Madison, Wisconsin 53701

The undersigned, constituting all of the owners of, and electors residing within, the real property described on Exhibit A and depicted on the scale map attached as Exhibit B (the "Annexation Property") hereby petition (the "Petition") the Common Council of the City of Evansville to annex the said Annexation Property to the City of Evansville (the "Annexation"). The Annexation Property is currently located in the Town of Union and is contiguous to the City of Evansville.

The Annexation Property consists of Tax Parcel Number 040 043004/6-20-232. There are no electors residing within the Annexation Property and the population of the Annexation Property is zero.

The undersigned requests that this Annexation be approved and take effect in the manner provided for by law.

This Petition has been executed by all of the owners and electors of the Annexation Property and is filed pursuant to Wis. Stats. Section 66.0217(2).

[Signature Page Follows]

NOTE: A copy of this Petition, together with the legal description of the Annexation Property and scale map described herein will be filed with the Clerk of the City of Evansville and with the Clerk of the Town of Union. A copy of this Petition will also be delivered to the State of Wisconsin Department of Administration.

EXHIBIT A

LEGAL DESCRIPTION

PART OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 AND PART OF THE N 3/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 28, TOWNSHIP 4 NORTH, RANGE 10 EAST, OF THE 4TH P.M., TOWN OF UNION, COUNTY OF ROCK, STATE OF WISCONSIN, DESCRIBED AS FOLLOWS:

COMMENCING AT A RAILROAD SPIKE AT THE NORTHWEST CORNER OF SAID SECTION; THENCE S 89° 50' 10" E., ALONG THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION, 1321.55 FEET TO THE WEST LINE OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION, ALSO BEING AT THE PLACE OF BEGINNING FOR THE LAND TO BE HEREIN DESCRIBED; THENCE S. 89° 50' 10" E., CONTINUING ALONG SAID NORTH LINE, 700.18 FEET TO THE NORTHWEST CORNER OF A CERTIFIED SURVEY MAP RECORDED IN VOLUME 2, ON PAGES 17 AND 18, AS DOCUMENT NO. 764217; THENCE S. 0° 08' 27" W. 510.91 FEET TO AN IRON PIPE AT THE SOUTHWEST CORNER OF SAID CERTIFIED SURVEY MAP; THENCE S. 89° 50' 10" E. 341.0 FEET TO AN IRON PIPE AT THE SOUTHEAST CORNER OF SAID CERTIFIED SURVEY MAP; THENCE N. 0°09' 43" E. 510.91 FEET TO THE NORTHEAST CORNER OF SAID CERTIFIED SURVEY MAP; THENCE S. 89° 50' 10" E , ALONG SAID NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION, 99.44 FEET TO THE CENTERLINE OF C.T.H. "C"; THENCE SOUTHEASTERLY, ALONG SAID CENTERLINE, ALONG

A CURVE TO THE RIGHT, 175.08 FEET, HAVING A RADIUS OF 537.0 FEET AND A CHORD BEARING S. 68° 38' 03" E, 174.30 FEET; THENCE S. 59°17' 39" E., CONTINUING ALONG SAID CENTERLINE, 754.27 FEET TO THE NORTHWEST CORNER OF A CERTIFIED SURVEY MAP RECORDED IN VOLUME 2, ON PAGES 206 AND 207 AS DOCUMENT NO 780270; THENCE S. 0° 55' 10" E. 556.14FEET TO AN IRON PIN AT THE SOUTHWEST CORNER OF SAID CERTIFIED SURVEY MAP; THENCE N. 89° 46' 27" W., ALONG THE NORTH LINE OF "WEST KNOLL" AND "WEST KNOLL FIRST ADDITION", 633 42 FEET TO AN IRON PIN AT THE NORTHWEST CORNER OF SAID "WEST KNOLL FIRST ADDITION"; THENCE S. 0° 15' 12" E. 333.98 FEET TO AN IRON PIPE AT THE SOUTHWEST CORNER OF SAID "WEST KNOLL FIRST ADDITION"; THENCE N. 89° 52' 43" W., ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION, 1325.23 FEET TO AN IRON PIN ON SAID WEST LINE OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION; THENCE N. 0° 08' 43" W., ALONG SAID WEST LINE, 1336.67 FEET TO THE PLACE OF BEGINNING, EXCEPTING THAT PART CONVEYED FOR ROADWAY PURPOSES.

For informational purposes only:

Property Address: Vacant land-County Rd C, Evansville, WI 53536

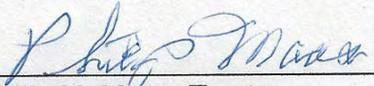
Tax Key Number: 040 043004 / 6-20-232

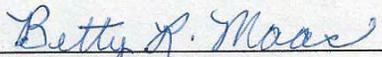
[Signature Page to Petition]

Dated this 11th day of October, 2023.

Owner:

Maas Family Revocable Living Trust dated October 6, 2017

By: 
Philip M. Maas, Trustee

By: 
Betty R. Maas, Trustee

**Annexation Agreement with Premier Evansville WI, LLC and the
City of Evansville, Rock County, Wisconsin**

THIS AGREEMENT is entered into between the City of Evansville (City), a Wisconsin municipal corporation, and Premier Evansville WI, LLC (Developer), regarding annexation of the following described lands (subject property):

PART OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 AND PART OF THE N 3/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 28, TOWNSHIP 4 NORTH, RANGE 10 EAST, OF THE 4TH P.M., TOWN OF UNION, COUNTY OF ROCK, STATE OF WISCONSIN, DESCRIBED AS FOLLOWS:

COMMENCING AT A RAILROAD SPIKE AT THE NORTHWEST CORNER OF SAID SECTION; THENCE S 89° 50' 10" E., ALONG THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION, 1321.55 FEET TO THE WEST LINE OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION, ALSO BEING AT THE PLACE OF BEGINNING FOR THE LAND TO BE HEREIN DESCRIBED; THENCE S. 89° 50' 10" E., CONTINUING ALONG SAID NORTH LINE, 700.18 FEET TO THE NORTHWEST CORNER OF A CERTIFIED SURVEY MAP RECORDED IN VOLUME 2, ON PAGES 17 AND 18, AS DOCUMENT NO. 764217; THENCE S. 0° 08' 27" W. 510.91 FEET TO AN IRON PIPE AT THE SOUTHWEST CORNER OF SAID CERTIFIED SURVEY MAP; THENCE S. 89° 50' 10" E. 341.0 FEET TO AN IRON PIPE AT THE SOUTHEAST CORNER OF SAID CERTIFIED SURVEY MAP; THENCE N. 0°09' 43" E. 510.91 FEET TO THE NORTHEAST CORNER OF SAID CERTIFIED SURVEY MAP; THENCE S. 89° 50' 10" E , ALONG SAID NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION, 99.44 FEET TO THE CENTERLINE OF C.T.H. "C"; THENCE SOUTHEASTERLY, ALONG SAID CENTERLINE, ALONG A CURVE TO THE RIGHT, 175.08 FEET, HAVING A RADIUS OF 537.0 FEET AND A CHORD BEARING S. 68° 38' 03" E, 174.30 FEET; THENCE S. 59°17' 39" E., CONTINUING ALONG SAID CENTERLINE, 754.27 FEET TO THE NORTHWEST CORNER OF A CERTIFIED SURVEY MAP RECORDED IN VOLUME 2, ON PAGES 206 AND 207 AS DOCUMENT NO 780270; THENCE S. 0° 55' 10" E. 556.14FEET TO AN IRON PIN AT THE SOUTHWEST CORNER OF SAID CERTIFIED SURVEY MAP; THENCE N. 89° 46' 27" W., ALONG THE NORTH LINE OF "WEST KNOLL" AND "WEST KNOLL FIRST ADDITION", 633 42 FEET TO AN IRON PIN AT THE NORTHWEST CORNER OF SAID "WEST KNOLL FIRST ADDITION"; THENCE S. 0° 15' 12" E. 333.98 FEET TO AN IRON PIPE AT THE SOUTHWEST CORNER OF SAID "WEST KNOLL FIRST ADDITION"; THENCE N. 89° 52' 43" W., ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION, 1325.23 FEET TO AN IRON PIN ON SAID WEST LINE OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION; THENCE N. 0° 08' 43" W., ALONG

SAID WEST LINE, 1336.67 FEET TO THE PLACE OF BEGINNING, EXCEPTING THAT PART CONVEYED FOR ROADWAY PURPOSES.

WHEREAS, the Developer wishes to annex the subject property into the City;

NOW, THEREFORE, the parties agree that this agreement is binding on the Developer and all successors in interest as follows:

1. The Developer agrees to pay for the actual amount of \$143.20 in taxes that are to be paid to the Town of Union over the next five year period as provided for in 66.0217(14)(a) of the Wisconsin Statutes. The Developer shall pay the \$143.20 in a lump sum upon annexation into the City.
2. A timeline and plan for upgrades, costs, and connections to City sanitary, water, and other utilities to be detailed and agreed upon by separate agreement between the City and Developer in conjunction with application approvals for future development.
3. Within two months of connecting to the City's sanitary sewer system, unless otherwise identified in development agreement, the Developer agrees to abandon any existing septic systems consistent with the requirements of SPS 383.33 of Wisconsin Administrative Code, and other state and federal laws that may apply.
4. Within two months of connecting to the City's water system, the Developer agrees to remove from service and seal any existing wells, as per NR 812.26 of Wisconsin Administrative Code, unless otherwise identified in development agreement.
5. The Developer agrees to reimburse the City for any costs incurred by the City for engineering, inspection, planning, legal, and administrative expenses in connection with this annexation and development.

IN WITNESS THEREOF, the parties have executed this Agreement on the ___ day of ___, 2023

City of Evansville

Developer

Dianne Duggan, Mayor

Robert Murray, Premier Evansville WI, LLC

ATTEST: _____

Leah Hurtley, City Clerk

CITY OF EVANSVILLE
ORDINANCE # 2023-14

AN ORDINANCE ANNEXING AND REZONING TERRITORY FROM THE TOWN OF
UNION TO THE
CITY OF EVANSVILLE, WISCONSIN
(Parcel 6-20-232 or 040 043004)

The Common Council of the City of Evansville, Rock County, Wisconsin, do ordain as follows:

SECTION 1. Territory Annexed. In accordance with Sec. 66.0217(2) of the Wisconsin Statutes and the Petition of Property Owners for Direct Annexation filed with the City Clerk on October 12, 2023, and the findings of the Common Council that such annexation is in the best interest of the City and all necessary notices having been given and the Department of Administration not stating the proposed annexation to be against public interest, and the plan commission having reviewed and recommended for approval the temporary zoning district classifications, the following described territory located in the Town of Union, Rock County, Wisconsin, with boundaries contiguous to the City as shown on the attached scale map, is hereby annexed to the City of Evansville, Rock County, Wisconsin, to wit:

PART OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 AND PART OF THE N 3/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 28, TOWNSHIP 4 NORTH, RANGE 10 EAST, OF THE 4TH P.M., TOWN OF UNION, COUNTY OF ROCK, STATE OF WISCONSIN, DESCRIBED AS FOLLOWS: COMMENCING AT A RAILROAD SPIKE AT THE NORTHWEST CORNER OF SAID SECTION; THENCE S 89° 50' 10" E., ALONG THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION, 1321.55 FEET TO THE WEST LINE OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION, ALSO BEING AT THE PLACE OF BEGINNING FOR THE LAND TO BE HEREIN DESCRIBED; THENCE S. 89° 50' 10" E., CONTINUING ALONG SAID NORTH LINE, 700.18 FEET TO THE NORTHWEST CORNER OF A CERTIFIED SURVEY MAP RECORDED IN VOLUME 2, ON PAGES 17 AND 18, AS DOCUMENT NO. 764217; THENCE S. 0° 08' 27" W. 510.91 FEET TO AN IRON PIPE AT THE SOUTHWEST CORNER OF SAID CERTIFIED SURVEY MAP; THENCE S. 89° 50' 10" E. 341.0 FEET TO AN IRON PIPE AT THE SOUTHEAST CORNER OF SAID CERTIFIED SURVEY MAP; THENCE N. 0°09' 43" E. 510.91 FEET TO THE NORTHEAST CORNER OF SAID CERTIFIED SURVEY MAP; THENCE S. 89° 50' 10" E , ALONG SAID NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION, 99.44 FEET TO THE CENTERLINE OF C.T.H. "C"; THENCE SOUTHEASTERLY, ALONG SAID CENTERLINE, ALONG A CURVE TO THE RIGHT, 175.08 FEET, HAVING A RADIUS OF 537.0 FEET AND A CHORD BEARING S. 68° 38' 03" E, 174.30 FEET; THENCE S. 59°17' 39" E., CONTINUING ALONG SAID CENTERLINE, 754.27 FEET TO THE NORTHWEST CORNER OF A CERTIFIED SURVEY MAP RECORDED IN VOLUME 2, ON PAGES 206 AND 207 AS DOCUMENT NO 780270; THENCE S. 0° 55' 10" E. 556.14FEET TO AN IRON PIN AT THE SOUTHWEST CORNER OF SAID CERTIFIED SURVEY MAP; THENCE N. 89° 46' 27" W., ALONG THE NORTH LINE OF "WEST KNOLL" AND "WEST KNOLL FIRST ADDITION", 633 42 FEET TO AN IRON PIN AT THE NORTHWEST CORNER OF SAID "WEST KNOLL FIRST ADDITION"; THENCE S. 0° 15' 12" E. 333.98 FEET TO AN IRON PIPE AT THE SOUTHWEST CORNER OF SAID "WEST KNOLL FIRST ADDITION"; THENCE N. 89° 52' 43" W., ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION, 1325.23 FEET TO AN IRON PIN ON SAID WEST LINE OF THE NORTHEAST 1/4 OF THE

NORTHWEST 1/4 OF SAID SECTION; THENCE N. 0° 08' 43" W., ALONG SAID WEST LINE, 1336.67 FEET TO THE PLACE OF BEGINNING, EXCEPTING THAT PART CONVEYED FOR ROADWAY PURPOSES.

Said land contains 47.19 acres more or less.

SECTION 2. Population of Territory. At the time the annexation petition was submitted to the city, the population of the territory was 0.

SECTION 3. Payments to Town of Union. Pursuant to Sec. 66.0217(14)(a) of the Wisconsin Statutes, the City of Evansville agrees to pay annually to the Town of Union, for five (5) years, an amount equal to the amount of property taxes levied by the Town of Union on the annexed territory, as shown by the tax roll, in the year in which the annexation is final. The City of Evansville intends to recover such payments from the property owner consistent with the annexation agreement with the City.

SECTION 4. Effect of Annexation. From and after the date of this ordinance, the territory described in Section 1 shall be part of the City of Evansville for any and all purposes provided by law and all persons coming or residing within such territory shall be subject to all ordinances, rules and regulations governing the City of Evansville and shall be exempt from further taxation and assessment by the Town of Union.

SECTION 5. Temporary Zoning Classification. Upon recommendation of the plan commission, the territory annexed to the City is temporarily designated as A Agriculture, which is consistent with the City's comprehensive plan.

SECTION 6. Election District Designation. The territory annexed by this ordinance is hereby made part of Ward 11, Aldermanic District 1 subject to the ordinances and rules and regulations regarding such wards and districts.

SECTION 7. Severability. If any provision of this ordinance is invalid or unconstitutional, or if the application of the ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

SECTION 8. Effective Date. This ordinance shall take effect upon its passage and publication as provided by law.

Passed and adopted this 12th day of December, 2023

Dianne Duggan, Mayor

ATTEST:

Leah Hurtley, City Clerk

Introduced: 11/14/2023
Notices published: 11/20/2023 and 11/27/2023
Public hearing held: 12/5/2023
Adopted: 12/12/2023
Published: 12/20/2023

Sponsors: This is a citizen-initiated ordinance.

Drafted on November 9th, 2023 by Colette Spranger, Community Development Director



CONDITIONAL USE PERMIT APPLICATION – STAFF REPORT

Applicant: Sue White (Just 1 More Investments)

Parcels: 6-27-559.5168 and 6-27-559.5169

Location: Lots 168 and Lots 169, Westfield Meadows First Addition

Presented December 5, 2023

Prepared by: Colette Spranger, Community Development Director

Prepared for: City of Evansville Plan Commission



Description of request: The applicant has submitted two applications for a conditional use permit for both Lots 168 and 169 of Westfield Meadows, First Addition. The request is to allow a two-unit duplex in the B-1 zoning district per section 130-324 of the Evansville Zoning Ordinance.

Staff Analysis of Request:

Within the B-1 zoning district, the R-2 density and intensity standards apply to residential uses. The proposed site plans and elevations meet the zoning code requirements.

The following additional standards apply to residential uses within the B-1 District and have been met by the proposed plan.

- foundation planting (*not shown – 40 landscape points per unit are being required as a condition of approval*)
- pitched roof
- 15 percent window covering

- natural materials (brick, wood, or stone)

Required Plan Commission findings for Conditional Use Permit request: Section 130-104 (3) of the Municipal Code, includes criteria that should be considered in making this decision:

1. **Consistency of the use with the comprehensive plan.** The proposed use in general and in this specific location is consistent with the city's comprehensive plan of September 2022.
Staff Comment: The Comprehensive plan indicates a desire to promote infill development where City services are available and to provide a variety of housing types.
2. **Consistency with the City's zoning code, or any other plan, program, or ordinance.** The proposed use in general and in this specific location is consistent with City's zoning code, or any other plan, program, or ordinance, whether adopted or under consideration pursuant to official notice of the city.
Staff comment: The proposed construction is consistent with the City's zoning code and other plans, programs, and ordinances.
3. **Effect on nearby property.** The use will not result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the City's zoning code, the comprehensive plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the city.
Staff Comment: No adverse effect is anticipated on nearby property.
4. **Appropriateness of use.** The use maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
Staff Comment: Two family twin dwellings are an appropriate use in the R-2 district.
5. **Utilities and public services.** The use will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities, or services provided by the City or any other public agency serving the subject property.
Staff Comment: Utilities are available are this location.

Required Plan Commission conclusion: Section 130-104(3)(f) of the Municipal Code requires the Plan Commission to determine whether the potential public benefits of the conditional use do or do not outweigh any and all potential adverse impacts.

Staff recommended motion: *The Plan Commission approves a Conditional Use Permit for a Two Family Dwelling per section 130-324 on parcel 6-27-559.5169 (Tax ID 222 05405169), finding that the benefits of the use outweigh any potential adverse impacts, and that the proposed use is consistent with the required standards and criteria for issuance of a CUP set forth in Section 130-104(3)(a) through (e) of the Zoning Ordinance, subject to the following conditions:*

1. *Conditional Use Permit is recorded with the Rock County Register of Deeds.*
2. *Sidewalk shall be built to city standards the entire length of the lot.*
3. *40 landscape points required per unit along the building foundation.*
4. *Upon completion of construction of the dwelling, two street trees shall be added.*
5. *Use cannot create a public nuisance as defined by local and state law.*

The Plan Commission approves a Conditional Use Permit for a Two Family Dwelling per section 130-324 on parcel 6-27-559.5168 (Tax ID 222 05405168), finding that the benefits of the use outweigh any potential adverse impacts, and that the proposed use is consistent with the required standards and criteria for issuance of a CUP set forth in Section 130-104(3)(a) through (e) of the Zoning Ordinance, subject to the following conditions:

- 1. Conditional Use Permit is recorded with the Rock County Register of Deeds.*
- 2. Sidewalk shall be built to city standards on both street sides of the lot.*
- 3. 40 landscape points required per unit along the building foundation.*
- 4. Upon completion of construction of the dwelling, four street trees shall be added within the terraces.*
- 5. Use cannot create a public nuisance as defined by local and state law.*

SITE PLAN

LOT 168 OF WESTFIELD MEADOWS FIRST ADDITION,
SECTION 28, T.4N., R. 10E. OF THE 4TH P.M.,
CITY OF EVANSVILLE, ROCK COUNTY, WISCONSIN.

