

ENROLLED ORDINANCE 166-69

YEAR 2011 APPROVAL OF AMENDMENT TO THE COMPREHENSIVE  
DEVELOPMENT PLAN FOR WAUKESHA COUNTY  
(2B – MARK LAKE, MRED-CUMMINGS),  
SECTION 17, TOWN OF WAUKESHA

WHEREAS on February 24, 2009, the Waukesha County Board of Supervisors in Enrolled Ordinance No 163-81, approved a Comprehensive Development Plan for Waukesha County, and

WHEREAS said Comprehensive Development Plan for Waukesha County provides for annual update and amendment procedures, and

WHEREAS, on February 17, 2011, the Waukesha County Park and Planning Commission and the Waukesha County Land Use, Parks and Environment Committee held a joint Public Hearing, continued on June 2, 2011 and November 3, 2011, to receive testimony on proposed changes to the Comprehensive Development Plan for Waukesha County, and

WHEREAS the staff has identified in a “Staff Report and Recommendation” dated November 3, 2011, a summary of the Public Hearing, comments and Staff Recommendations for the proposed change to the Comprehensive Development Plan for Waukesha County, and

WHEREAS said “Staff Report and Recommendation” has been reviewed by the Waukesha County Park and Planning Commission on November 3, 2011, and a recommendation thereon reported to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors as required in the Comprehensive Development Plan for Waukesha County and as set forth in the “Chart of Actions” on file in the office of the Department of Parks and Land Use.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the following amendment is hereby approved to the Year 2035 Comprehensive Development Plan for Waukesha County.

2. In the Town of Waukesha, the following request is being made:

B. **Mark Lake, MRED-Cummings**, W228 N745 Westmound Drive, Waukesha, WI 53186, requests properties located in part of the NE ¼ of Section 17, T6N, R19E, Town of Waukesha (Tax Key No’s WAKT 1361.982, WAKT 1361.994, WAKT 1361.995, WAKT 1361.996 and WAKT 1361.997), be changed from the Low Density Residential category to the Mixed Use category in order to accommodate a proposed commercial development that would include a potential Walgreens and one additional retail site, subject to the following conditions:

1. The mixed uses being authorized are residential, retail and office uses only.
2. Future development proposals must contain adequate buffering provisions for adjacent residential uses, subject to the approval of the Town of Waukesha.

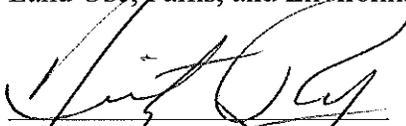
3. Traffic, access and circulation issues must be considered and addressed at the time of any future rezoning and site plan requests, subject to the approval of the Town of Waukesha.

BE IT FURTHER ORDAINED that a more detailed description and map of the aforementioned amendment is on file in the office of the Waukesha County Department of Parks and Land Use.

BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Waukesha.

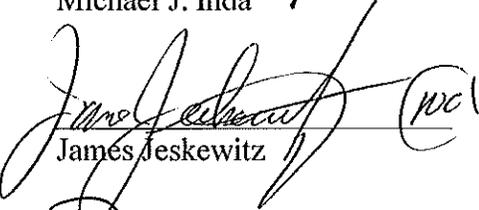
YEAR 2011 APPROVAL OF AMENDMENT TO THE COMPREHENSIVE  
DEVELOPMENT PLAN FOR WAUKESHA COUNTY  
(2B - MARK LAKE, MRED-CUMMINGS),  
SECTION 17, TOWN OF WAUKESHA

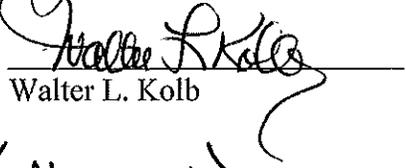
Presented by:  
Land Use, Parks, and Environment Committee