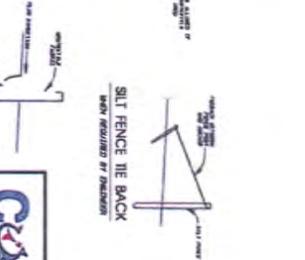
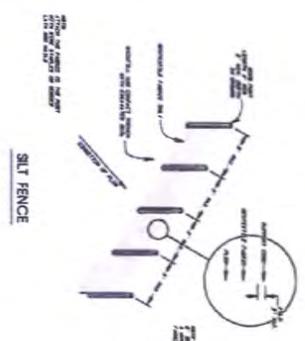
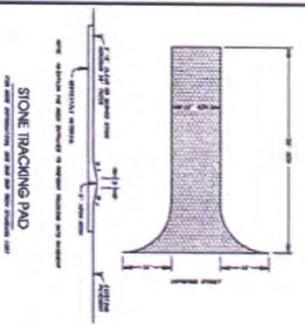
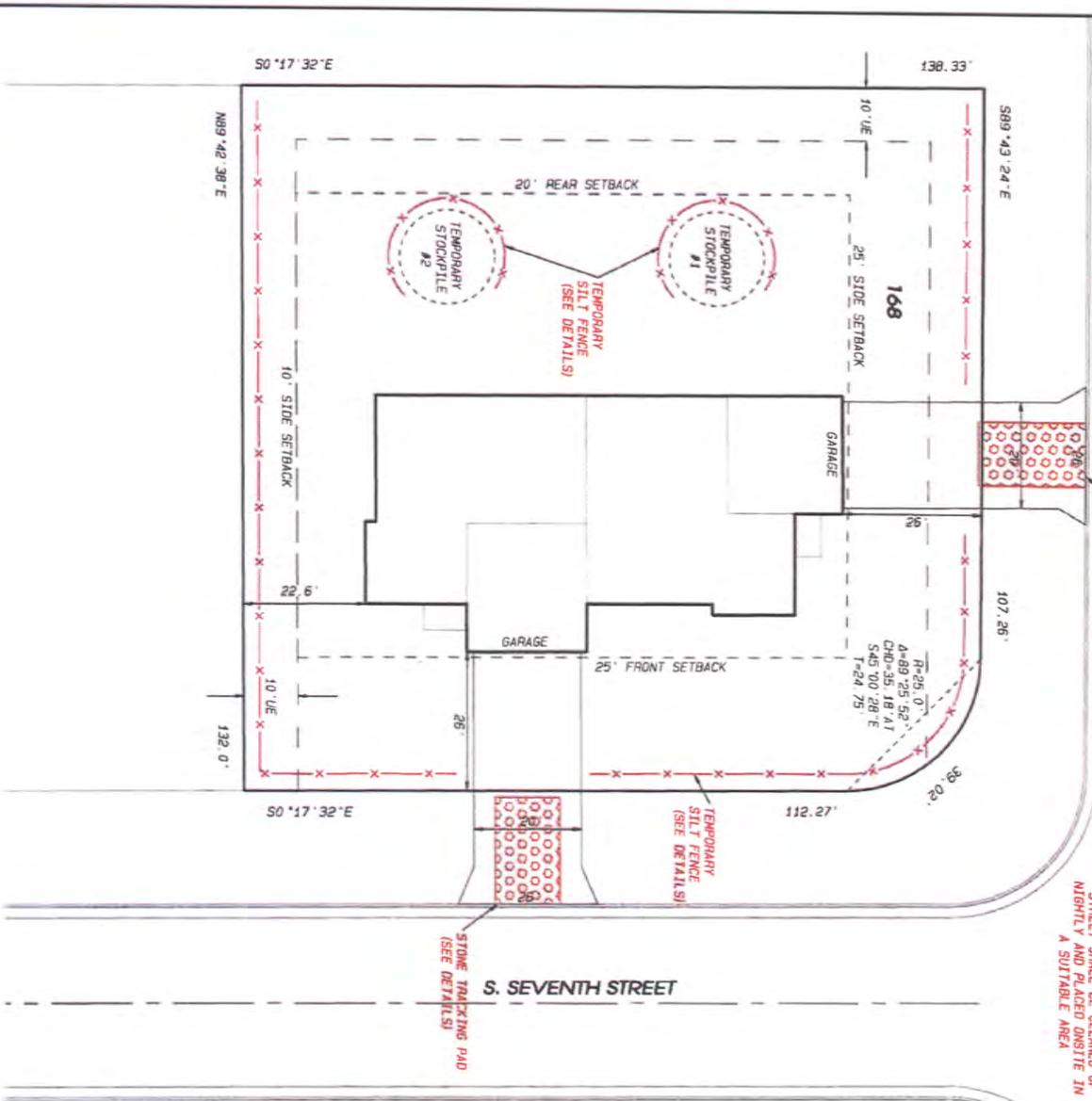


PORTER ROAD

STONE TRACKING PAD
(SEE DETAILS)

ANY DEBRIS TRACKED ONTO
PORTER ROAD AND S. SEVENTH
STREET SHALL BE CLEANED UP
IMMEDIATELY AND PLACED ON-SITE IN
A SUITABLE AREA

For a gratis location of
 Participating Member For
 Dig in Wisconsin
CALL DIGGERS
 HOTLINE
 1-800-242-8511
 108 N. Milwaukee St.
 Milwaukee, WI 53248
 414.224.8511
 414.224.8512
 414.224.8513



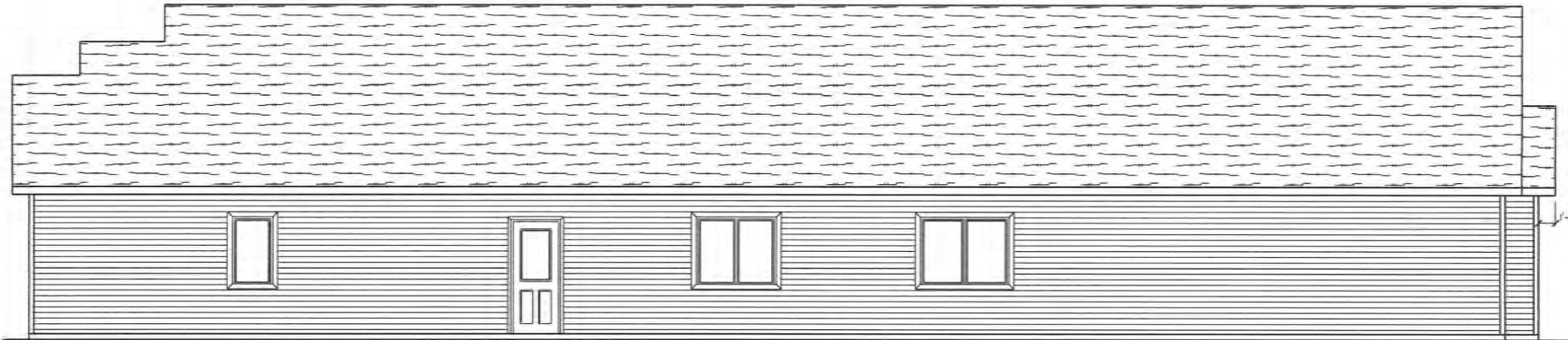
Project No. 123 - TBD For Just 1 More Investments September 29, 2023

Combs & Associates
 108 N. Milwaukee St.
 Evansville, WI 53248
 414.224.8511
 414.224.8512
 414.224.8513



FRONT ELEVATION

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



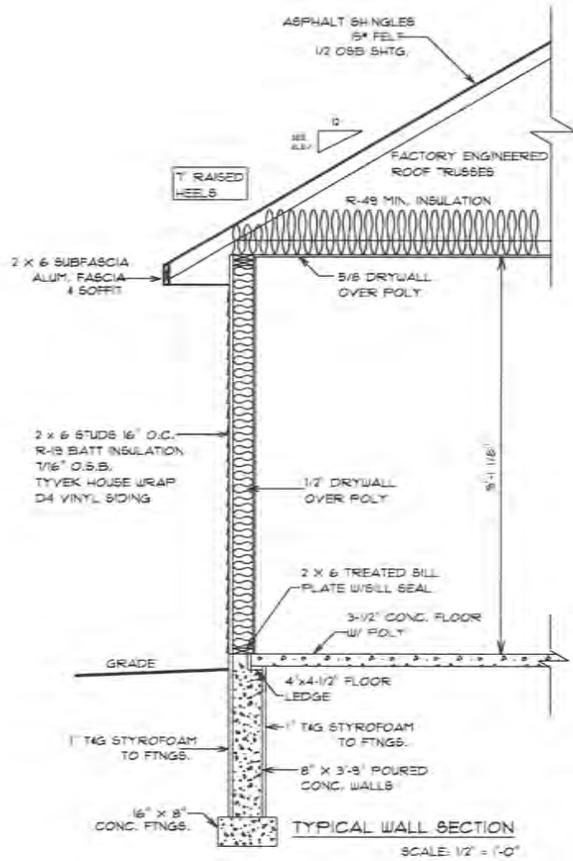
REAR ELEVATION

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

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ALTHOUGH EVERY EFFORT HAS BEEN
 MADE IN PREPARING THESE PLANS
 AND CHECKING THEM FOR ACCURACY
 OWNER/CONTRACTOR MUST CHECK
 ALL DETAILS AND DIMENSIONS
 AND BE RESPONSIBLE FOR SAME

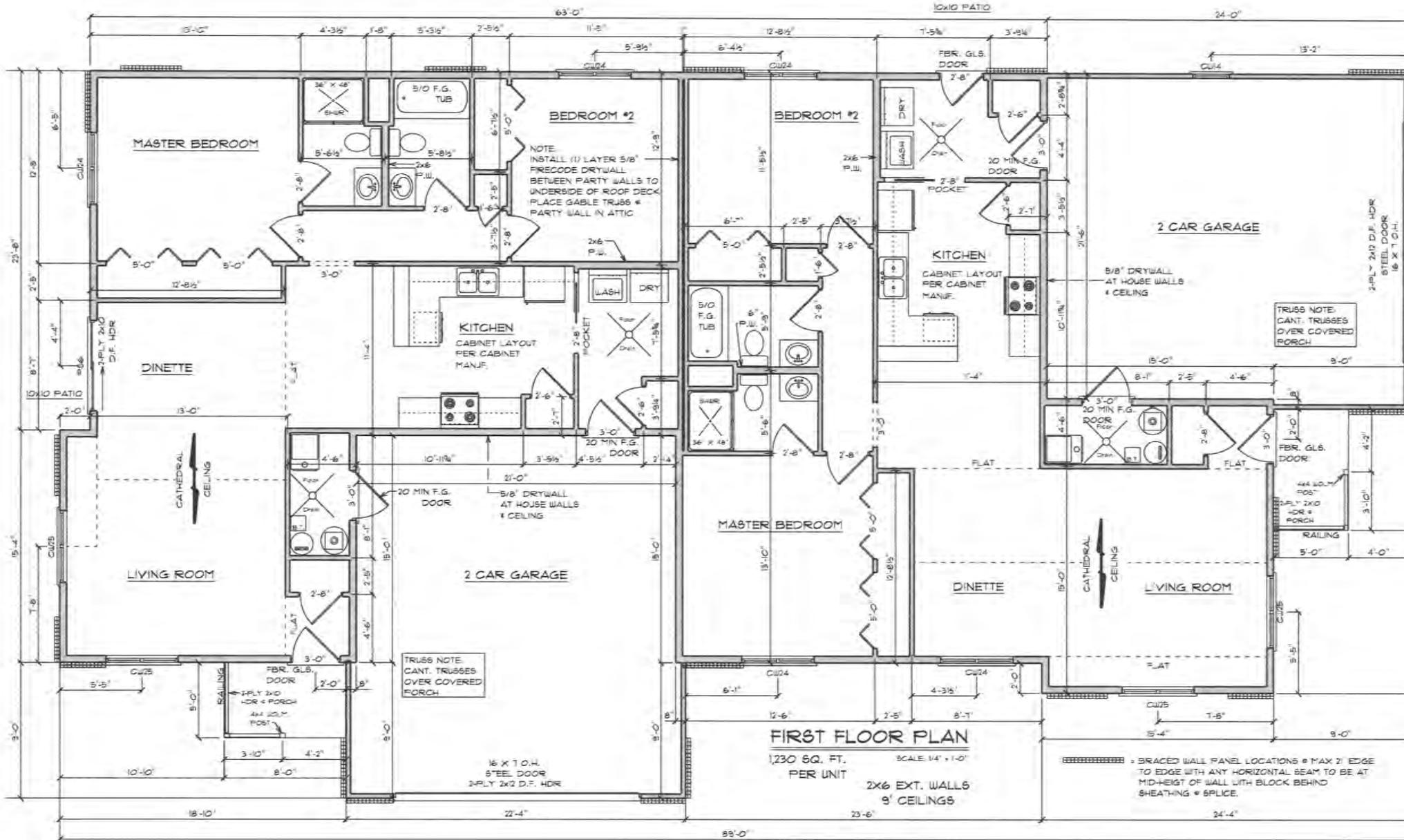
 <p>PLANS BY NELSON-YOUNG LUMBER CO. 11 S. CATLIN ST., EDGERTON, WISC. 53534 608-884-3316 VISIT US AT WWW.NYLUMBER.COM</p>	<p>PLANS FOR: JUST I MORE, LLC</p>	<p>FINAL SET DATE: 10/24/23</p>	<p>REVISIONS:</p>
	<p>LOT 168 - PORTER & SEVENTH</p>	<p>DRAWN BY: TOM CHROSTOUSKI TREVOR WILSON</p>	<p>1 4</p>



ALTHOUGH EVERY EFFORT HAS BEEN MADE TO MAKE THESE PLANS ACCURATE AND CHECKING THEM FOR ACCURACY, OWNER/CONTRACTOR MUST CHECK ALL DETAILS AND DIMENSIONS AND BE RESPONSIBLE FOR SAME.

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<p>NELSON-YOUNG LUMBER CO. 11 S. CATLIN ST. EDGERTON, WISC. 53534 608-884-3316</p>	<p>PLANS FOR: JUST 1 MORE, LLC</p>	<p>FINAL SET DATE: 10/24/23</p>	<p>2</p>
	<p>NOT 1/4" - PORTED & SEVENTH</p>	<p>DESIGNED BY: DRAWN BY: TOM CHROSTOWSKI</p>	<p>4</p>



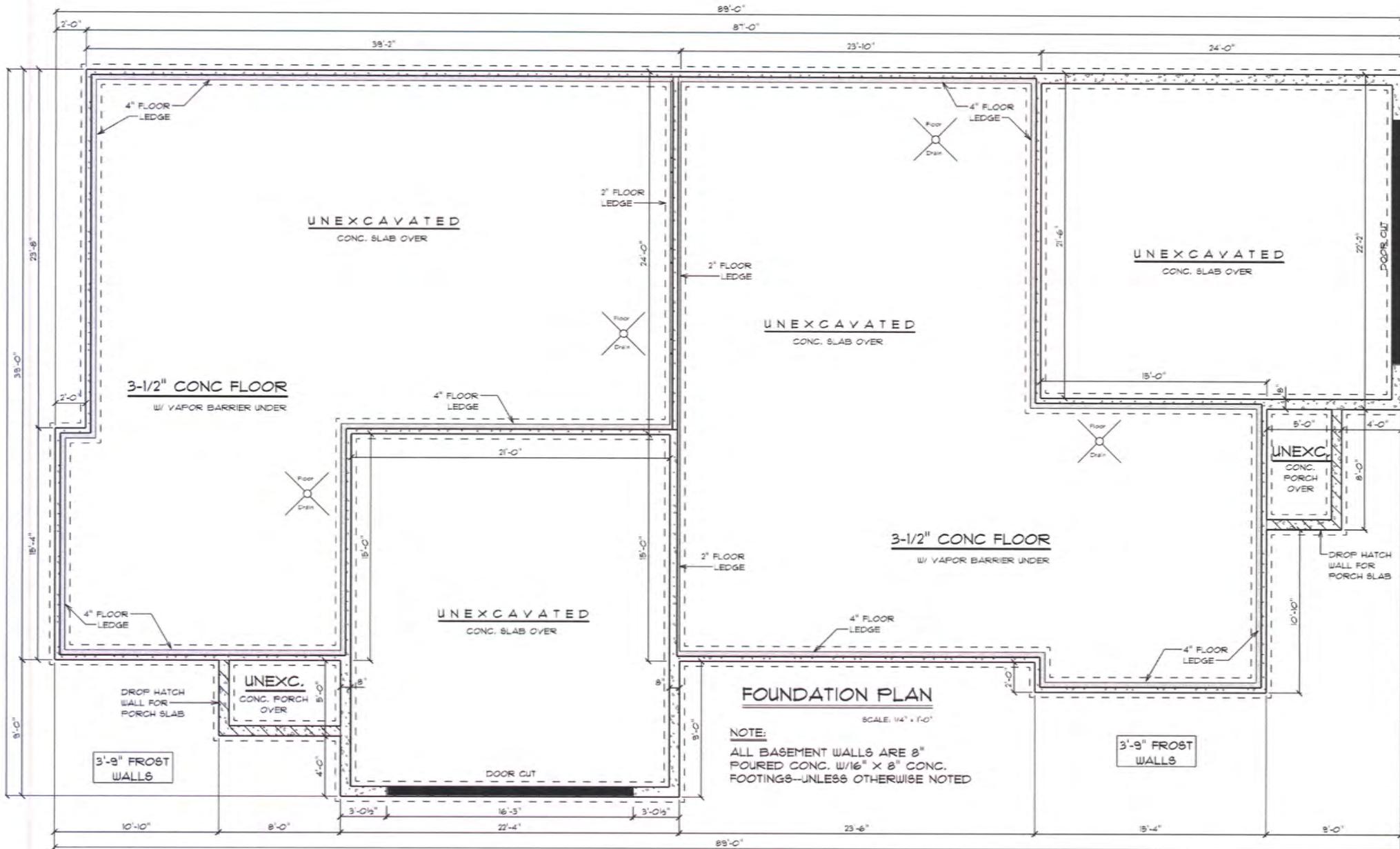
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PLANS BY:
 **NELSON-YOUNG LUMBER CO.**
 11 S. CATLIN ST. EDGERTON, WISC. 53534 608-884-3316
 VISIT US AT WWW.NYLUMBER.CO

PLANS FOR:
JUST I MORE, LLC
 LOT 168 - PORTER & SEVENTH

FINAL SET DATE: 10/24/23	REVISIONS:	3 4
DRAWN BY: TOMI CHROSTOUSKI TREVOR WILSON		

ALTHOUGH EVERY EFFORT HAS BEEN MADE IN PREPARING THESE PLANS AND CHECKING THEM FOR ACCURACY, OWNER/CONTRACTOR MUST CHECK ALL DETAILS AND DIMENSIONS AND BE RESPONSIBLE FOR SAME.



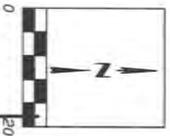
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	PLANS BY: NELSON-YOUNG LUMBER CO.	PLANS FOR: JUST I MORE, LLC.	FINAL SET DATE: 10/24/23	4 <hr/> 4
	11 S. CATLIN ST., EDGERTON, WISC. 53534 VISIT US AT WWW.NYLUMBER.COM	608-884-3316	LOT 168 - PORTER & SEVENTH	

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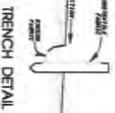
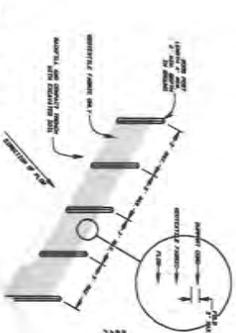
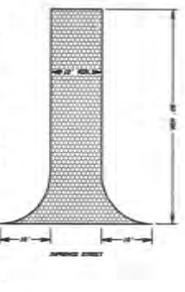
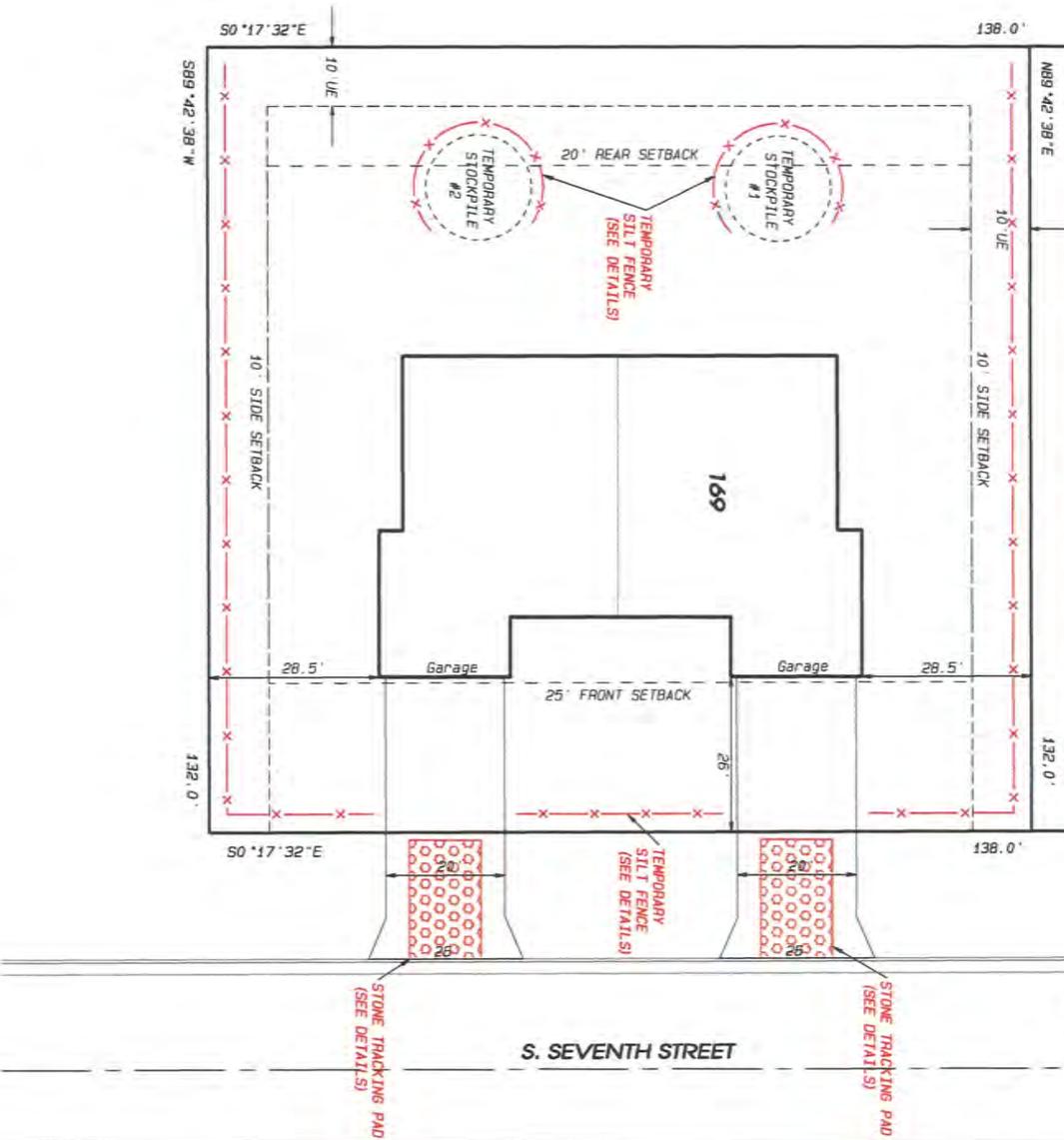
SITE PLAN

LOT 169 OF WESTFIELD MEADOWS FIRST ADDITION,
SECTION 28, T.4N., R. 10E. OF THE 4TH P.M.,
CITY OF EVANSVILLE, ROCK COUNTY, WISCONSIN.



To obtain location of
Particulate Underground
Facilities Before You
Dig in Wisconsin
CALL DIGGERS
HOTLINE
1-800-242-8511
Wis Statute 182.0175 (1974)
Requires Min. 3 Work Days
Notice Before You Excavate

ANY DEBRIS TRACKED ONTO
PORTER ROAD AND S. SEVENTH
STREET SHALL BE CLEANED UP
NEATLY AND PLACED IN
A SUITABLE AREA



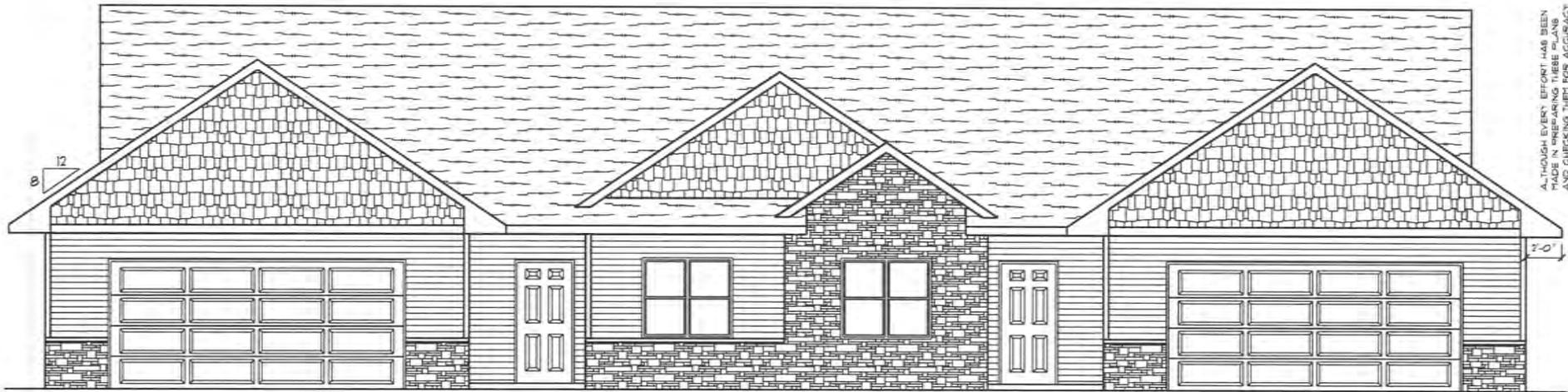
Project No. 123 - 459 For: Just 1 More Investments October 26, 2023

Combs & Associates, Inc.

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- LAND PLANNING
- CIVIL ENGINEERING

109 N. Milwaukee St.
Janesville, WI 53448
NW.COMBSURV.COM

TEL: 608 752-0575
FAX: 608 752-0534



FRONT ELEVATION

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



REAR ELEVATION

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

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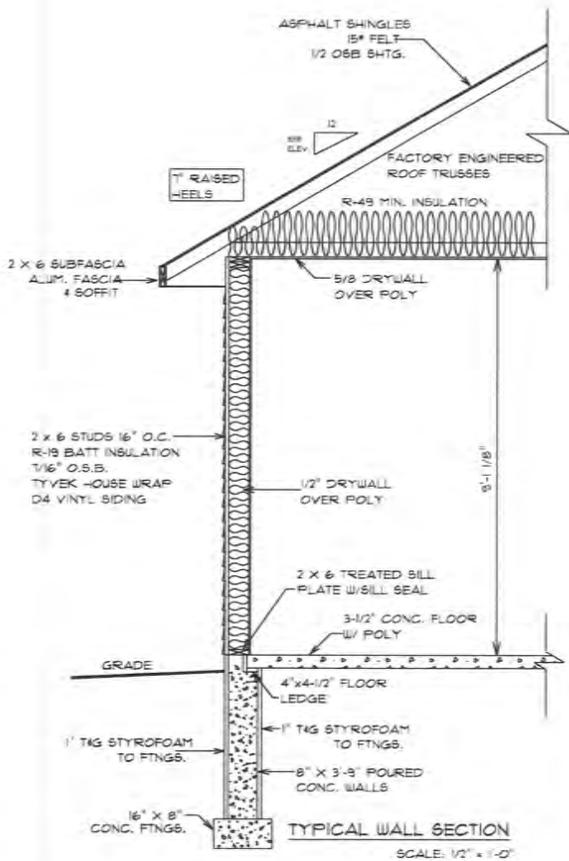
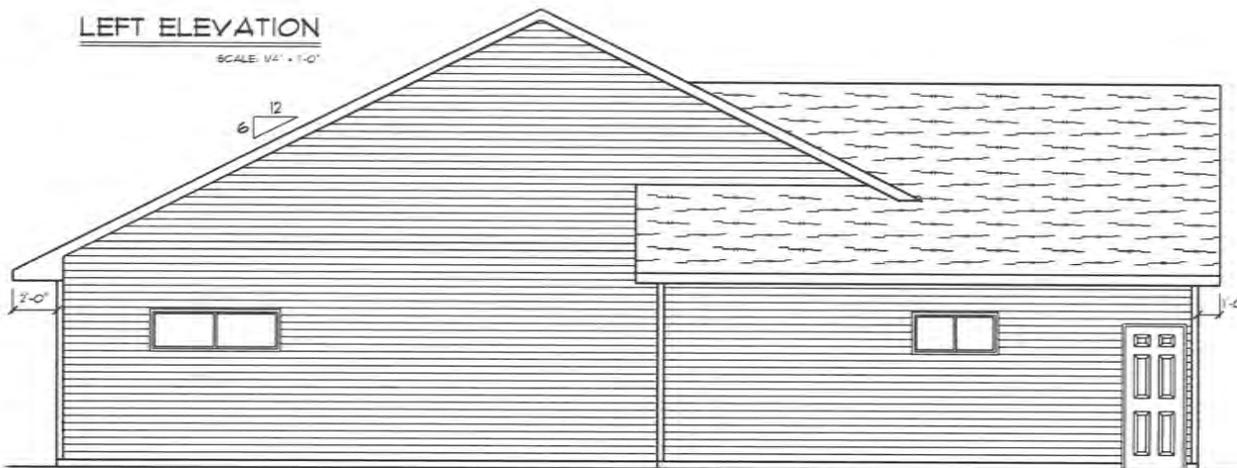
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	PLANS FOR:	FINAL SET
	JUST I MORE, LLC	DATE: 10/25/23
NELSON-YOUNG LUMBER CO.	101 1 ST AVE S.W. SUITE 101	SEASONS
118 PAINT ST. BRIDGEVILLE, OH 43002	614.887.9316	TOM CHROSTOWSKI

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LEFT ELEVATION

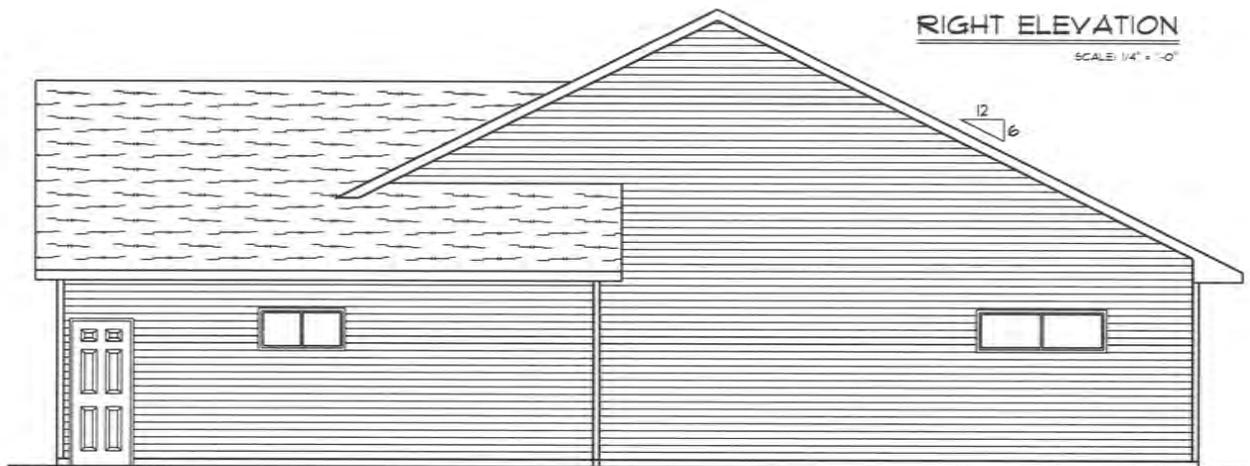
SCALE: 1/4" = 1'-0"



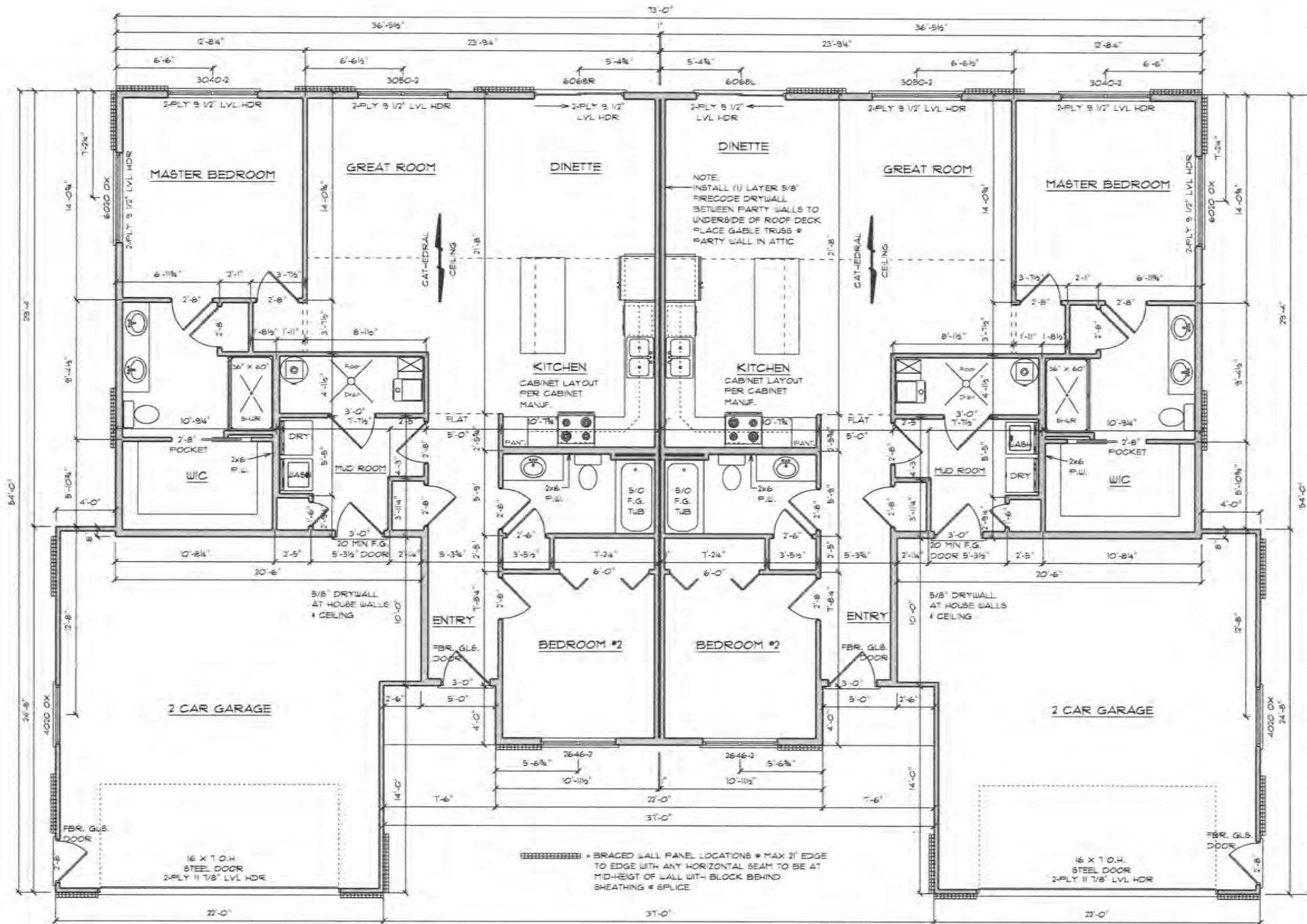
SCALE: 1/2" = 1'-0"

RIGHT ELEVATION

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



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FIRST FLOOR PLAN

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

2594 SQ. FT.
1,291 SQ. FT./UNIT

2X6 EXT. WALLS
9' CEILINGS

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3 / 4

PLANS FOR: **JUST 1 MORE, LLC**

FINAL SET DATE: 10/25/23

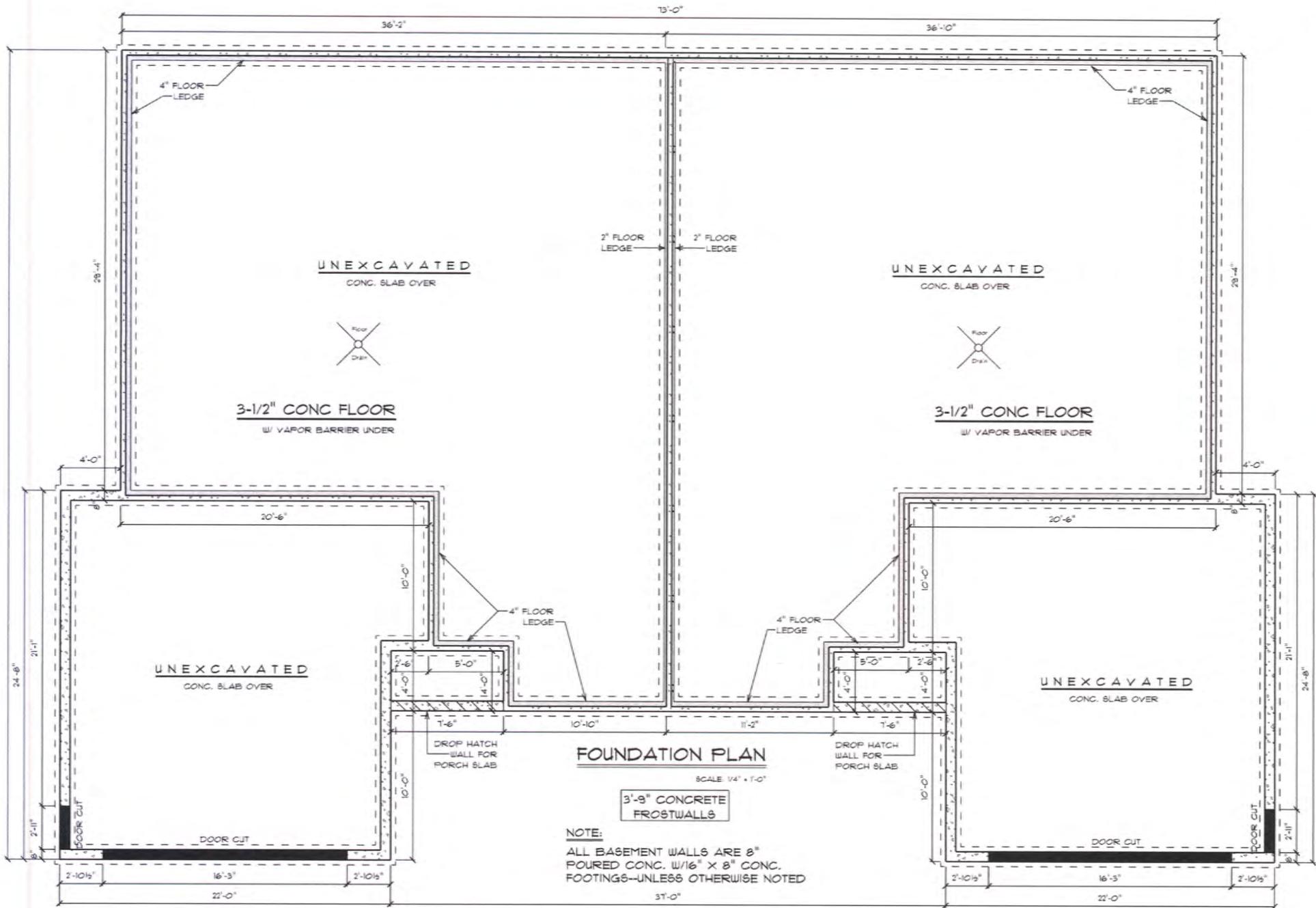
REVISIONS

PEWEE, KY. 10" X 14" (8/6/2018) (UBC)

1 CT-169 SEVENTH ST

PLANS BY: **NELSON-YOUNG LUMBER CO.**

11 S. CATALIN ST. EDICORRICK, WIBC. 83554 608-894-3316





APPLICATION FOR PRELIMINARY AND FINAL DIVISION - STAFF REPORT

Application: LD-2023-0353

Applicant: RM Berg General Contractors

Parcel 6-27-553.505

December 5th, 2023

Prepared by: Colette Spranger, Community Development Director
Direct questions and comments to: colette.spranger@ci.evansville.wi.gov or 608-882-2263

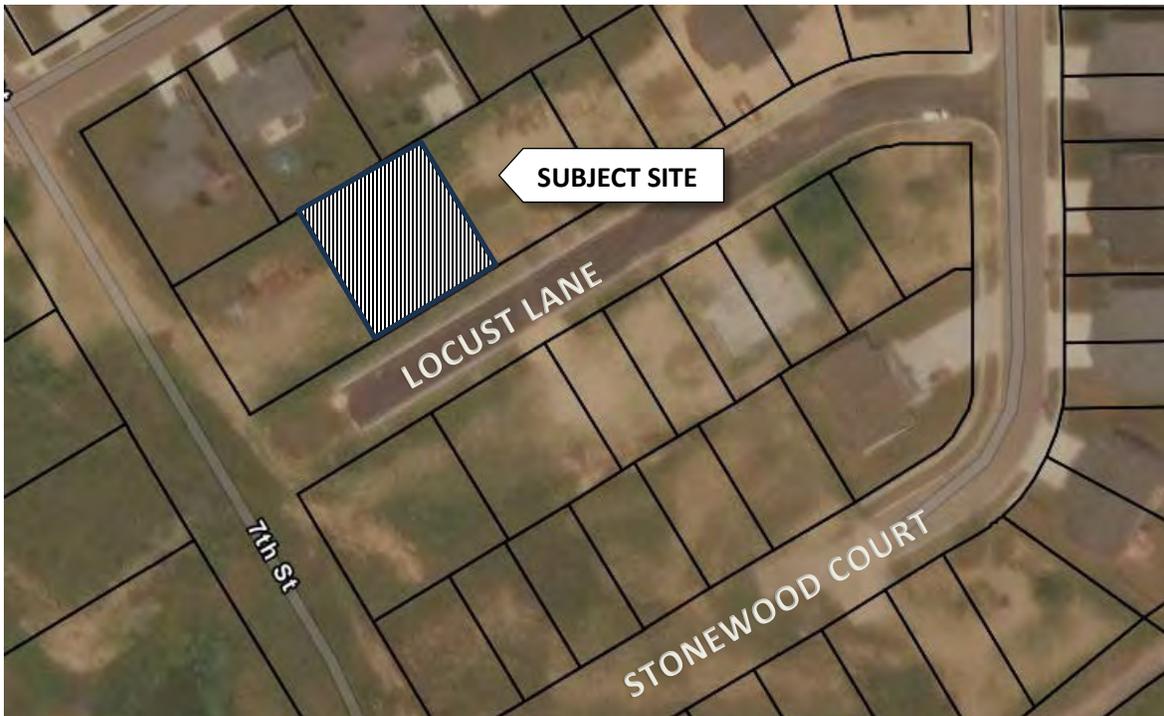


Figure 1 Approximate Location Map

Location: Lot 5, Stonewood Grove (648 and 650 Locust Lane)

Description of request: An application has been made to divide the lot along the shared wall of the duplex that is already built.