  
Fritz Ruf, Chair

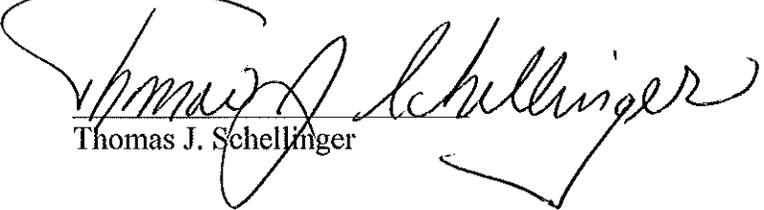
  
Robert Hutton

< Absent >  
Michael J. Inda

 (wcl)  
James Jeskewitz

  
Walter L. Kolb

< Absent >  
Ted Rolfs

  
Thomas J. Schellinger

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 11-23-11

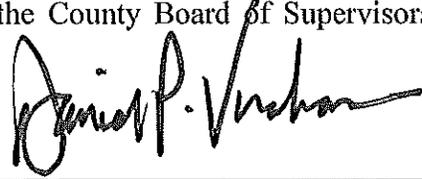
  
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X

Vetoed: \_\_\_\_\_

Date: 11-23-11

  
Daniel P. Vrakas, County Executive

**WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE**  
**STAFF REPORT AND RECOMMENDATION**  
**YEAR 2011 AMENDMENTS TO THE COMPREHENSIVE**  
**DEVELOPMENT PLAN FOR WAUKESHA COUNTY**

**DATE:** November 3, 2011

**NATURE OF REQUEST:**

Year 2011 amendment to the Comprehensive Development Plan for Waukesha County to amend the designation of lands located within the Town of Waukesha pursuant to the procedures outlined in the Plan.

**Town of Waukesha Plan Amendment Request**

**2B.** *Mark Lake, MRED-Cummings, W228 N745 Westmound Drive, Waukesha, WI 53186, requests properties located in part of the NE ¼ of Section 17, T6N, R19E, Town of Waukesha (Tax Key No's WAKT 1361.982, WAKT 1361.994, WAKT 1361.995, WAKT 1361.996 and WAKT 1361.997), be changed from the Low Density Residential category to the Mixed Use category in order to accommodate a proposed commercial development that would include a potential Walgreens and one additional retail site.*

**PUBLIC HEARING DATE:**

Thursday, February 17, 2011, continued on Thursday, June 2, 2011.

A copy of the public hearing Minutes from the February 17, 2011 hearing are included herein as an attachment (see Exhibit "A"). The February public hearing was adjourned to June 2, 2011 where the Park and Planning Commission voted to again adjourn the hearing to November 3, 2011 to allow for the Waukesha West Bypass study to advance further prior to the public hearing being continued. If additional public comments are offered at the November 3, 2011 hearing continuation, modifications to this Staff Report and Recommendation may be warranted.

**TAX KEY NOs.:**

WAKT 1361.982, WAKT 1361.994, WAKT 1361.995, WAKT 1361.996, WAKT 1361.997

**LOCATION**

Part of the NE ¼ of Section 17, T6N, R19E, Town of Waukesha. More specifically, the five subject parcels are located in the southwest quadrant of the intersection of C.T.H. "D" (Sunset Dr.) and C.T.H. "X" (Genesee Rd.) in the Town of Waukesha consisting of approximately four acres.

**EXISTING LAND USE CATEGORY**

Low Density Residential (20,000 square feet to 1.4 acres per dwelling unit).

**PROPOSED LAND USE CATEGORY**

Mixed Use.

**REQUESTED LAND USE**

The request for the Mixed Use designation would accommodate a Walgreens pharmacy in the northern portion of subject parcels. A second possible retail site has been identified to the southwest of the Walgreens site.