Existing Uses: The existing 0.25 acre parcel has a duplex under construction. In order for the landowner to sell each unit separately, the units must be legally divided. This requires a Certified Survey Map.

Existing Zoning: R-2 Residential District Two

Proposed Land Division: The CSM will divide the parcel into two lots, using the common wall of the building as a lot line. This kind of land division is commonly referred to as a zero lot line CSM. Lot 1 is proposed to be 5,400 square feet (0.125 acres) and will include the dwelling unit with the address of 650 Locust Lane. Lot 2 will contain the remaining 5,400 square feet (0.125 acres) and the dwelling unit addressed at 648 Locust Lane. A joint cross-access and maintenance agreement will be required per Section 130-323(5) of the Municipal Code.

Consistency with the City of Evansville Comprehensive Plan and Municipal Code: The proposed land division and land uses are thoroughly consistent with the Future Land Use Map of the Comprehensive Plan. The proposal complies with the design standards and environmental considerations as set forth in the Land Division and Zoning Ordinances.

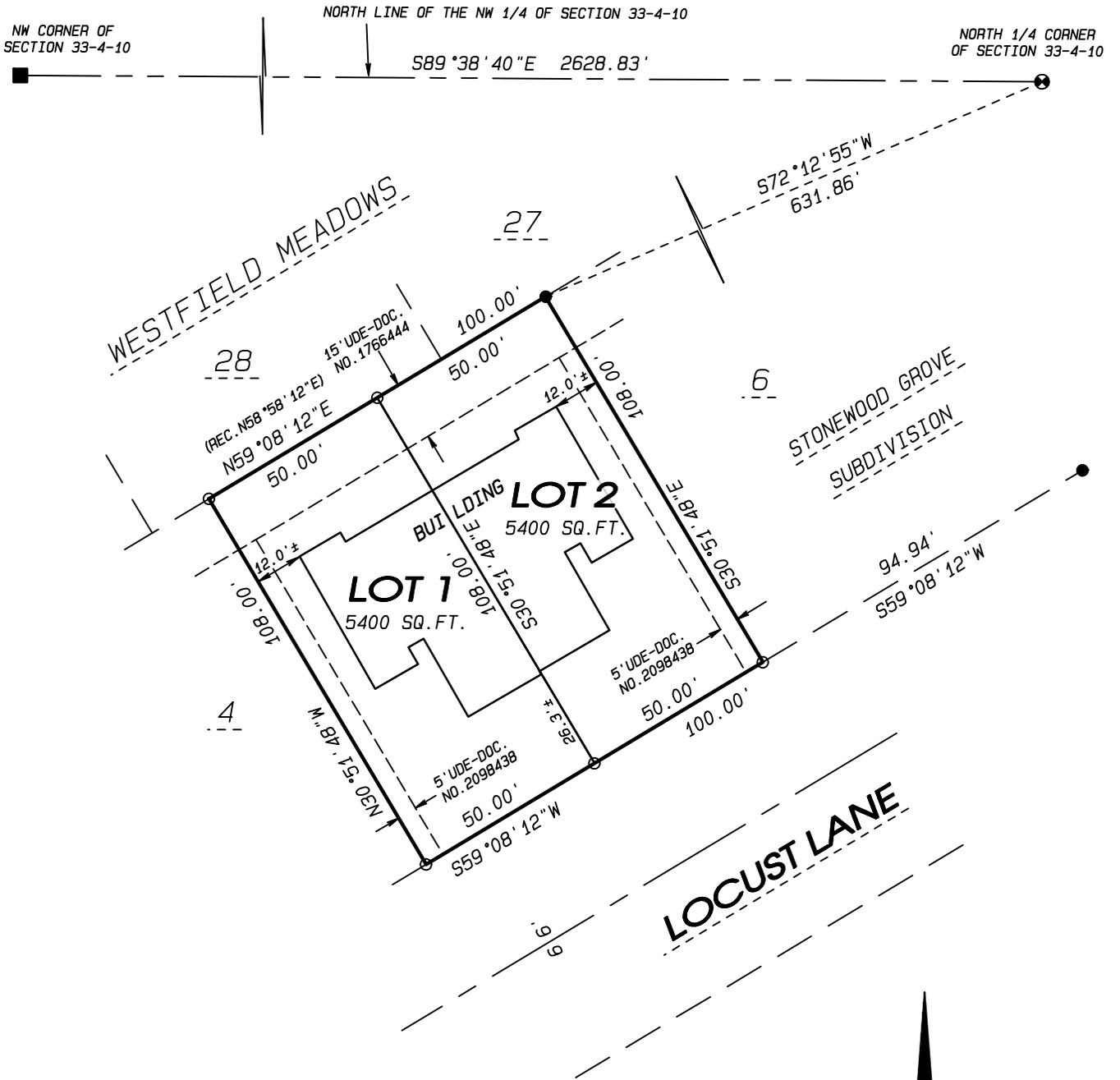
Plan Commission Recommended Motion:

Motion for Common Council to approve a certified survey map to divide parcel 6-27-533.505 into two lots for a two-family twin residence addressed at 648 and 650 Locust Lane, finding that the application is in the public interest and meets the objectives contained within Section 110-102(g) of city ordinances, with the following conditions:

- 1. The final CSM and joint maintenance is recorded with Rock County Register of Deeds.*
- 2. The applicant submits for staff review and records a joint cross access and maintenance agreement along with the certified survey map.*

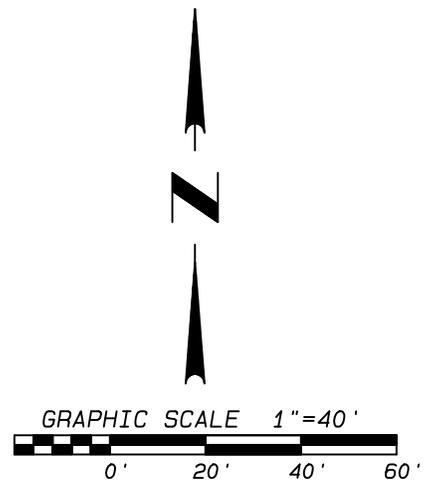
CERTIFIED SURVEY MAP

LOT 5, STONEWOOD GROVE SUBDIVISION, LOCATED IN THE NE 1/4 OF THE NW 1/4 OF SECTION 33, T.4N., R.10E. OF THE 4TH P.M., CITY OF EVANSVILLE, ROCK COUNTY, WISCONSIN. FORMERLY BEING A PART OF LOT 30, WESTFIELD MEADOWS.



LEGEND:

- SET IRON PIN, 3/4" x 24", 1.5 LBS./LIN.FT.
- FOUND 3/4" IRON PIN
- ⊗ FOUND ALUMINUM MONUMENT
- FOUND CUT STONE
- UDE UTILITY & DRAINAGE EASEMENT



NOTE: FIELDWORK COMPLETED _____

NOTE: ASSUMED S89°38'40"E ALONG THE NORTH LINE OF THE NW 1/4 OF SECTION 33-4-10.

Combs & Associates

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109 W. Milwaukee St.
Janesville, WI 53548
www.combsurvey.com

tel: 608 752-0575
fax: 608 752-0534

CERTIFIED SURVEY MAP

LOT 5, STONEWOOD GROVE SUBDIVISION, LOCATED IN THE NE 1/4 OF THE NW 1/4 OF SECTION 33, T.4N., R.10E. OF THE 4TH P.M., CITY OF EVANSVILLE, ROCK COUNTY, WISCONSIN. FORMERLY BEING A PART OF LOT 30, WESTFIELD MEADOWS.

OWNER'S CERTIFICATE - GROVE HOMES LLC

As owners, we hereby certify that we have caused the land described on this map to be surveyed, divided and mapped as represented hereon.

x_____ (AUTHORIZED SIGNATURE)

State of Wisconsin
County of Rock SS.

Personally came before me this ____ day of

_____, 20____, _____ (PRINT NAME)

to me well known to be the person who executed the owner's certificate hereon shown and acknowledged the same.

Notary Public, Rock County, Wisconsin x_____

My Commission _____



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109 W. Milwaukee St.
Janesville, WI 53548
www.combsurvey.com

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CITY OF EVANSVILLE APPROVAL

Approved by the Common Council this ____ day of _____ 20 ____ .

Authorized Signature x _____

ROCK COUNTY TREASURER'S CERTIFICATE

I hereby certify that the Property Taxes on the parent parcel are current and have been paid as of _____ , 20____ .

Rock County Treasurer x _____



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CERTIFIED SURVEY MAP

LOT 5, STONEWOOD GROVE SUBDIVISION, LOCATED IN THE NE 1/4 OF THE NW 1/4 OF SECTION 33, T.4N., R.10E. OF THE 4TH P.M., CITY OF EVANSVILLE, ROCK COUNTY, WISCONSIN. FORMERLY BEING A PART OF LOT 30, WESTFIELD MEADOWS.

SURVEYOR'S CERTIFICATE

State of Wisconsin
County of Rock SS. I, RYAN M. COMBS, Professional Land Surveyor No.2677, do hereby certify that I have surveyed, divided and mapped:

LOT 5, STONEWOOD GROVE SUBDIVISION, LOCATED IN THE NE 1/4 OF THE NW 1/4 OF SECTION 33, T.4N., R.10E. OF THE 4TH P.M., CITY OF EVANSVILLE, ROCK COUNTY, WISCONSIN. FORMERLY BEING A PART OF LOT 30, WESTFIELD MEADOWS. CONTAINING 10800 SQ.FT.

That such map is a correct representation of all exterior boundaries of the land surveyed and the division of that land. That I have made such survey, division and map by the direction of GROVE HOMES LLC and that I have fully complied with the provisions of Chapter 236.34 of the Wisconsin Statutes in surveying, dividing and mapping the same.

Given under his hand and seal this 25TH day of OCTOBER, 2023
at Janesville, Wisconsin.

RECORDING DATA

No. _____ received for record this ____ day of _____,
20____, at _____ o'clock __.M., and recorded as _____,
of Certified Survey Maps of Rock County, Wisconsin.

Register of Deeds _____



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109 W. Milwaukee St.
Janesville, WI 53548
www.combsurvey.com

tel: 608 752-0575
fax: 608 752-0534

CITY OF EVANSVILLE
ORDINANCE # 2023-15

AN ORDINANCE AMENDING CHAPTER 130 OF THE CITY OF EVANSVILLE
MUNICIPAL CODE

SECTION 1. The City of Evansville Common Council and Plan Commission have deemed it is in the City's best interest and that of its citizens to amend the Chapter 130 of the City of Evansville Municipal Code, specifically related to enabling housing development at greater densities and providing greater clarity for residential development requirements to ensure development occurs in an orderly, consistent, and economical fashion throughout the City, with respect to 2023 Wisconsin Act 16.

SECTION 2. The governing bodies have also deemed it is in the best interest of the City and that of its citizens to amend the Chapter 130 from time to time in order to accurately reflect current state legislation and regulation concerning child care facilities and controlled substances, to correct grammatical and scrivener's errors, and to address issues of consistency and continuity between chapter divisions and section.

SECTION 3. The Evansville Plan Commission held a public hearing on December 5, 2023, in compliance with the requirements of Section 62.23(7)(d)(2), Wis. Stats., regarding the proposed amendment of the zoning ordinance, and by unanimous vote of the entire commission, has recommended Ordinance 2023-15 be approved by Common Council.

SECTION 4. The changes proposed in Ordinance 2023-15 are consistent with the City's adopted Smart Growth Comprehensive Plan.

The Common Council of the City of Evansville, Rock County, Wisconsin, do hereby amend Chapter 130 as follows:

FROM ARTICLE V, DIVISION 4. INSTITUTIONAL LAND USES

Sec. 130-373. Indoor institutional uses.

Indoor institutional land uses include all indoor public and not-for-profit recreational facilities (such as gyms, swimming pools, libraries, museums, and community centers), group day care centers (nine or more children), schools, churchesplaces of worship, nonprofit clubs, nonprofit fraternal organizations, convention centers, hospitals, jails, prisons, and similar land uses. The following regulations are applicable to this use:

- (1) Permitted by right: All nonresidential districts, except A, B-5, I-2 and I-3.
 - a. Such uses shall provide an off-street passenger loading area if the majority of the users will be children (as in the case of a school, daycare, churchplaces of worship, library, or similar land use).
 - b. All structures shall be located a minimum of 50 feet from any residentially zoned property.
- (2) Conditional use regulations: Residential districts and B-5.
 - a. Such uses shall meet all regulations listed in subsection (1) of this section.
 - b. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Parking requirements: Generally, one space per three expected patrons at maximum capacity. However, see the following additional specific requirements. These requirements shall be waived for businesses in the B-2 district.
 - a. ~~Church:~~ Places of worship: One space per five seats at the maximum capacity.
 - b. Community or recreation center: One space per 250 square feet of gross floor area, or one space per four patrons to the maximum capacity, whichever is greater, plus one space per employee on the largest work shift.
 - d. Group day care center (nine or more children): One space per five students, plus one space for each employee on the largest work shift.
 - c. Funeral home: One space per three patron seats at the maximum capacity, plus one space per employee on the largest work shift.
 - d. Hospital: Two spaces per three patient beds, plus one space per staff doctor and each other employee on the largest work shift.
 - e. Library or museum: One space per 250 square feet of gross floor area or one space per four seats to the maximum capacity, whichever is greater, plus one space per employee on the largest work shift.
 - f. Elementary and junior high: One space per teacher and per staff member, plus one space per two classrooms.

- g. Senior high: One space per teacher and staff member, plus one space per five non-bused students.
- h. College or trade school: One space per staff member on the largest work shift, plus one space per two students of the largest class attendance period.

(Ord. No. 1997-18, § 13(17.70(3)(c)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(3)(c)), 9-8-1998, Ord. 2004-17, Ord. 2005-44, Ord. 2012-18)

DRAFT

FROM ARTICLE V, DIVISION 5. COMMERCIAL LAND USES.

Sec. 130-413. Group day care center (nine or more children).

Group day care centers are land uses in which qualified persons provide child care services for nine or more children. Examples of such land uses include day care centers and nursery schools. Such land uses shall not be located within a residential building. Such land uses may be operated on a for-profit or a not-for-profit basis. Such land uses may be operated in conjunction with ~~another principal~~ an established indoor -land institutional land use on the same environs, such as a ~~church~~ place of worship, school, ~~business~~, or civic organization. In such instances, group day care centers are ~~not~~ considered as accessory uses and therefore do not require review as a separate land use so long as the primary function of the shared building space is for the principal land use. The following regulations are applicable to group day care centers caring for nine or more children:

(1) Permitted by right:

a. All nonresidential districts, except A, C-1, C-2, I-2 and I-3.

a.b. As an accessory use to an indoor institutional principal land use regardless of zoning district. Not applicable.

~~(1)-(2)~~ (2) Conditional use regulations: R-3, TND. All nonresidential districts except A.

a. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.

a.b. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

b.c. The property owner's permission is required as part of the conditional use permit application.

(3) Parking requirements: One space per five students, plus one space for each employee on the largest work shift. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.

(4) Other requirements: Operators of group day care centers must obtain and remain in compliance with any group child care license issued from the Department of Children and Families.

(Ord. No. 1997-18, § 13(17.70(4)(m)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(4)(m)), 9-8-1998, Ord. 2004-18, Ord. 2012-18)

Secs. 130-424. Tobacco/e-cigarette/hemp retailer.

Tobacco, e-cigarette, or CBD retailer means an establishment in which 10 percent or more of the gross public floor area is devoted to, or 10 percent or more of the stock in trade consists of, the following: cigarettes, tobacco products, e-cigarette products such as propylene glycol, glycerin, nicotine, flavorings, or other products for use in electronic cigarettes, personal vaporizers, or electronic nicotine delivery system, or any device used to ingest cigarettes, tobacco products, e-cigarette products, or products derived from hemp as defined by s. 94.55

Wis. Stats. This term does not include a tobacco bar as defined in s. 101.123 Wis. Stats.

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-4, I-3.

(3) Standards. The following use standards shall apply:

a. Such uses shall be located a minimum of 1,000 feet from:

i. any property zoned B-2 Central Business District

ii. from any school, place of worship, City park, or outdoor recreational facility.

b. Such use shall comply with the performance standards contained in article III of this chapter.

c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

~~a.~~d. Such uses cannot be operated as part of a sexually oriented land use per sec. 130-416.

Secs. 130-425 --130-450. Reserved.

FROM ARTICLE V, DIVISION 9. ACCESSORY LAND USES.

Sec. 130-532. Family day care home (four to eight children)*.

Family day care homes are occupied residences in which a qualified person provides child care for four to eight children. The care of less than four children is not subject to the regulations of this chapter. The following regulations are applicable to family day care homes:

(1) Permitted by right: Agricultural ~~and~~, all residential districts, B-1.

(2) Conditional use regulations: Not applicable.

(Ord. No. 1997-18, § 13(17.70(8)(k)), 1-19-1998)

Sec. 130-533 Group child care center (nine or more children).*

Group day care centers that meet the standards of Section 130-413 with more than nine children may be permitted as an accessory use by right only when located on a property whose principal land use is indoor institutional.

(1) Permitted by right: Within a building whose principal land use is designated as indoor institutional.

(Ord. No. 1997-18, § 13(17.70(8)(k)), 1-19-1998)

Sec. 130-533. Intermediate day care home (nine to 15 children)*.

~~Intermediate day care homes are occupied residences in which a qualified person provides child care for nine to 15 children. The following regulations are applicable to this use:~~

~~(1) Permitted by right: Not applicable.~~

~~(2) Conditional use regulations: Agricultural and residential districts.~~

~~(Ord. No. 1997-18, § 13(17.70(8)(l)), 1-19-1998)~~

* **State law references:** Family day care homes, Wis. Stats. § ~~66.30448.65~~ and Chapter DCF 250.~~-~~

* **State law references:** Group child care center, Wis. Stats. § 48.65 and Chapter DCF 251.

~~* **State law references:** Family day care homes, Wis. Stats. § 66.304(2).~~

FROM ARTICLE VIII, DIVISION 5. LOCAL BUSINESS DISTRICT (B-1)

Sec. 130-766. Requirements for all uses.

Within the B-1 district, the following standards shall apply:

- (1) Maximum zoning district: Two acres.
- (2) Maximum building size: 5,000 square feet per floor, with no more than two stories.
- (3) No parking is permitted in required setbacks for principal buildings.
- (4) Residential architectural and landscaping requirements include foundation planting, pitched roof, 15 percent window covering, and natural materials (brick, wood, or stone).
- (5) Minimum landscape surface ratio: 25 percent for one-story; 30 percent for two-story.
- (6) Operating hours: No earlier than 6:00 a.m. and no later than 11:00 p.m.
- ~~(7) A neighborhood-oriented amenity shall be provided, per plan commission direction (i.e., outdoor neighborhood gathering area, public art, etc.).~~

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32(1)), 1-19-1998)

Sec. 130-767. Requirements for residential uses.

The following regulations are applicable to residential uses in the B-1 district:

- (1) Residential density and intensity requirements for ~~institutional~~ residential development:
 - a. ~~Maximum gross density: Up to 50.00 per limits of the conditional use permit.~~
 - b. Minimum landscape surface ratio: 50 percent.
 - c. Maximum building coverage: 40 percent.
 - d. Maximum accessory building coverage: Ten percent.
 - e. Maximum building size: 5,000 square feet.
- (2) Residential ~~bulk~~ requirements:
 - a. For single-family and two-family dwellings, ~~;~~ see the R-2 district regulations.
 - b. For townhouses, multiplexes, and apartments, and residential uses with more than one principal building see the R-2 R-3 district regulations.
 - c. For institutional residential development, see the B-3 community business district regulations.
- (3) Residential landscaping requirements:
 - a. ~~Not applicable for single family uses. Single Family: not applicable.~~
 - b. See the nonresidential landscaping requirements for two Two-family and multifamily residential uses; see Section 130-768(6)

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32(3)), 1-19-1998)

Sec. 130-768. Requirements for nonresidential uses.

The following regulations are applicable to nonresidential uses in the B-1 district:

- (1) Nonresidential intensity requirements:
 - a. Maximum number of floors: Two.
 - b. Minimum landscape surface ratio: 30 percent.
 - c. Maximum floor area ratio: 0.275.
 - d. Minimum lot area: 7,500 square feet.
 - e. Maximum building size: 5,000 square feet.

- (2) Nonresidential bulk and lot dimension requirements:
 - a. Minimum lot area: 7,500 square feet.
 - b. Minimum lot width: 75 feet.
 - c. Minimum street frontage: 50 feet.
 - (3) Minimum setbacks and building separation:
 - a. Building to front lot line: ~~5-10~~ feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.
Building to street side lot line: ~~25-15~~ feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.
 - b. Building to residential side lot line: ~~Ten-10~~ feet.
 - c. Building to residential rear lot line: 30 feet.
 - d. Building to nonresidential side lot line: Not applicable.
 - e. Building to nonresidential rear lot line: 12 feet.
 - f. Minimum paved surface setback: ~~Five-5~~ feet from side or rear; ~~ten-10~~ feet from street.
 - g. Minimum building separation: ~~20-10~~ feet or zero feet on the zero lot line side where two nonresidential structures are adjacent.
 - h. Minimum accessory building setback: ~~Five-5~~ feet.
 - (4) Maximum building height: 35 feet.
 - (5) Minimum number of off-street parking spaces required on the lot: See parking lot requirements per specific land use in article V of this chapter.
 - (6) Nonresidential landscaping requirements (nonresidential, two-family and multifamily uses):
 - a. Forty landscaping points per 100 linear feet of building foundation.
 - b. Fifteen landscaping points per 1,000 square feet of gross floor area.
 - c. Forty landscaping points per 100 linear feet of street frontage.
 - d. Eighty landscaping points per 10,000 square feet of paved area/20 stalls.
- (Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32(4)), 1-19-1998, Ord. 2005-1)

FROM ARTICLE VIII, DIVISION 15. RESIDENTIAL DISTRICT (R-1)

Sec. 130-982. Uses permitted by right.

The following uses are permitted in the R-1 district:

- (1) One single-family dwelling unit. One or more private garages for each residential lot. The total area of any attached garages shall not exceed the area of the foundation of the dwelling. The total area of any detached garages shall not exceed the area of the foundation of the dwelling. In addition, the total area of the private garage(s) shall not exceed 13 percent of the total area of the lot, if the area of the lot is less than 10,000 square feet, and shall not exceed 11 percent of the total area of the lot, if the area of the lot is 10,000 square feet or more.
- (2) ~~Churches~~ Places of worship and all affiliated uses, all grade schools, libraries, water storage facilities and related structures.
- (3) Municipal buildings, except sewage plants, garbage incinerators, warehouses, garages, shops, and storage yards.
- (4) Public parks and playgrounds and recreational and community center buildings and grounds.
- (5) Accessory buildings clearly incidental to the residential use of the property; provided, however, that no accessory building may exceed 200 square feet.
- (6) Uses customarily incidental to any of the uses listed in subsections (1)--(5) of this section; provided that no such use generates traffic or noise that would create a public or private nuisance.
- (7) Not over four boarders or lodgers not members of the family.
- (8) Greenhouses.
- (9) Home occupation, when meeting all of the criteria of section 130-531.
- (9) Family day care home (per section 130-532)
- (10) Community living arrangement (one to eight residents) (per section 130-377).
- (11) One two-family dwelling unit, subject to site plan approval, only on those lots denoted for such use on the face of a final subdivision plat or certified survey map which were approved by the common council after September 30, 2005. One or more private garages may be provided for each residential unit as provided for in this subsection. The total area of any attached garages for each residential unit shall not exceed the area of the foundation of the residential unit. The total area of any detached garages for each residential unit shall not exceed the area of the foundation of the residential unit. In addition, the total area of the private garage(s) for each residential unit shall not exceed 13 percent of the total area of the lot, if the area of the lot is less than 10,000 square feet, and shall not exceed 11 percent of the total area of the lot, if the area of the lot is 10,000 square feet or more.
- (12) Accessory Dwelling Unit as defined in Section 130-6 ~~that is also located within a city designated Historic Conservation Overlay District or locally landmarked/plaques parcel.~~

(Code 1986, § 17.39(2); Ord. No. 2002-4, § 12, 4-9-2002; Ord. No. 2003-7, § 7, 10-14-2003, Ord. 2005-28, Ord. 2005-38, Ord. 2016-18, Ord. 2020-13)

Sec. 130-984. Requirements for all uses.

Within the R-1 district, the following standards shall apply:

- (1) Maximum building height: 35 feet.
- (2) Setbacks and Building Separation
 - a. Minimum front and street side yard setback: ~~25~~20 feet.
 - b. Maximum front yard and street side yard setback: 30 feet.
 - c. Minimum rear yard setback: 20 feet.
 - d. Minimum side yard setback: ~~Eight~~8 feet, total of 20 feet on both sides.
 - e. Minimum side yard setback: ~~Eight~~8 feet on both sides when any two of the following standards are met:
 - 1.Linear garage frontage does not exceed 40% of the building's front elevation.
 - 2.Building is a two-story structure
 - 3.Front Porch at least 25 square feet in size
 - 4.Street facing garage doors are recessed by at least four feet behind the façade of the ground floor of the principal building.
 - 5.Driveway width does not exceed 15 feet in front setback area or is shared by access easement with adjacent lot.
 - f. Occupied dwelling units shall maintain 10 feet of building separation, unless fireproofed
 - g. Driveway side and rear yard setbacks: 3 feet
- (3) Detached ADU, garage and accessory building side yard and street side yard setback:
 - a. ~~Three~~3 feet for side yards, five (5) feet for ADUs only.
 - b. 20 feet for street side yards.
 - c. Five (5) feet for rear yards.
- (4) Minimum lot width at front setback line: 70 feet for lots platted after December 31, 2000; 60 feet for lots platted before January 1, 2001.
- (5) Minimum lot frontage on public road: 50 feet.
- (6) Minimum lot area for single-family dwelling: 8,000 square feet for lots platted after December 31, 2000; 6,000 square feet for lots platted before January 1, 2001.
- (7) Minimum lot area for two-family dwelling: 10,000 square feet for lots platted after December 31, 2000; 8,000 square feet for lots platted before January 1, 2001.
- (8) Minimum above-grade floor area for single-family dwelling: 1,000 square feet.
- (9) Minimum floor area for two-family dwelling: 700 square feet per unit.
- (10) Minimum street side yard setback: ~~20~~15 feet.
- (11) Height of detached garages and accessory buildings: Shall not exceed the height of the principal structure.
- (12) (Buildings and Structures Lot Coverage Standards

- a. Maximum lot coverage by impervious surfaces shall be forty five percent (45%) of lot area.
- b. ~~Effective January, 1, 2022:~~ Maximum front yard coverage by impervious surfaces shall be forty five percent (45%) of lot area, provided maximum lot coverages are not exceeded.
- c. ~~Effective January, 1, 2022:~~ Maximum linear garage coverage, as measured across the street facing façade, on a building's front elevation shall be fifty five percent (55%)
- d. ~~Effective January, 1, 2022:~~ Front facing façade of garage recessed from, or no more than, twelve-eight (128) feet offset from primary façade at ground level.
- e. Maximum Driveway Width at sidewalk of twenty (20) feet.

(Code 1986, § 17.39(4); Ord. No. 2003-9, § 4, 9-9-2003; Ord. No. 2003-11, § 4, 10-14-2003, Ord. 2004-2, Ord. 2005-1, Ord. 2005-9, Ord. 2005-50, Ord. 2007-21, Ord. 2012-16, Ord. 2020-13, Ord. 2021-08)

DRAFT

FROM ARTICLE VIII, DIVISION 16. RESIDENTIAL DISTRICT TWO (R-2)

Sec. 130-1002. Uses permitted by right.

The following uses are permitted in the R-2 district:

- (1) Single-family dwellings.
- (2) Two-family dwellings (per section 130-324).
- (3) Two-family twin dwellings (per section 130-323).
- (4) ~~Churches~~ Places of worship and all affiliated uses, all grade schools, libraries and hospitals, water storage facilities and related structures.
- (5) Municipal buildings, except sewage plants, garbage incinerators, warehouses, garages, shops, and storage yards.
- (6) Public parks, playgrounds, and recreational and community center buildings and grounds.
- (7) One or more private garages and one accessory building clearly incidental to the residential use of the property; provided, however, that no accessory building may exceed ~~150-200~~ square feet. The total area of any attached garages shall not exceed the area of the foundation of the dwelling. The total area of any detached garages shall not exceed the area of the foundation of the dwelling. In addition, the total area of the private garage(s) shall not exceed 13 percent of the total area of the lot, if the area of the lot is less than 10,000 square feet, and shall not exceed 11 percent of the total area of the lot, if the area of the lot is 10,000 square feet or more.
- (8) Uses customarily incidental to any of the uses listed in subsections (1)--(~~56~~) of this section; provided that no such use generates traffic or noise that would create a public or private nuisance.
- (9) Not over four boarders or lodgers not members of the family.
- (10) Home occupation, when meeting all of the criteria of section 130-531.
- (11) Community living arrangement (one to eight residents) (per section 130-377).
- ~~(12)~~ (12) Community living arrangement (nine to 15 residents) (per section 130-378).
- ~~(12)(13)~~ (13) Family day care home (per section 130-532)

(Code 1986, § 17.40(2); Ord. No. 2002-4, § 14, 4-9-2002; Ord. No. 2003-7, § 9, 10-14-2003, Ord. 2005-28, Ord. 2012-02, Ord. 2020-13)

Sec. 130-1003. Uses permitted as conditional use.

The following conditional uses shall be allowed in the R-2 district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

- (1) Home occupation, which does not meet all of the criteria of section 130-531.
- (2) Public buildings such as colleges and universities, including private music, dancing, business, and vocational schools, but not to include sewage plants, garbage incinerators, warehouses, garages or storage areas.
- (3) Institutions of a charitable or philanthropic nature, hospitals, clinics and sanitariums;

and libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business, and except also riding clubs.

- (4) Telephone, telegraph and electric transmission lines, buildings or structures.
- (5) Indoor institutional uses (per section 130-373) and indoor residential uses (per section 130-376).
- (6) Funeral homes, undertaking establishments and cemetery memorial retail businesses.
- (7) Three-family and four-family dwelling units.
- ~~(8) Group day care center (nine or more children). (per section 130-413) Day-care centers and nursery schools (less than nine children).~~
- ~~(9)(8) Railroad line (per section 130-485).~~
- ~~(10) Single-family dwelling units with an above-grade floor area of at least 900 and less than 1,200 square feet.~~

(Code 1986, § 17.40(3), Ord. 2005-23, Ord. 2005-44, 2007-21)

Sec. 130-1004. Requirements for all uses.

Within the R-2 district, the following standards shall apply:

- (1) Maximum building height: 35 feet.
- (2) Setbacks and Building Separation
 - ~~A.a.~~ Minimum front yard and street side yard setback: ~~25-20~~ feet.
 - ~~B.b.~~ Maximum front yard and street side yard setback: 30 feet.
 - ~~C.c.~~ Minimum rear yard setback: 20 feet.
 - ~~D.d.~~ Minimum side yard setback: ~~Eight 8~~ feet, total of 20 feet on both sides.
 - ~~E.e.~~ Detached garage and accessory building side yard and street side yard setback:
 - ~~C.1.~~ ~~Three 3~~ feet for side yards.
 - ~~D.2.~~ 20 feet for street side yards.
 - ~~E.3.~~ ~~Five 5~~ feet for rear yards.
- (3) Minimum lot width at front setback line: 90 feet for lots platted after December 31, 2000; 60 feet for lots platted before January 1, 2001. Two-family twin lots shall have a minimum of 35 feet per lot.
- (4) Minimum lot frontage on public road: 75 feet, except that two-family twin lots shall have a minimum of 25 feet per lot.
- (5) Minimum lot area:
 - a. Single-family: 8,000 square feet for lots platted after December 31, 2000; 6,000 square feet for lots platted before January 1, 2001.
 - b. Two-family: 10,000 square feet for lots platted after December 31, 2000; 8,000 square feet for lots platted before January 1, 2001.
 - c. Two-family twin: 5,000 square feet per lot.

- d. Three-family: 12,000 square feet.
 - e. Four-family: 14,000 square feet.
- (6) Minimum side yard setback:
- a. Single-family, two-family, three-family, and four-family: ~~Eight-8t~~ feet; total 20 feet on both sides.
 - b. Two-family twin: Zero feet on the interior (common wall) lot line. ~~Ten10~~ feet on exterior side lot lines.
 - c. Two-family twin: Alternate side yard setback: ~~Eight-8~~ feet on both sides when any two of the following standards are met:
 - 1. Linear garage frontage does not exceed 40% of the building's front elevation.
 - 2. Building is a two-story structure
 - 3. Front Porch at least 25 square feet in size
 - 4. Street facing garage doors are recessed by at least four feet behind the façade of the ground floor of the principal building.
 - 5. Driveway width does not exceed 15 feet in front setback area or is shared by access easement with adjacent lot.
 - d. Detached occupied dwelling units shall maintain 10 feet of building separation, unless fireproofed
 - e. Driveway side and rear yard setbacks: 3 feet
- ~~(7)~~ (7) Minimum street side yard setback: ~~20-15~~ feet.
- ~~(8)~~ (8) Maximum front yard and street side yard setback: ~~35-30~~ feet.
- ~~(7)(9)~~ (9) Usable open space: Usable open space shall be provided on each lot used for multifamily dwellings of three or more units. Usable open space shall compose at least 25 percent of the gross land area of the lot area and shall be used for recreational, park or environmental amenity for collective enjoyment by occupants of the development, but shall not include public or private streets, drives or drainageways.
- ~~(8)(10)~~ (10) Height of detached garages and accessory buildings: Shall not exceed the height of the principal structure.
- ~~(9)(11)~~ (11) Minimum above-grade floor area for single-family dwelling: 1,000 square feet.
- ~~(10)(12)~~ (12) Buildings and Structures Lot Coverage Standards
- a. Maximum lot coverage by impervious surfaces shall be fifty percent (~~40~~50%) of lot area.
 - b. ~~Effective January, 1, 2022:~~ Maximum front yard coverage by impervious surfaces shall be fifty percent (50%) of lot area, provided maximum lot coverages are not exceeded.
 - c. ~~Effective January, 1, 2022:~~ Maximum linear garage coverage on a building's front elevation shall be fifty five percent (55%)
 - d. ~~Effective January, 1, 2022:~~ Front facing façade of garage recessed from, or no

more than ~~twelve-eight~~ (128) feet offset from primary façade at ground level.

e. Maximum Driveway Width at sidewalk of 20 feet.

(Code 1986, § 17.40(4); Ord. No. 2003-9, § 5, 9-9-2003; Ord. No. 2003-11, § 5, 10-14-2003, Ord. 2005-1, Ord. 2005-9, Ord. 2005-50, Ord. 2007-21, Ord. 2012-02, Ord. 2012-16, Ord. 2020-13, Ord. 2021-08)

Secs. 130-1005--130-1020. Reserved.

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FROM ARTICLE VIII, DIVISION 17. RESIDENTIAL DISTRICT THREE (R-3)

Sec. 130-1021. Purpose and intent.

The purpose of the R-3 district is to provide a means of obtaining the residential goals and objectives of the Smart Growth Comprehensive Plan development guide. The R-3 district is intended to protect and enhance the character and value of residential areas primarily occupied by varied dwelling types of moderate density and to accommodate areas planned for new residential development of moderate density.

(Code 1986, § 17.41(1))

Sec. 130-1022. Uses permitted by right.

The following uses are permitted in the R-3 district:

- ~~(1) Single family and two family dwellings.~~
- ~~(2)(1) Churches-Places of worship~~ and all affiliated uses, all grade schools, libraries and hospitals, water storage facilities and related structures.
- ~~(3)(2) Municipal buildings, except sewage plants, garbage incinerators, warehouses, garages, shops and storage yards.~~
- ~~(4)(3) Public parks, playgrounds, and recreational and community center buildings and grounds.~~
- ~~(4) One or more private garages and one accessory building per principal building clearly incidental to the residential use of the property. Additionally, provided, however, that.~~
 - ~~a. No accessory building may exceed 150-200 square feet.~~
 - ~~b. The total area of any attached garages shall not exceed the area of the foundation of the dwelling.~~
 - ~~c. The total area of any detached garages shall not exceed the area of the foundation of the dwelling. In addition, t~~
 - ~~d. The total area of the private garage(s) and accessory buildings shall not exceed 13 percent of the total area of the lot, if the area of the lot is less than 10,000 square feet, and shall not exceed 11 percent of the total area of the lot, if the area of the lot is 10,000 square feet or more.~~
- (5) Uses customarily incidental to any of the uses listed in subsections (1)--(5) of this section, provided that no such use generates traffic or noise that would create a public or private nuisance.
- (6) Not over four boarders or lodgers not members of the family.
- (7) Multiple-family dwellings up to eight-four units.
- (8) Roominghouses, boardinghouses or lodging houses for not more than 15 roomers or boarders.
- (9) Home occupation, when meeting all of the criteria of section 130-531.
- (10) Community living arrangement (one to eight residents) (per section 130-377).
- (11) Community living arrangement (nine to 15 residents) (per section 130-378).

~~(11)~~(12) Family day care home (per section 130-532)

(Code 1986, § 17.41(2); Ord. No. 2002-4, § 15, 4-9-2002; Ord. No. 2003-7, § 10, 10-14-2003, Ord. 2005-28)

Sec. 130-1023. Uses permitted as conditional use.

The following conditional uses shall be allowed in the R-3 district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

- (1) Home occupation, which does not meet all of the criteria of section 130-531.
- (2) Public buildings, such as colleges and universities, including private music, dancing, business, and vocational schools, but not to include sewage plants, garbage incinerators, warehouses, garages or storage areas.
- (3) Institutions of a charitable or philanthropic nature, hospitals, clinics and sanitariums; and libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business, and except also riding clubs.
- (4) Telephone, telegraph and electric transmission lines, buildings or structures.
- (5) Indoor institutional uses (per section 130-373) and indoor recreational uses (per section 130-376).
- (6) Group day care center (per section 130-413)~~Day care centers and nursery schools (less than 9 children).~~
- (7) Funeral homes, undertaking establishments and cemetery memorial retail businesses.
- (8) Multiple-family dwellings greater than ~~eight~~four units and multiple-family dwellings where there are more than one principal-land-use structures on the same lot.
- (9) Community living arrangement (16 or more residents) (per section 130-379).
- (10) Railroad line (per section 130-485).

~~(11) Single family dwelling units with an above grade floor area of at least 900 and less than 1,200 square feet.~~

(Code 1986, § 17.41(3), Ord. 2005-1, Ord. 2005-23, Ord. 2005-28, Ord. 2005-44, Ord. 2007-21)

Sec. 130-1024. Requirements for all uses.

Within the R-3 district, the following standards shall apply:

- (1) Maximum building height: 35 feet.
- (2) Minimum front and street side yard setback: ~~25~~20 feet.
- ~~(2)~~(3) Maximum front yard and street side yard setback: 25 feet for building closest to street.
- ~~(3)~~(4) Minimum rear yard setback: 25 feet.
- ~~(4)~~(5) Minimum side yard setback: ~~Ten~~10 feet per side; ~~25 feet for both yards.~~
- ~~(5)~~(6) Detached garage and accessory building side yard and street side yard setback:
 - a. ~~Three~~3 feet for side yards.
 - b. 20 feet for street side yards.

(7) Minimum lot width at setback line: 70 feet.

~~(6)~~(8) Minimum building separation: 10 feet

~~(7)~~(9) Minimum lot frontage on public road: 50 feet.

~~(8)~~(10) Minimum lot area:

- a. Single-family: 8,000 square feet.
- b. Two-family: 10,000 square feet.
- c. Multifamily dwelling units larger than between two and four units, but eight units or less: 10,000 square feet plus 1,500 3,000 square feet for each additional unit over two per unit.
- d. Units containing more than eight four dwelling units: 2,500 square feet per unit.

~~(9) Minimum street side yard setback: 20 feet~~

(11) - Height of detached garages and accessory buildings: Shall not exceed the height of the principal structure

(12) Minimum above-grade floor area for a dwelling unit: 1,000 square feet.

Sec. 130-1025. Requirements for multifamily developments.