**PUBLIC REACTION**

At the February 17, 2011 public hearing, one neighboring property owner to the west spoke in opposition to the proposal and noted that many others were opposed but not in attendance because of the time of the hearing. She stated numerous concerns including concern about the loss of mature trees, a proposed fence that she stated would block her view and winds, increased traffic on Sunset Dr., concerns regarding her well and septic and questioned whether the roadways would have to be re-built as a result of future bypass work. A Town Board Supervisor asked that County action be deferred until the Waukesha West Bypass study advanced further and a preferred alternate is identified. A family member of one of the property owners that is seeking the amendment shared general comments. At the Town of Waukesha public hearing for the Town Land Use Plan amendment, approximately 20 people spoke against the proposal and two spoke in support. It should be noted that the public hearing considered amending the land use designation for 16 properties in the project vicinity, inclusive of the five subject properties currently being considered for a plan amendment. The Town Plan Commission and Board explicitly chose only to amend the Town Land Use Plan relative to the five properties that are subject of this request. However, the majority of speakers spoke in opposition to Walgreens and generally expressed disinterest in commercial uses coming to the neighborhood.

**TOWN PLAN COMMISSION ACTION**

On October 9, 2009, the Town of Waukesha Plan Commission approved the Town Land Use Plan change for the five described properties from the Low Density Residential category to the Mixed Use category.

**TOWN BOARD ACTION**

On December 10, 2009, the Town Board of Waukesha approved the change from the Low Density Residential category to the Mixed Use category in accordance with the recommendation of the Town Plan Commission (See Exhibit "B").

**STAFF ANALYSIS:**

This request pertains to five parcels at the intersection of C.T.H. "D" and C.T.H. "X" in the Town of Waukesha. The proposal would allow for redevelopment of these parcels to allow for a Walgreens pharmacy and an additional future retailer (See Exhibit "C"). It should be noted that a sixth adjacent parcel that has been annexed by the City of Waukesha would be utilized for storm water management purposes as part of the development project, but that parcel is not part of the subject request because the parcel is located within the city limits. The residential and accessory structures that occupy the five parcels would ultimately be razed to accommodate the contemplated development. The Planning and Zoning Division Staff met with the Town Planner and the petitioner prior to the plan amendment request being filed in 2009. At that time, the Planning and Zoning Division Staff suggested that the Town consider the future use designations for the larger neighborhood surrounding the five subject parcels in order to plan for the future of the entire neighborhood, given that, at present, the immediate surroundings to the south and west are entirely residential.

The five subject parcels are currently in residential use, however, the petitioner has all of the properties under contract for purchase and all five owners co-signed the plan amendment application. The immediately abutting properties to the west and southwest are also in single-family residential

use. The neighborhood to the west consists of approximately 50 single family residences. Many of the properties within the Davies Subdivision and to the east of Ridge Rd. and View Dr. have a buffer from the subject parcels and other properties along C.T.H. "X" comprised of an approximate 115' strip that is inclusive of several vacant parcels abutting a number of rear yards. There are two single-family residences immediately adjacent to the project that would be most likely to be potentially impacted by re-development of the five parcels from an aesthetics and neighborhood context perspective. The Planning and Zoning Division Staff recommends that if the plan amendment is approved, the Town should give careful consideration to the site design of potential future uses relative to these two neighboring properties. The uses on the northwest and southeast corners of the subject intersection are commercial in nature.

The subject intersection is heavily traveled, given the numerous commercial and industrial uses in the general area and the proximity to other major transportation facilities. C.T.H. "X" was recently reconstructed, and an existing unsafe frontage road access point to C.T.H. "D" was eliminated very near the C.T.H. "D" and C.T.H. "X" intersection. A cul-de-sac has been installed and access to the subject site is now via a frontage road access point immediately opposite of the access to Waukesha State Bank, which is to the east of C.T.H. "X". There are no wetlands, floodplain or other mapped natural resources located on the subject acreage.

Although the petitioner applied for a land use plan change relative to the five subject parcels, the Town public hearing notice indicated that 16 parcels were being considered for change to the Mixed Use designation. The Planning and Zoning Division Staff did suggest that the Town give consideration to the future use designations for those 16 parcels, but Staff expected that consideration of potential changes to the plan designations for the larger neighborhood would have occurred through an independent planning process outside of the discussion relative to the petitioner's pending request. At the Town's public hearing in 2009, the petitioner clarified that his request was solely relative to the five subject parcels, and the Town Plan Commission and Board approvals reference that their approval is likewise relative to those five parcels only.