This section applies to multifamily buildings with more than four units and/or with more than one principal land use structure on a single lot:

- (1) Buildings shall have primary entrances that face the front or street side right-of-way and connect to City sidewalk with a pedestrian walk.
- (2) Parking Areas
 - a. Minimum paved surface setback: Five feet from side or rear, ten feet from street.
 - b. Parking areas and/or garages are not permitted in front or side yards.
 - c. Parking areas with drives in excess of 100 feet should be inter connected.
- (3) Usable open space: Usable open space shall be provided on each lot used for multifamily dwellings ~~of three or more units~~. Usable open space shall compose at least 25 percent of the gross land area of the lot area and shall be used for recreational, park or environmental amenity for ~~collective~~ enjoyment by occupants of the development, but shall not include public or private streets, drives or drainageways.
- (4) Each unit must have its own dedicated outdoor area (such as a patio or balcony) of at least 24 square feet. The total of these dedicated outdoor areas may be used towards the usable open space requirement in (c) above.
- (5) Outdoor refuse and recyclable storage areas shall be located on a concrete pad and surrounded by a fence or enclosure constructed of durable, weatherproof materials that match or compliment the materials used on the principal structures.
- (6) Building size and massing shall be compatible with other structures on the lot and of those on adjoining properties.
- (7) Building materials and exterior roofing shall be compatible with materials and colors with other buildings on the lot and on adjoining properties. Building materials shall

include at least 50% durable materials (such as stone, clay or masonry brick, decorative concrete masonry) on street facing facades.

(8) Mailbox installations shall comply with USPS regulations and are not permitting on City-owned parcels or within the right-of-way.

(+) (9) City Staff or Plan Commission may require building orientation to be adjusted to meet site-specific concerns or address aesthetic considerations of nearby properties.

f. Height of detached garages and accessory buildings: Shall not exceed the height of the principal structure.

g. Minimum above-grade floor area for single-family dwelling: 1,200 square feet.

(Code 1986, § 17.41(4); Ord. No. 2003-9, § 6, 9-9-2003; Ord. No. 2003-11, § 6, 10-14-2003, Ord. 2007-21, Ord. 2012-16)

Secs. 130-~~1025~~1026--130-1040. Reserved.

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FROM ARTICLE VI, PARKING.

Sec. 130-1302 Parking requirements.

All new nonresidential parking lots in excess of four stalls and all alterations of existing lots shall be subject to the approval of the plan commission. Requests for such parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provision, and driveway locations. In all districts there shall be provided at the time any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

- (a) *Access.* Adequate access to a public street shall be provided for each parking space.
- (b) *Design standards.* The size of each parking space shall be not less than 162 square feet (9 feet by 18 feet) exclusive of the space required for ingress and egress. Handicapped parking stalls may be 8 feet wide with the required access aisle specified under (k) below. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: 11 feet for 30-degree parking; and 20 feet for 90-degree parking. Minimum width of aisles providing access to stalls for two-way traffic shall be 24 feet. No parking area of more than two spaces shall be designed as to require any vehicle to back into a public street. The plan commission may authorize stalls sized for smaller vehicles (eight feet by 16 feet) where the number of stalls being provided exceeds the minimum number required and where all of the minimum required stalls are full sized (nine feet by 18 feet).
- (c) *Location.*
 - (1) Location shall be on the same lot as the principal use or not over 500 feet from the principal use.
 - (2) Off-street parking is permitted in all yards of all districts except in the front yards of single-family and two-family residence districts, but shall not be closer than five feet to a nonresidential side lot line, right-of-way line, or rear lot line. No parking space or driveway, except in residential districts, shall be closer than 25 feet to a residential district lot line.
 - (3) Off-street parking in the single-family and two-family residence districts is permitted in the front yard only on the driveway. No parking is allowed on the front yard lawn areas.
- (d) *Surfacing.* All off-street parking areas, except a single parking space accessory to a single-family dwelling, shall be surfaced with a dustless all-weather material capable of carrying a wheel load of 4,000 pounds (normally, a two-inch blacktop on a four-inch base or five inches of Portland cement will meet this requirement). Any parking area for more than five vehicles shall have the aisles and spaces clearly marked. Compacted stone or gravel may be used only with the approval of the plan commission. Completion of surfacing is required prior to the issuance of an occupancy permit. However, for required surfacing during the period between November 1 and June 1, the owner shall enter into an agreement with the City agreeing to complete all required surfacing by no later than the following June 1.

- (e) *Repair and service.* No commercial motor vehicle repair work or service of any kind shall be permitted in association with parking facilities provided in residence districts.
- (f) *Lighting.* Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three foot-candles measured at the lot line.
- (g) *Curbs.* Concrete curbing is required for parking lots in excess of four stalls. Such curbing should be positioned to facilitate the direction and flow of storm water and to maintain the pavement edge. Curbs or barriers shall be installed a minimum of four feet from a property line so as to prevent the parked vehicles from extending over any lot lines.
- (h) *Number of stalls.* The minimum number of parking stalls required are shown in the following table. Apart from one and two family dwelling units, no land use may exceed fifteen (15) percent of the minimum required number of parking stalls.:

LAND USE	PARKING REQUIREMENT
Residential —One and Two Family Dwelling	2 spaces per dwelling unit
<u>Accessory Dwelling Unit (ADU)</u>	<u>1 space per ADU</u>
Residential <u>Apartment – 2 and 2+ bedroom units Multifamily Dwelling</u>	2 spaces per dwelling unit
<u>Apartment - Studio and 1 bedroom dwelling unit</u>	<u>1.5 spaces per dwelling unit</u>
Residential — <u>Apartment - Senior</u>	1 spaced per dwelling unit
Institutional Living	1 space per resident or patient capacity
Community Living	1 space per resident capacity
Hospital	1 space per patient bed
Institutional Uses	1 space per 4 persons maximum seating capacity
Churches	1 space per 4 persons maximum seating capacity
Community or Recreation Center	1 space per 4 persons maximum seating capacity
Funeral Home	1 space per 4 persons maximum seating capacity
Library or Museum	1 space per 300 square feet of gross floor area
Day Care	1 space per 5 students
School - Elem or Middle	1 space per staff, plus 2 spaces per classroom
School - High School	1 space per staff, plus 1 space per 5 students
College or Trade School	1 space per staff, plus 1 space per 2 students at peak attendance period.
Golf Course	36 spaces per 9 holes, plus 50 percent of spaces otherwise required for any accessory uses (e.g.

LAND USE	PARKING REQUIREMENT
	bars, restaurant)
Swimming Pool	1 space per 75 square feet of gross water surface area
Tennis court	3 spaces per court
Retail Sales And Services	1 space per 300 square feet of gross floor area.
Business or Professional Offices	1 space per 300 square feet of gross floor area.
Drive-Up or In-Vehicle Sales and Service	2 spaces per drive-up lane
Indoor Eating and Drinking Establishments	1 space per 300 square feet of gross floor area
Outside Eating or Drinking Areas	1 space per 300 square feet of serving area.
Commercial Animal Boarding	1 space per 1,000 square feet of gross floor area.
Motels and Hotels	1 space per bedroom
Bed & Breakfast Establishment	1 space per bedroom
Campground	1.5 spaces per campsite
Mini-Warehouse Storage Facility	1 space per 1,000 square feet of gross floor area
Warehouse and Distribution Center	1 space per 1,000 square feet of gross floor area.
Industrial and Manufacturing	1 space per 1,000 square feet of gross floor area.
Utilities	1 space per 1,000 square feet of gross floor area.

This Ordinance shall be in full force and effect upon passage and publication.

Passed and adopted this ____ day of _____, 2023.

Dianne Duggan, Mayor

ATTEST:

Leah Hurlty, City Clerk

Introduced: 11/30/2023
Notices published: 11/20/2023 and 11/27/2023
Public hearing held: 12/5/2023
Adopted: 12/12/2023
Published: 12/20/2023

*Sponsors: This is a staff-initiated ordinance.
Drafted on November 17th, 2023 by Colette Spranger, Community Development Director*

DEVELOPMENT AGREEMENT – CHS OILSEED PROCESSING, LLC

This Agreement is made this ____ day of _____, 2023, between the City of Evansville, a Wisconsin municipal corporation of the State of Wisconsin, located in Rock County (“the City”) and CHS Oilseed Processing LLC, a Minnesota Cooperative formed under Chapter 308A of the Minnesota Statutes (“Developer”). The City and CHS may be individually referred to as a “Party” and collectively identified here as “the Parties” to this Agreement.

WHEREAS, Developer owns approximately 316.8 acres of land in the City of Evansville that is legally described in Appendix A;

WHEREAS, the above-described land is zoned I-2 Heavy Industrial;

WHEREAS, Developer desires to develop the above-described land for an agricultural service use to be known as the CHS Soybean Processing Facility (the “Project”);

WHEREAS, on August 1, 2023, the Plan Commission approved a conditional use permit for the Project subject to certain conditions;

WHEREAS, on August 8, 2023, the Common Council approved a preliminary certified survey map for the Project subject to certain conditions;

WHEREAS, on September 5, 2023, the City’s Plan Commission approved a site plan application subject to certain conditions;

WHEREAS, on September 12, 2023, the Common Council approved an annexation application, comprehensive plan amendment application, and rezoning application subject to certain conditions;

WHEREAS, the Plan Commission and the City Council have reviewed this final development Agreement for the Project;

WHEREAS, the City is in the process of establishing Tax Incremental District No. 10 (the District”) through action of its Joint Review Board, Plan Commission and Common Council, as amended;

WHEREAS, the City is authorized under Section 66.1105(3)(e) of the Wisconsin Statutes to enter into an agreement to implement the provisions and effectuate the purposes of the District plan as approved (“the District Plan”);

WHEREAS, the City is also authorized, under Section 66.1105 of the Wisconsin Statutes and the District Plan, to provide project development incentives and/or pay for municipal improvements or other project costs, to be reimbursed from the property tax increments generated from the project development;

WHEREAS, the City finds and determines that private development of the project is consistent with the public purposes, plans and objectives respectively set forth in the District Plan, and expenditures by the City would act as an inducement for the private development of the project, thereby making more likely accomplishment of the public purpose objectives set forth in the District Plan and the overall objectives of the City and would provide employment and expand the tax base of the City;

WHEREAS, the parties believe it to be in their mutual best interest to enter a written development agreement, hereinafter called the “Agreement,” which sets forth the terms of understanding concerning said Project;

NOW, THEREFORE, in consideration of the recitals, the terms and conditions contained in

this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1. PROJECT DEVELOPMENT AND PHASING

A. Project Development

The Developer agrees to construct on the Real Estate various industrial buildings for soybean processing and storage and other related agri-business operations, inclusive of a dry mill, grain dryer, soybean processing facility, oilseed refinery, and related structures, as depicted on the preliminary site plan which is attached and incorporated as Exhibit B to this Agreement (collectively, “the Project Development”). The Real Estate and the Project Development improvements shall be referred to as the “Property.” All structures and other improvements shall be designed and constructed in conformance with all applicable building and other State, County and Evansville municipal codes. In addition, all structures, improvements and landscaping shall be designed and constructed to present appropriate visual aesthetics consistent with the terms of this agreement as determined by the City in its sole discretion, and conforming to plans approved by the City of Evansville. No phase or portion of the Project Development shall be placed into service or used for industrial operation prior to final inspection and the issuance of an occupancy or other operational permits from the State of Wisconsin and/or City of Evansville, and no phase of the Project Development shall be deemed to have been “completed” within the meaning of this Agreement until such inspection and occupancy and all other operational permits have been issued.

B. Design Plans

The Developer shall not commence construction or place any structure, improvement or landscaping on the Real Estate until design plans have been approved in writing by the City for each Project Development Phase as defined in Section 1.C below. All design plans shall be prepared in sufficient detail to establish compliance with all federal, state, and local rules, regulations, statutes, and ordinances, and also with the terms of this Agreement as determined in the sole discretion of the City. Once approved, the Developer shall fully comply with all such design plans, unless otherwise mutually agreed by the Parties in a written amendment to this Agreement.

C. Phasing

For purposes of establishing milestones for this Agreement, Project Development shall be described in three (3) phases.

1. “Phase 1” of the Project Development shall include the site grading, installation of utilities and related public improvements both on and off site, and preparation of the Property for the construction of industrial buildings and rail improvements.
2. “Phase 2” of the Project Development shall include the construction of a soybean processing facility and related structures and fixtures for the cleaning, crushing and processing of soybeans for the sale of soybean oil and soybean meal.
3. “Phase 3” of the Project Development shall include the construction of a soybean oil refinery, the construction of which may or may not occur concurrent to Phase 2.

D. Termination

The Developer will be considered in default of this Agreement if any of the following occur:

1. The Developer fails to construct or fails to substantially complete Phase 1 of the project consistent with Article 1.C.1.a. by December 31, 2025.
2. The Developer fails to construct or fails to substantially complete Phase 2 of the project consistent with Article 1.C.1.b. by December 31, 2027.
3. Any representation provided by the Developer as part of this Agreement is determined to be false in a material way; or
4. The Developer becomes insolvent or generally unable to pay its debts as they mature, including but not limited to filing a petition for bankruptcy or any similar proceeding; or
5. All or any portion of the property becomes tax exempt.
6. In the event that the Developer is found in default of this Agreement, the City will cease all future payments, and/or pursue any or all of the rights and remedies available to the City as outlined in Article 9 of this Agreement.

ARTICLE 2. REAL ESTATE VALUE

A. Guaranteed Property Valuation

The Developer shall construct Project Development improvements, at the Developer's sole cost, on the Real Estate to reach the Guaranteed Tax Valuation as set forth below.

B. Guaranteed Tax Increment Value Defined

In this Agreement, "Guaranteed Tax Value" shall mean the minimum incremental value of the Property for the applicable tax year, as specified in this Agreement.

C. Guaranteed Tax Values

1. For tax assessment year 2025 (due in calendar year 2026), the Guaranteed Tax Increment Value for the Property shall be at least Nine Million Nine Hundred Thousand Dollars (\$9,900,000.00) for the Property.
2. For tax assessment year 2026 (due in calendar year 2027), the Guaranteed Tax Increment Value for the Property shall be at least Sixty-One Million Seven Hundred Ten Thousand Dollars (\$61,710,000.00) for the Property.
3. For tax assessment year 2027 (due in calendar year 2028) and beyond, the Guaranteed Tax Increment Value for the Property shall be at least One Hundred Ten Million Dollars (\$110,000,000.00) for the Property.

D. Payment of Real Estate Taxes

The Developer shall pay all real estate taxes and special assessments for the Property when due. In any year in which the actual equalized incremental value of the Property is less than the Guaranteed Tax Value for that year, then the Developer shall pay, in addition to any required real estate tax payment, an additional payment in lieu of taxes ("PILOT") in an amount equal to the applicable tax mill rate for the Tax Incremental Finance District that year

Development Agreement
CHS Oilseed Processing and City of Evansville, Rock County, Wisconsin
DRAFT

multiplied by the difference between the actual equalized incremental value of the Property and the Guaranteed Tax Value for the Property for that year.

By way of example, if the equalized incremental value for tax year 2025 (tax revenue collected in 2026) is \$9,000,000 and the Guaranteed Tax Value for that year is \$9,900,000, then in addition to paying all real estate taxes for that year, the Developer shall also make a PILOT payment to the City that is equal to \$900,000 multiplied by the interim TID tax rate for that year as calculated on the PC-202 Tax Increment Calculation Worksheet. For example, if the TID interim tax rate is \$17.00 per thousand of incremental value, the PILOT payment due is \$15,300 ($\$900,000 \times \$17.00 / 1,000$).

E. Special Assessment

The Developer agrees that if any real estate taxes or required PILOT is not timely paid in full, then the balance due, including without limitation any interest charges imposed under Article 3 below, shall immediately thereafter be added and collected as a special assessment to the Property, as specified in Article 3 below. However, the inclusion of any amount due as a special assessment shall not constitute a waiver of any default of this Agreement, and shall not prohibit the City from pursuing any other available remedies under this Agreement. The City shall comply with Article 3 of this Agreement with respect to initiating any special assessment of the Real Estate for Project Infrastructure.

F. No Limitation on Tax Assessment Process

The Parties each understand and agree that the provision for payment of a minimum tax increment for the Property shall not in any way bind the City Assessor, or Department of Revenue Assessor in the assessment and appraisal of the Property and that the City Assessor, or Department of Revenue Assessor will arrive at an assessed value of the Property based solely on the reasonable application of all applicable property tax laws, rules, rates, regulations and ordinances in effect from time to time. Nothing in this provision shall limit or impair any statutory rights of the City with respect to the assessment, levy, priority, collection and/or enforcement of real estate and personal property taxes. Nothing in this provision shall limit or impair the Developer's rights to appeal an assessment in excess of total assessed valuation, although such appeal shall have no effect on the determination of the Guaranteed Tax Value under this Agreement.

ARTICLE 3. TAX INCREMENT FINANCING

A. Incentive Structure

1. PAYGO. The City shall provide a Tax Increment Financing (TIF) incentive as a pay-as-you-go (PAYGO) obligation of the City. Developer shall be responsible to incur and pay all of the upfront costs of the Project to the extent Tax Increment District (TID) revenues are sufficient to the limits of the TID and this Agreement.
2. Incremental Property Value. Commencing the first year after the first occupancy permit for the Project has been issued, the equalized value of the Property shall be determined on January 1 of each tax year and shall be compared to the equalized value of the Property as of January 1 of the year in which construction commenced. The difference in equalized values shall be known as the Incremental Property Value.

3. Available TIF Increment. Incremental Property Value multiplied by interim TID Tax Rate as calculated on the PC-202 Tax Increment Worksheet, shall be known as the Available TIF Increment.
4. PAYGO Reimbursement Schedule. Payments will be payable to Developer in the year following the year of the TIF Increment determination, after Developer has provided proof to the City of the full payment of the real estate taxes, special assessments and special charges against the Real Estate for the previous year. For example, if the first building permit is issued on September 1, 2026, the TIF Increment would be determined as of January 1, 2027 and the PAYGO reimbursement would first be payable in 2028.

B. Monetary Limitation

The TIF Incentive in any year of the life of the TID shall not exceed eighty-five percent (85%) of the Available Tax Increment for the Property.

C. Tax Incentive Cap

The City shall not be obligated to pay PAYGO TIF Incentive in excess of fifty-five million dollars (\$55,000,000.00) in total. If all principal of the PAYGO obligation has not been paid by the TID closure date, the City shall have no further obligation to make payments or pay any shortfall.

D. Tax Receipts Limitation

Only the Available Tax Increment actually received by the City, and no other property, revenue, or asset of the City, shall be used to pay such amounts.

E. Temporal Limitation

Provided Developer qualifies for TIF Incentive and provided the Developer has paid the real estate taxes and any Special Assessments and Special Charges and any PILOT obligations in full for the previous tax year by July 31, TIF Incentive payments shall be made on or before September 1 of each year; provided, however, in no event shall TIF Incentive payments continue after the earlier of the termination date of the TID or the termination of this Agreement if before the termination of the TID.

F. No General Obligation of City

The City's obligation to make TIF Incentive payments shall be a special and limited obligation only and shall not be considered a general obligation of the City, and neither the full faith and credit nor the taxing powers of the City are pledged to the payment of such amounts. The City shall take no action to dissolve the TID before payment of all TIF Incentive payments due to the Developer, subject to the provisions of this Agreement. In no circumstances shall amounts to be paid Developer hereunder be considered an indebtedness of the City, and the obligation of the City hereunder is limited to the Available Tax Increment appropriated and received by the City. Amounts due hereunder shall not count against the City's constitutional debt limitation, and no taxes will be levied for its payment or pledged to its payment other than from the Available Tax Increment.

G. Other Grants and Credits

The City, as appropriate and in its sole discretion, may also apply for such other grants and credits in regard to the Project as they shall deem appropriate for the benefit of the Project and as may be required to achieve necessary financing for the Project, provided, however, the City makes no representations or warranties about the availability of such grants and credits or whether any such grants or credits that may be available will be awarded.

ARTICLE 4. ENVIRONMENTAL PROTECTION AND MONITORING.

A. Environmental Protection as a Material Term

Each of the Parties acknowledge that protection of the environment, protecting the health and safety of Evansville community residents, maintaining an environmentally safe workplace and maintaining a community that is free from harmful or otherwise objectionable environmental emissions is a material inducement for the City to enter into this Agreement.

B. Applicability of Provisions

The following provisions are therefore incorporated in this Agreement in furtherance of this purpose and shall apply to the Project site at all times during construction and perpetual operation of the Project. Where applicable, the Developer shall comply with any and all federal, state, and local rules, regulations, statutes, and ordinances that apply to the conditions listed below. To the extent there is any conflict among the standards described in this section, the Developer shall observe the standards that are most stringent.

C. Air Pollution

The Developer shall at all times comply with the performance standards in Section 130-232 of the Evansville Zoning Code, as amended, as they relate to smoke, dust, and particulate matter within the City of Evansville, in addition to any federal and state rules and regulations.

D. Air Permits

The Developer shall not commence construction on any phase of the Project until it has notified the City that it has obtained appropriate air permits from the Wisconsin Department of Natural Resources, or has been informed by the Wisconsin Department of Natural Resources that no such permits are necessary. The Developer shall provide copies of the applicable permits and/or correspondence to the City prior to commencing construction. In addition, the Developer shall not commence construction on any phase of the Project prior to submitting a detailed dust control and mitigation plan and has received written approval of the City with respect to that plan. The Developer shall at all times comply with the provisions of any approved dust control and mitigation plan. The Developer shall at all times observe the ambient air quality standards for particulate matter in Wis. Admin. Code § NR 404.04(8) and (9). The Developer shall control fugitive dust as provided in Wis. Admin. Code § NR 415.04.

E. Glare and Heat, Noise, and Vibration

The Developer shall at all times comply with the applicable performance standards in

Development Agreement
CHS Oilseed Processing and City of Evansville, Rock County, Wisconsin
DRAFT

Sections 130-234, 130-236, and 130-239 of the Evansville Zoning Code, as amended, as they relate to glare and heat, noise, and vibrations occurring due to the facility operation.

F. Odor

The Developer shall at all times comply with the performance standards in Section 130-237 of the Evansville Zoning Code as they relate to odor emissions within the Property during its intended use. In addition to these requirements, The Developer shall not cause, allow or permit emission into the ambient air of any substance or combination of substances in such quantities that result in an objectionable odor. As used in this Agreement, an odor shall be conclusively deemed “objectionable” when the Wisconsin Department of Natural Resources (DNR), after conducting an investigation pursuant to Wis. Admin. Code § NR 429.03, issues a written decision that the odor is objectionable.

G. Chemical Use and Storage

The Developer shall utilize and store chemicals in compliance with all federal, state, and municipal laws and code restrictions, including without limitation, those promulgated by the Wisconsin Department of Agriculture, Trade & Consumer Protection and the DNR. Prior to constructing any phase of the Project Development, the Developer shall provide the City with a list of any and all substances it will use or store onsite during project operation that are toxic, corrosive, flammable, irritants, strong sensitizers, or explosives, pursuant to Wis. Stat. § 299.01(6), or that are regulated as hazardous, extremely hazardous, or toxic substances, or are subject to reporting requirements under, the federal Emergency Planning and Community Right-to-Know Act Sections 302 and 313, the Comprehensive Environmental Response, Compensation, and Liability Act, 40 C.F.R. 302.4, or under Section 112(r) of the Clean Air Act. The Developer shall promptly update the list as new substances are used onsite during project operation.

H. Containment and Remediation of Contaminant Discharge

In the event of any unplanned or unauthorized discharge of a regulated, hazardous, or toxic substance resulting from project construction or operation, the Developer shall promptly and without delay follow all applicable federal, state, and local laws for remediation and reporting, including but not limited to Wis. Stat. § 292 and its implementing regulations. The Developer agrees to notify the City of any such discharge and agrees that the City is not a responsible party for any contamination resulting from any construction or operation of any phase of the Project Development.

I. Water Discharge

The Developer shall contemporaneously notify the City of any permit application it files with the Wisconsin Department of Natural Resources to discharge pollutants to waters of the state from any point source under Wis. Stat. § 283.31, and shall provide the City with a copy of any permit it receives.

J. Erosion Control

The Developer shall at all times comply with the standards in Chapter 48 of the Evansville Municipal Code, as amended, as it pertains to Erosion Control.

K. Public Nuisance

The Developer shall not cause a public nuisance within the meaning of Article IV of Chapter 46 of the Evansville Municipal Code, as amended. This Article 4.K is not limited by any other provision in this Agreement.

L. Other Potential Hazards

The Developer shall prepare or, as applicable, update, an Emergency Preparedness and Response Plan for potential emergencies, including those from fire, explosion, severe weather, third Party threats, and spills. The Emergency Preparedness and Response Plan shall comply with any applicable federal, state, and local standards. The Plan shall be provided to the City prior to each phase of construction. The City may require that the Developer provide specialized training or resources to local first responders to address unique risks presented by the facility, which the Developer shall provide at its sole expense.

M. Monitoring and Reporting

The Developer agrees that it will comply with all applicable monitoring requirements relating to any environmental laws or regulations, including but not limited to its use of substances regulated under federal, state, or local environmental laws and all environmental conditions and will make the results of these monitoring activities available to the City when monitoring results are outside of any applicable regulatory standard. Such reports or results shall include, without limitation, any monitoring reports (such as air quality monitoring, surface water quality monitoring, or groundwater quality monitoring or sampling) submitted to any federal, state, or local agency with jurisdiction over environmental matters. Such reports shall be submitted to the City within three (3) business days of the date they are provided to the applicable federal, state, or local agency. In addition to this requirement, The Developer agrees that it will immediately notify the City of the discovery of any contamination or of any facts or circumstances that reasonably indicate that such contamination may exist in or on the Real Estate. The Developer also agrees that following notification to the City that contamination may exist, the Developer shall make all reasonable accommodations to allow the City to inspect the Real Estate and monitor such cleanup operations as may be required by the terms of this Agreement or any appropriate local, state, or federal agencies. The Developer agrees that, within three (3) business days of the receipt of any citation, forfeiture, notice of non-compliance, notice of violation, summons and complaint, or any other enforcement action related to alleged violations of any environmental laws (including but not limited to laws related to air quality, surface water, groundwater, spills, and improper storage of fertilizers or other materials) from any state, federal, or local agency (“enforcement document”), The Developer will provide a copy of the enforcement document to the City and will copy the City on any subsequent correspondence regarding the enforcement document until the federal, state, or local agency has closed the action, or the action is otherwise resolved.

N. Notification

The Developer shall immediately notify the City of all complaints it receives from any local area resident or person who works within the City related to smoke, dust, particulate emissions, sound, vibration, glare, odor, chemical use and storage, runoff, trash, and any other environmental hazards, recording the name of the complainant (if given), the date of the complaint, and the substance of the complaint. The City shall maintain a record of all

complaints received related to smoke, dust, particulate emissions, sound, vibration, glare, odor, chemical use and storage, runoff, trash, and any other environmental hazard.

O. Protections

The Developer shall indemnify, defend, and hold the City and its officers, employees, and agents harmless from any claims, judgments, damages, penalties, fines, costs, or loss (including reasonable fees for attorneys, consultants, and experts) with respect to the presence or suspected presence of any toxic or hazardous substances and any environmental complaint or issue arising from or related to any activity occurring by reason of the Developer's ownership or use of the Property or adjacent street right-of-way. Without limiting the generality of the foregoing, the indemnification by the Developer shall include costs incurred in connection with any site investigation or any remedial, removal, or restoration work required by any local, state, or federal agencies because of the presence or suspected presence of toxic or hazardous substances and any environmental complaint or issue on or under the real property, whether in the soil, groundwater, air, or any other receptor.

ARTICLE 5. COOPERATIVE TRANSPORTATION PLAN

A. Anticipated Traffic Volumes

Each of the Parties acknowledge that traffic control and a viable transportation plan for the Project Development is essential to enhance the commercial operations of the Developer, and for the safe and convenient management of traffic flow to and from the Real Estate and for all users of roadways adjacent to the Real Estate. The Parties each acknowledge that reliance on this estimate by the City is a material inducement for the City to enter into this Agreement with the Developer. The Developer estimates that after completion of each phase of Project Development, its commercial operations will generate inbound and outbound vehicular and rail car traffic as specified on the attached Exhibit F, which is incorporated by reference. The Developer shall at all times use commercially reasonable efforts to effectively manage its commercial operations so as to avoid, to a reasonable extent practicable, traffic congestion in and around the Real Estate and traffic routing through the City of Evansville.

B. Increase in Anticipated Traffic Volumes

If at any time the estimated amount of vehicular or rail car traffic directly related to the Developer's use of the Property exceeds these estimates by greater than fifteen percent (15%) of the average daily trips throughout the course of a calendar year, the Parties will at that time, in good faith and in cooperation with the Wisconsin Department of Transportation, negotiate the terms of a transportation management plan to address any such increase in vehicular or rail car traffic.

C. Assignment of Costs

The Developer shall pay for all costs associated with any traffic or transportation study or studies as may be required for this purpose.

D. Documentation of Traffic Volumes

The Developer shall supply to the City each January an annual report of the number of trips

generated by vehicles directly related to the Developer's use of the Property.

E. Cooperation and Mitigation of Received Complaints

The Developer and City shall each keep track of and share with one another complaints received from the general public regarding traffic associated with the Project site. This will be done as a good faith effort to address perceived issues without having to

ARTICLE 6. PUBLIC IMPROVEMENTS

A. Public Improvements

As used in this Agreement, the term "Public Improvements" shall mean the water distribution system, sanitary sewer system, surface water drainage system and retention ponds, electrical system and street lights, trails, landscaping, and traffic control signs described in this Article 3 to be dedicated to the City.

B. Union Pacific Railway

The City understands that the Developer and the Union Pacific Railway are collaboratively managing plans for and are solely responsible for any rail line, track installation, and crossing and other improvements as part of this Project.

C. Plans and Specifications

Developer shall file with the City Clerk's office, a complete set of the plans and specifications for the Public Improvements for the entire Project, as approved by the City Engineer, hereinafter called "Plans and Specification." Said Plans and Specifications are hereby made a part of this Agreement by reference and including those standard specifications as the City may have adopted at the time of construction.

D. Stormwater Management.

1. Prior to commencing any Phase of the Project Development, Developer shall submit to the City a stormwater plan and maintenance agreement for stormwater facilities in accordance with Chapter 104 of the City of Evansville Municipal Code, as amended.
2. Developer shall, at all times during construction and operation of any Phase of the Project Development, comply with all terms and conditions specified in its stormwater plan and maintenance agreement.
3. Developer shall contemporaneously provide the City with a copy of any stormwater Notice of Intent and plans for stormwater and erosion control that it submits to the Wisconsin Department of Natural Resources.
4. Developer shall, at its sole cost, fully comply and maintain compliance with respect to all applicable State and municipal statutes, laws, administrative provisions and other requirements with respect to storm water quality, storm water management, and weed and erosion control.

E. Electric Service

1. The Developer shall receive electric service through Evansville Water and Light,

subject to local and state utility regulations.

2. Electric service will require a deposit as specified in the separate utility agreement.
3. In the event the utility's actual cost to install the electrical system is less than the estimate, the utility shall refund the difference to Developer.
4. In the event the utility's actual cost to install the electrical system is greater than the estimate, the Developer shall pay the difference to the utility within thirty (30) days of billing.
5. City shall have the Evansville municipal electric utility install all street lighting associated with the Project. The Developer shall pay the municipal utility's cost thereof including, but not limited to, the cost of labor provided by utility employees to install such street lighting, within thirty (30) days of billing.

F. Water Distribution System.

1. Developer and City agree that Project site to only use City water for domestic (potable) uses on site.
2. The City water supply shall not be used in case of emergency. Developer shall maintain an emergency supply of water on site from a fire life safety tank.
3. The City will allow use of a private high-capacity well on site. Private well to meet the standards of Section 126-202 of the City of Evansville Municipal Code.
4. To ensure well capacity does not impose adverse impacts on neighboring properties and the City's own water supply, the Developer shall invest in a water study to ensure the flow rates of the well do not exceed ...
5. In the event of a malfunction, City shall allow Developer to use domestic water supply at the rate of 350 gallons per minute for a duration of up to two (2) weeks, for a maximum of two (2) events per year (or up to a maximum of four (4) weeks per year).
6. No off site improvements to the public infrastructure supplying the domestic water supply are anticipated as part of this project.

G. Wastewater

1. Developer shall construct, furnish, install, and provide an onsite wastewater treatment facility capable of processing wastewater from the Project to normal domestic strength as defined by Section 126-271 of the City of Evansville Municipal Code before it enters the City's wastewater conveyances. The Plans and Specifications and all applicable federal, state and local ordinances, specifications, regulations and guidelines for the construction of sewerage systems in the City of Evansville shall comply with all applicable federal, state, and local ordinances and be approved of by the City Engineer.
2. City shall make appropriate upgrades to off site wastewater treatment plant and lift stations. Upgrade costs not to exceed \$1,450,000.
3. Developer shall pay applicable connection fee to the City wastewater system.
4. Developer to agree to periodic waste sampling per Section 126-296 of the City of

Evansville Municipal Code.

5. A separate Industrial User Agreement shall outline a plan for the City's wastewater treatment to take on the Project's wastewater in the event of a malfunction at the Project's on-site wastewater treatment facility. The Developer and City must enter into such an agreement. Failure to do so is a default under this Agreement.

H. Landscaping and Recreational Trail

1. Improvements

- a. The Developer shall provide a landscape plan for City approval that includes required street trees, recreational trail location, and landscape buffer areas. (Exhibit B)
- b. The Developer shall plant and maintain landscaped areas as described in Exhibit B.
- c. The Developer shall dedicate to the City a 45 foot wide easement for future utilities and public recreation purposes. This easement is depicted on Lot 1 and Lot 2 of the associated Certified Survey Map. (See Exhibit C.)
- d. The Developer shall construct a 10 foot wide paved asphalt recreational trail per City direction and requirements within the utility and public recreation easement. The value of this improvement is estimated to be \$320,000.
- e. Upon completion of the recreational trail, the Developer is to plant one hundred thirty (130) street trees, whose types and sizes shall be included within Exhibit B, on alternating sides of the recreational trail and along County M every sixty (60) feet.
- f. The Developer to maintain existing row of mature trees along Weary Road near the intersection of Weary Road and US Highway 14.

2. Value of Improvements.

- a. The value of the landscaped areas is estimated to be \$100,000.
- b. The value of the street/recreational trail trees is estimated to be \$80,000.
- c. The value of the recreational trail is estimated to be \$320,000.

3. Timing of Improvements

- a. Landscaping shall be installed upon completion of Phase 2 of the Project Development.
- b. The recreational trail and street trees shall be installed by the earlier of: A.) completion of Phase 3 of the Project Development or B.) December 31, 2030.
- c. The Developer, in lieu of installation of the items in Section 6.H.3.b. above, may opt to submit payment of \$400,000 to the City to cover the cost of completing the work.

4. Satisfaction of Conditions

- a. The landscaping and trees described in Article 6.H.1.a and Article 6.H.1.b.

shall satisfy the prior condition set by Plan Commission on September 5, 2023 that 60,000 landscape points and corresponding street trees be installed on the Project site.

- b. The recreational trail, once completed or payment received, shall satisfy the prior condition set by Plan Commission on September 5, 2023 that sidewalks be installed along all public streets adjacent to the Project site.
- c. The City estimates the value of 60,000 landscape points to be \$500,000 and thus finds the landscaping and trail described in this Article 6.H, once completed, will satisfy the exceptions to the City's landscape requirements in Section 130-263(g) of the City of Evansville Municipal Code.

I. Utility Extensions

Upon accrual of sufficient tax increment and completion of its other utility improvements related to the Project, the City shall install at its own expense sewer and water main extensions within the public utility easement located on the Property.

ARTICLE 7. USE AND DECOMMISSIONING OF FACILITIES

A. Security Against Abandonment

The Developer agrees that after any phase of the project has been completed as specified in Article I, it will not abandon or otherwise cease to use that Project Development phase for the commercial purposes specified in this Agreement for a period of thirty (30) years following date of completion. It shall not be a violation of this provision if the Developer ceases to use the Project Development phase during any restoration period specified in Article 7.D below. If, after this term the Developer desires to cease to use any Project Development phase for the commercial purpose intended, then it shall notify the City and the parties shall thereafter mutually agree to a plan for the Developer, at its sole expense, to timely decommission and remove all buildings, structures and fixtures associated with that development phase, unless such buildings, structures and fixtures may be re-purposed as the parties may agree. The plan for decommissioning shall include, without limitation, removal or remediation of any environmental contaminants on the real estate that are no longer used by the Developer as part of its commercial operations. In addition, the City may, in its sole discretion, as part of an agreed decommissioning plan, require the Developer to provide an irrevocable letter of credit or other form of security as specified in Article 9.L below, to assure the faithful performance of the Developer's obligations with respect to the decommissioning.

B. Assignment and Sublease Restricted

This Agreement shall not be assigned by the Developer without the express written consent of the City, which shall not be unreasonably withheld. Any attempt to assign the Agreement in violation of this Section shall be void and shall constitute an act of default of this Agreement. The Developer shall not attempt to sublease its interest in this Agreement without the consent of the City, which consent shall not be unreasonably withheld, and any attempt to do so shall be void and shall constitute an act of default of this Agreement. If the City does agree to an assignment or sublease of this Real Estate, it shall deliver its approval in writing. Any permitted transferee shall agree to be fully bound by the terms of this

Agreement and any and all obligations of the transferor. The Developer acknowledges that the terms of this Agreement represent a primary and material inducement for the City to convey the Real Estate to the Developer. The City shall remain a Party in interest for the purpose of enforcing these terms, notwithstanding any subsequent voluntary or involuntary assignment or conveyance of the legal or equitable interest of the Developer in the Real Estate to any third Party.

C. Taxable Entity; Payment in Lieu of Taxes

The City has entered into this Agreement with the Developer on the basis that the Developer is not a legal entity that is exempt from real estate taxation. The Developer warrants that the Project shall remain a taxable project and shall not be purchased by entities that are exempt from real estate taxes, and it shall be a condition of this Agreement that ownership of any portion of the Real Estate may not be transferred to an entity that is exempt from real estate taxes, without a payment in lieu of property taxes. This obligation shall survive until the termination of the District. In the event that the Developer receives an exemption from general real estate taxes, then the Developer shall be responsible to the City of Evansville for a payment in lieu of taxes in an amount not less than the municipal levy applied the current assessed value. The Developer agrees that the Project Development shall be subject to annual real estate tax assessment, and/or an equivalent annual payment to the City in lieu of such assessment at all times prior to the lawful termination or closure of the District. The Project Development shall not be transferred, whether voluntarily or involuntarily, to any entity that is exempt from the assessment of real estate tax, unless prior to such transfer a written agreement is executed between the transferee and the City providing for an annual payment to the City in lieu of real estate taxes in an amount not less than the required payments due under this agreement. This term shall remain in effect until the lawful termination or closure of the District.

D. Destruction and Restoration

In the event of that any buildings, structures, fixtures or improvements constructed as part of the Project Development specified in Article 1 above shall be damaged or destroyed by fire or otherwise, the Developer, at its sole cost and expense, shall promptly restore, repair, replace and rebuild the same as nearly as possible to the condition that the same were in immediately prior to such damage or destruction, reasonable wear and tear excepted, with such changes or alterations as the Parties may mutually agree in writing. The Developer shall promptly give the City written notice of such damage or destruction on its occurrence and specify in such notice, in reasonable detail, the extent of such damage or destruction, and propose restoration plan. Restoration shall be carried on and completed within a reasonable time thereafter, but in no case more than eighteen (18) months after the damage or destruction occurred. No destruction of or damage to all or any portion of buildings, structures or fixtures located on the Real Estate, by fire, casualty or otherwise, shall relieve the Developer from any of its obligations or requirements under this Agreement, nor shall any payment due from the Developer abate during any restoration period, except by mutual written agreement of the Parties.

ARTICLE 8. INSURANCE AND ASSUMPTION OF RISK

A. Required Insurance

The Developer, its contractors, lessees, successors and assigns, shall, at all times during its ownership of the Real Estate, purchase or cause to be purchased and continuously maintained in effect, insurance against such risks, both generally and specifically, with respect to the Project Development specified in Article 1 above, as are customarily insured against in project developments of like size and character including, but not limited to: casualty insurance, comprehensive general liability insurance, physical damage insurance, builders' risk insurance, worker compensation, and coverage for vehicle operation, and all other forms of insurance reasonably required generally by the State of Wisconsin for entities such as the Developer. Required insurance shall be maintained in amounts and with terms of coverage generally customary to such development and operations. In the event that buildings, structures or facilities on the Real Estate are damaged or fully destroyed, the Developer shall cause the insurance proceeds from such loss to be used to promptly repair and restore the Real Estate and all structures on the Real Estate to their original condition, except as otherwise agreed by the Developer and the City.

B. Certificates of Insurance

On written request of the City, certificates of insurance on all policies specified shall be filed with the Evansville City Clerk and in such case shall provide that a thirty (30) day written notice of material change or cancellation must be given to the City.

C. Assumption of Risk

Notwithstanding any insurance requirement specified in this Agreement, the Developer agrees to and does assume the full risks of any injuries, including death, and of any property loss, and of all expenses, costs, damages and losses that, its officers, members, or employees, may sustain as a result of participating in any and all activities connected with or associated with this Agreement and with Project Development and use of the Real Estate.

D. General Indemnity

Each Party (the "Indemnifying Party") hereby agrees to indemnify, defend and hold the other Party, its affiliates, its licensees, its licensors, and its and their officers, directors, employees, consultants, and agents (the "Indemnified Parties") harmless from and against any and all damages or other amounts payable to a third party claimant, as well as any reasonable attorneys' fees and costs of litigation (collectively, "Damages") arising out of or resulting from any claim, suit, proceeding or cause of action (each, a "Claim") brought by a third party against the Indemnified Parties based on: (a) breach of any representation or warranty by the Indemnifying Party contained in this Agreement, (b) breach of any applicable law by such Indemnifying Party, or (c) negligence or willful misconduct by such Indemnifying Party. This requirement for indemnification shall be as broad as may be permitted under law.

E. Governmental Immunity

Being a political subdivision of the State of Wisconsin, the City is governed by and subject to the governmental immunity laws of the state of Wisconsin, including without limitation

those contained within Sections 893.80, 895.52 and 345.05 of the Wisconsin Statutes (collectively, the “Immunity Act”). Nothing in this Agreement shall be interpreted or construed to limit, modify or qualify any immunity or protection provided to the City by the Immunity Act. The provisions of this Article 8.E shall prevail over any conflicting or inconsistent provision set forth elsewhere in this Agreement.

F. Personal Liability of Public Officials

In carrying out any of the provisions of this Agreement, or in exercising any power or authority granted to them thereby, there shall be no personal liability of the City officers, agents, or employees, it being understood and agreed that in such matters they act as agents and representatives of the City.

G. Maintenance of Records and Audit

The Developer shall keep full and detailed books, records and accounts that are customarily maintained to document full performance of and compliance with all conditions, restrictions, requirements and obligations imposed on the Developer under federal and state law, and the terms of this Agreement. The Developer shall, on request by the City, make its books, records, and accounts available to the City or its agent to permit the City to monitor and audit compliance by the Developer with respect to all terms of this Agreement.

ARTICLE 9. DEFAULT AND REMEDIES

A. Termination of Agreement.

This Agreement shall be effective on the execution and delivery of this Agreement by the Parties, and shall continue as follows: (a) any obligation of the Developer to pay to the City of Evansville any PILOT as specified in Article 2.D above, and any City obligation to make incentive payments under Article 3.A above, shall terminate after full payment of any required amount due with respect to the Real Estate tax statement or statements for the tax assessment year in which the District is closed; and (b) all other provisions shall survive termination or closure of the District, and shall continue until released by the City. The City shall not close the District prior to 2043 unless the City’s incentive payments to the Developer have reached the \$55,000,000 cap.

B. Events of Default

A Party to this Agreement shall be in default if any of the following events occur: (a) that Party is, through action or inaction, in material breach of any term or provision of this Agreement; or (b) any representation or warranty of the Party or in any agreement or certificate delivered pursuant to this Agreement shall prove to have been false in any material respect when made; or (c) that Party becomes insolvent or files for relief under a bankruptcy, receivership or insolvency proceedings of any kind, or is named in such proceeding involuntarily and such proceeding is not dismissed within ninety (90) days; or (c) The Developer, if it undergoes dissolution or liquidation, or the commencement of any proceedings for dissolution or liquidation that are not dismissed within ninety (90) days.

C. Right to Cure

Except in the case of an emergency as set forth below, if one Party deems the other

Party to be in default as set forth in Article 1.D above, the non-defaulting Party shall provide written notice of default to the defaulting Party, during which time the defaulting Party may fully cure all incidents of default identified in the written notice. The time during which a defaulting Party may cure the default shall be not less than ten (10) days for any default as to any monetary payment due, and not less than sixty (60) days for default as to any other term, provision or requirement under this Agreement. By mutual written agreement the Parties may extend the length of time necessary to cure the default beyond the term of the initial written notice if it will reasonably take longer than the time specified in the notice to cure, and if, during such extended time the defaulting Party is making diligent efforts to cure the default. During the period in which a defaulting Party has a right to cure, the non-defaulting Party shall take no remedial action with respect to the default as set forth below. If any default remains uncured after expiration of the right to cure as provided here, then the non-defaulting Party shall thereafter be permitted to take such remedial action with respect to the default as set forth below.

D. Emergency Action

As used in this Agreement, an “emergency” means a situation that arises where the City deems the Developer to be in default of this Agreement, which default poses risk of immediate threat of injury to health or life, or damage or loss to property, whether real or personal. In the event of an emergency, the City may immediately report the default and resulting emergency to the Developer, and the Developer shall immediately thereafter commence such action as may be reasonable and necessary to prevent, avoid or mitigate injury, damage, or loss and shall, as soon as reasonably possible and report its remedial action to the City not more than three (3) days thereafter. For the purpose of this subsection, the City may report an emergency to the Developer via telephone, facsimile or electronic mail to the Developer’s last-known contact information, provided that the City shall immediately thereafter also provide written notice as set forth below. If the Developer fails to take immediate remedial action within the time specified here, then the City may, in its sole discretion and without further notice, take reasonable action as the City deems necessary or appropriate to address such emergency, including without limitation to take any remedial action available to the City as specified in this Agreement. Should the city need to expend any resources to respond to such a situation, the City shall be reimbursed by the developer for doing so. Notwithstanding any provision to the contrary in this Agreement, the City may take remedial action in the event of an emergency without first complying with the Right to Cure or Mediation requirements specified in this Agreement.

E. Mediation of Disputes.

Except in the case of an emergency as specified in this Agreement, any unsettled claims, counterclaims, disputes, and other matters in question between the Parties arising out of or relating to this Agreement shall be submitted to mediation by a mediator mutually selected by the Parties before the Parties proceed with remedial action as specified in Articles 9.G and 9.H below. Nothing here shall prohibit the Parties from proceeding with mediation during any period in which a Party has a right to cure as specified in Article 9.D above. The City and The Developer each agree to participate in the mediation process in good faith. The mediation process shall be conducted on a confidential basis and shall be completed within sixty (60) days, unless both Parties agree to an extension. If such mediation is unsuccessful in resolving the dispute, then the Parties may mutually agree to a further

dispute resolution process, or either Party may seek to pursue remedial action specified in Sections Articles 9.G and 9.G below.

F. Remedial Action Available to the City

If the Developer is in default of this Agreement, the City may take any one or more of the following remedial actions:

1. The City may suspend its performance under this Agreement until the default is cured Developer, as deemed adequate by the City in its sole and absolute discretion; or
2. The City may take or pursue any administrative action as it deems appropriate, whether through municipal enforcement or enforcement through any County, State or federal agency; or
3. To the extent that the Developer fails to make any monetary payment required under this Agreement for more than ten (10) days after the due date of such payment, then in addition to such payment the Developer shall pay to the City interest on the monetary amount outstanding at the rate of twelve percent (12%) per annum from the due date to the date of payment, and such amount shall immediately thereafter be added and collected as a special assessment to the Real Estate as specified in Article 9.J below; or
4. The City may enforce the provisions of this Agreement and may enforce and protect the rights of the City by a suit or suits in equity or at law for the specific performance of any term or provision of this Agreement, and for the enforcement of any other appropriate legal or equitable remedy, including without limitation, injunctive relief, and for recovery of monetary damages and all monies due or to become due from the Developer under any provision of this Agreement.

G. Remedial Action Available to the Developer

If the City is in default of this Agreement, the Developer may seek any remedy available under the terms of this Agreement or take any other action, including legal or administrative action, in law or equity, which may appear necessary or desirable to enforce performance and observance of any obligation or agreement of the City under this Agreement, including securing an injunction to prevent harm, provided that the Developer shall, to the extent required by law, use commercially reasonable efforts to mitigate its loss or damages.

H. Special Assessment and Assessment Waiver

In addition to other remedies provided to the City by this Agreement, the City shall have the right to impose special assessments on the Real Estate for any monetary amount to which the City is entitled by virtue of this Agreement, including without limitation, any interest charges imposed under Article 9.G.3 above. The City shall have the right at any time while this agreement remains in effect, without notice or hearing, to impose special assessments against the Real Estate for any cost, expense, charge or other payment due to the City under this agreement, including without limitation, any Property real estate tax or PILOT payment that becomes due. The Developer acknowledges that the City's performance under this agreement, including without limitation payment of the Project Development incentive

identified above, constitutes a reasonable and appropriate improvement that directly benefits the Project Development. Now and in the future, the Developer waives all special assessment notices and hearings required under Section 66.0703 of the Wisconsin Statutes, consents to any such levy of special assessments against the Real Estate pursuant to Section 66.0703(7)(b) of the Wisconsin Statutes, and further agrees not to contest any such special assessment by appeal or otherwise. This waiver shall apply at all times prior to the lawful termination or closure of the Tax Increment District 10. The Developer agrees to execute any and all necessary documentation that may be requested by the City at any time while this agreement remains in effect, in order to provide evidence of the consent and waiver of the Developer in this respect. Notwithstanding this provision, the inclusion of any amount due from the Developer as a special assessment shall not constitute a waiver of any default of this Agreement, and shall not prohibit the City from pursuing any other available remedies under this Agreement.

I. Special Assessments Outside Project Plan

The City shall not seek to impose a duplicative special assessment for any Project Infrastructure for any portion of the Project Development that was included in the initial Project plan. However, the City reserves the right to impose special assessments on the Property for additional infrastructure costs or expenses not included in the initial Project plan, where required by Wisconsin state regulatory agencies in support of the Project (e.g., WI-DOT intersection controls or enhancements or WI-DNR stormwater mandates), or where otherwise deemed necessary by the City.

J. Remedies are Cumulative

All remedies provided in this Agreement shall be cumulative and the exercise of one remedy shall not preclude the use of any other or all remedies specified in this Agreement. Notwithstanding any provision to the contrary contained in this Agreement, in addition to the remedies set forth here, either Party may pursue any other remedy now or available in the future under the laws or jurisdictional decisions of the State of Wisconsin.

K. Performance Security

If the City at any time in good faith shall deem itself insecure as a result of a default by the Developer as specified in Article 9.B above, then the City may require the Developer, as a term of any right to cure under Article 9.C above, to provide to the City a formal irrevocable letter of credit issued pursuant to Chapter 405 of the Wisconsin Statutes in a commercially reasonable amount to assure the faithful performance of the Developer's obligations under this Agreement for a term sufficient to secure full performance of those obligations. Such a letter shall be issued to the benefit of the City of Evansville. The Letter of Credit shall be approved as to form by the City Attorney. The Parties may, by mutual written agreement, consent to a performance bond or other form of security in lieu of an irrevocable letter of credit. Failure to comply with this Article 9.K shall constitute a material breach by the Developer of the terms of this Agreement.

L. Waiver

Failure of a Party to enforce any provision contained in this Agreement shall not be deemed a waiver of that Party's rights to enforce such provision or any other provision in the

event of a subsequent default. No Party shall be deemed to have waived any term, provision or requirement of this Agreement unless such waiver is in a writing executed by both Parties and specifically identifies the term, provision or requirement that is waived, in which case such waiver shall not be deemed to waive any other concurrent, previous or subsequent breach of this Agreement.

M. Costs and Attorney Fees

In the event that any dispute arising out of the provisions of this Agreement is litigated in circuit court the Party that substantially prevails in the resolution of such dispute shall be entitled to recover all reasonable actual costs and expenses associated with of such dispute resolution, including without limitation, reasonable attorney's fees. In addition, if the City substantially prevails in the resolution of the dispute, the City shall be entitled to recover all actual costs and expenses for all municipal staff time and investigative expenses.

ARTICLE 10. DEVELOPER WARRANTIES AND REPRESENTATIONS

A. Business Entity.

The Developer is a duly formed and existing membership cooperative formed under Chapter 308A of the Minnesota Statutes in good standing under the laws of the State of Minnesota.

B. Authority to Execute Agreement

The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized and approved by the Developer and no other or further acts or proceedings of the Developer are necessary to authorize and approve the execution, delivery and performance of this Agreement and the matters contemplated hereby. This Agreement, and the exhibits, documents and instruments associated herewith and made a part hereof, have been duly executed and delivered by the Developer and constitute the legal, valid and binding agreement and obligation of the Developer, enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or similar laws affecting the enforcement of creditors' rights, generally, and by general equitable principles.

C. Pending or Threatened Litigation

There are no lawsuits filed or pending, or to the knowledge of the Developer, threatened against the Developer that may in any way jeopardize or materially and adversely affect the ability of the Developer to perform its obligations hereunder.

D. Sufficient Funds for Project Development

As of the date of this Agreement, the Developer has sufficient available funds and resources to enable the Developer to complete and fully perform all of its obligations under this Agreement. On the request of the City, the Developer shall make available for inspection evidence of its financial resources on which it bases this warranty and representation. The Developer shall promptly notify the City of any material adverse change in its financial condition that is reasonably likely to adversely affect its ability to satisfy all of its obligations under this Agreement the City agrees to use reasonable safeguards to maintain the confidentiality of any financial or confidential information of The Developer

to the maximum extent permitted under applicable law, to provide prompt written notice (in any event within 3 business days) to the Developer of any Wisconsin public records or similar request seeking information related to the financial resources of the Developer, and to consult with the Developer prior to responding to any such request. The final decision regarding the disclosure of any information in response to any such request shall be made at the reasonable discretion of the Evansville City Attorney.

ARTICLE 11. GENERAL PROVISIONS

A. Time of the Essence

The City and the Developer agree that time is of the essence with respect to all dates or timelines specified in this agreement, absent the written agreement of the Parties altering or otherwise modifying such dates or timelines.

B. Force Majeure

Neither the Developer nor the City shall be liable for failure to perform or delay in performance of any obligation resulting from any cause beyond the reasonable control of the Party affected (including, in the case of the Developer, its suppliers to the extent they are delayed in performance due to an event of Force Majeure) as of the date of this Agreement. Such events shall include, but are not limited to, an act of God; act of civil or military authority; act of war whether declared or undeclared; act (including delay, failure to act or priority) of any governmental authority; act of terrorism; civil disturbance, rebellion, insurrection, riot or sabotage; fire caused by a third-Party, inclement weather conditions, earthquake, flood or natural disaster; strike, work stoppage or other labor difficulty; governmental embargo, epidemic or quarantine; fuel or energy shortage; delay or accident in shipping or transportation (collectively "Force Majeure"). However, under no circumstances shall this provision be construed so as to delay any required performance by a Party for a period of more than one (1) year from the initial required compliance date.

C. Compliance with Codes and Statutes

The Parties acknowledge that full compliance by the Developer with all such codes, statutes and administrative code provisions is a material inducement for the City to enter into this Agreement. The Developer shall fully comply with all current and future applicable codes, statutes, administrative code provisions of the City, County, State and federal government, including without limitation, Evansville Municipal Code Chapter 130, Article III Performance Standards and Chapter 46, Article IV, Nuisances. In addition, the Developer shall follow all current and future lawful orders of any and all duly authorized employees and representatives of the City, County, State or federal government. However, to the extent that the terms, provisions and requirements of this Agreement are more restrictive than the requirements of any applicable code, statute or administrative code provision, then the terms of this Agreement shall be controlling.

D. No Waiver of Municipal Approval Processes

The Developer acknowledges and agrees that the terms, provisions and restrictions of this Agreement do not and shall not obligate the City of Evansville, or any committee, board, commission, or employee of the City, to grant approval of zoning, variance, use or other

permit associated with the Project Development, nor shall this Agreement constitute a waiver of any fee or document submission associated with the approval process in this respect.

E. Abrogation and Greater Restrictions

The terms of this Agreement are intended to supplement, not modify or replace any applicable federal, State, County or municipal code standard or requirement for real estate development, including without limitation the application of all State, County and municipal, zoning, building or property maintenance code provisions. The Developer agrees to comply with the terms of this Agreement, even where such terms exceed or are supplemental to zoning, building or property use codes or other legal standards, requirements or restrictions.

F. Survival of Terms

Notwithstanding any other provision in this Agreement, those provisions in this Agreement which by their nature are intended to or must be performed in whole or in part or are reasonably interpreted to survive after the expiration or termination of this Agreement shall survive the expiration and/or termination of this Agreement.

G. No Third-Party Beneficiaries

This Agreement is made solely for the benefit of the Parties and their permitted successors and assigns, and no other Party shall acquire or have any rights under this Agreement or by virtue of this Agreement

H. Governing Law and Venue

This Agreement will be construed and interpreted in accordance with the laws of State of Wisconsin without regard to its conflict of law rules. The exclusive venue of any action arising out of this Agreement shall be in the Circuit Court of Rock County, Wisconsin.

I. Mutual Cooperation

Each of the Parties, at their own cost, agrees to execute and deliver such additional documents and take such other action as may be reasonably necessary or appropriate to carry out the terms, purposes and intent of this Agreement and to cooperate with the other Party in fulfilling all of their respective obligations under this Agreement.

J. Entire Agreement and Merger

This Agreement when executed by all Parties constitutes the entire agreement between the Parties with respect to this subject matter, merges all discussions between them and supersedes and replaces any and every other prior or contemporaneous agreement, understanding or negotiation that may have existed between the Parties. The Parties agree that they are mutually responsible for the drafting of this Agreement.

K. Relationship of Parties

This Agreement shall not be interpreted or construed to create an association, joint venture, fiduciary relationship or partnership between the City and the Developer, or to impose any

partnership obligation or liability or any trust or agency obligation or relationship upon either Party. The City and the Developer shall not have any right, power, or authority to enter any agreement or undertaking for, or act on behalf of, or to act or be an agent or representative of, or to otherwise bind, the other Party, and except as expressly provided in this Agreement.

L. Interpretation

Each Party acknowledges that it has been represented by or had the opportunity to be represented by legal counsel in its review of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in the interpretation of this Agreement. The terms of this Agreement shall be liberally construed to promote the public purposes, plans and objectives identified in the District Plan, to protect the environment and the health and safety of Evansville community residents, to maintain a community that is free from objectionable environmental emissions.

M. Section Headings

The section or paragraph headings included in this Agreement are only for the convenience of the Parties and shall have no effect in interpreting the meaning of any term or provision of this Agreement.

N. Written Amendment

No amendment of this Agreement shall be binding on either Party unless confirmed in writing and executed by both Parties.

O. Written Notice.

Any notice or other communication to be given in connection with this Agreement shall be in writing. If any communication is personally delivered, then the delivery date shall be the date on which the recipient actually receives the communication. Any communication transmitted by mail shall be made by registered mail or courier services, and shall be delivered to the last- known address provided to the other Party in writing. The initial recipient and address for each Party are as follows:

To Developer:

CHS Oilseed Processing
Attn: Jim Graham
5500 Cenex Drive
Inver Grove Heights, MN 55077

To City:

City Administrator
31 S. Madison St.
PO Box 529
Evansville, WI 53536

P. Calculation of Time

In computing any period of time in this Agreement, reference to “day” or “days” shall mean calendar days, except that if the due day falls on a Saturday, Sunday or legal holiday then the time for performance shall be extended to the next day which is not a Saturday, Sunday or legal holiday. The day any notice is issued shall not be included in calculating the number of days required for performance.

Q. Severability

If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable. However, the unenforceability or invalidity of any provision shall not affect any other provision of this Agreement, and this Agreement shall continue in full force and effect, and be construed and enforced, as if such provision had not been included, or had been modified as above provided, as the case may be.

R. Binding Effect

These terms shall bind each of the Parties, all subsequent owners and those claiming under them, as well as their legal or equitable successors in interest.

S. Agreement to Run with Land

This Agreement shall operate as a covenant running with the real estate, and all rights and obligations provided here, including without limitation the special assessment waiver and consent identified above, shall run with the real estate, and each and every parcel that may be subject to division. This Agreement imposes certain obligations, liabilities and restrictions on the owners of all or any portion of the Real Estate, including without limitation, the obligation to pay certain amounts to the City as specified above. The City may record this Agreement or notice of this Agreement with the County Register of Deeds to provide public notice of these terms.

T. Execution in Counterparts

This Agreement may be executed in two or more counterparts. All executed counterparts shall constitute one agreement, and each counterpart shall be deemed an original. The Parties agree that signatures transmitted by facsimile or electronic mail shall be legal and binding and shall have the same full force and effect as if an original of this Agreement had been delivered and they waive any defenses to the enforcement of the terms of this Agreement based on these forms of signature.

CHS Oilseed Processing LLC

By:

(print name and title)

The obligations of the Developer stated above in this Development Agreement are hereby personally guaranteed by the undersigned, who state they fully understand and accept the responsibilities of the Developer.

_____ (SEAL)

(print name)

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date stated.

CITY OF EVANSVILLE:

Dianne Duggan, Mayor

Date: _____

Leah Hurtley, City Clerk

Date: _____

LIST OF EXHIBITS

EXHIBIT A – LEGAL PROPERTY DESCRIPTION

EXHIBIT B – SITE PLAN

EXHIBIT C – LANDSCAPE PLAN

EXHIBIT D – CERTIFIED SURVEY MAP

EXHIBIT E - SAMPLE CALCULATION OF NET INCREMENT INCENTIVE PAYMENT

EXHIBIT F - TRAFFIC STUDY

EXHIBIT A - PROPERTY LEGAL DESCRIPTION

EXHIBIT B - SITE PLAN

EXHIBIT C - LANDSCAPE PLAN

EXHIBIT D - CERTIFIED SURVEY MAP

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