Although the Town of Waukesha had acted on the subject land use plan amendment in late 2009, the petitioners, at the advice of the Planning and Zoning Division Staff, waited to apply for a County Development Plan amendment until the 2011 cycle, because the Public Works Staff believed that the Waukesha West Bypass environmental impact study would be far enough along in 2011 to be able to know whether a potential West Bypass alternative would result in the need for any potential reconfiguration of the subject intersection. At the February 17, 2011 public hearing, the Planning and Zoning Division Staff recommended that no action be taken on the subject request, as the Public Works Staff advised that it was likely that potential right-of-way or functional needs for contemplated bypass alternates would be known by June 2011. In June 2011, the Public Works Staff advised the Planning and Zoning Division Staff that the study had not advanced as quickly as expected. Consequently, the petitioner was advised that more time was needed and the Park and Planning Commission again adjourned the public hearing for this matter to November 3, 2011.

The Public Works Staff has now advised in a letter dated October 27, 2011 (see Exhibit "D"), that although a preferred alternate has not yet been selected for the West Bypass, the alternate that would utilize the subject intersection has now been analyzed sufficiently to anticipate right-of-way and access needs. The Public Works Staff has advised that if the preferred alternate did use the subject

intersection for the bypass route, the bypass would not directly impact the retail development site if the site is developed in accordance with the Waukesha County Street and Highway Width Map. However, the median opening on C.T.H. "X" would need to be relocated to the south if the chosen alignment utilizes the C.T.H. "D" and C.T.H. "X" intersection, meaning that northbound traffic on C.T.H. "X" seeking to access the Walgreens site and traffic seeking to exit the Walgreens and turn south onto C.T.H. "X" would need to utilize the existing frontage road that intersects with Ridge Rd. to the south. This would generate some commercial traffic on the existing frontage road that now serves only residential properties.

It is anticipated that the Town of Waukesha Board will meet regarding making a recommendation to Waukesha County relative to the Town's request to defer action on this matter until notice from the Town was provided. Staff expects to have a letter from the Town in advance of the November 3, 2011 Park and Planning Commission meeting, and any correspondence will be distributed at that time. The petitioner has extended contracts with the five property owners on multiple occasions to accommodate the county's interest in completing its due diligence in considering the potential impacts that the West Bypass study might have on the subject property and intersection.

It should be noted that the property is currently zoned R-2 District under the Town's Zoning Code, and there is no proposal to amend the zoning classification at this time. The proposed commercial uses would require a rezoning of the lands, which would be subject to the review and approval of the Town of Waukesha and the Waukesha County Board. The rezoning and site plan approval processes would allow the opportunity for specific conditions to be placed upon development proposals regarding site design, buffering of adjacent residential properties and other site conditions to ensure that any re-development is complimentary to the neighborhood. The Planning and Zoning Division Staff feels strongly that the Town should require extensive vegetative screening of the west and southwest sides of the property that will directly abut residential properties. While the submitted conceptual site plan does show numerous landscape plantings, the plantings are depicted inside of an 8' cedar fence. The Planning and Zoning Division Staff recommends that the Town require plantings outside of the fenced area so that neighbors are not left with a view of an expansive and potentially imposing fence. This level of detail should be considered at the rezoning and site plan approval stage, as the land use plan amendment process considers the underlying use of the land. All specific project details relative to site design, lighting, signage, landscaping, parking, etc. are typically analyzed at the time of the detailed site plan review, which will occur at the Town of Waukesha.

**STAFF RECOMMENDATION:**

It is the opinion of the Planning and Zoning Division Staff that this request be **approved** subject to the following conditions:

1. The mixed uses being authorized are residential, retail and office uses only.
2. Future development proposals must contain adequate buffering provisions for adjacent residential uses, subject to the approval of the Town of Waukesha.
3. Traffic, access and circulation issues must be considered and addressed at the time of any future rezoning and site plan requests, subject to the approval of the Town of Waukesha.

The Planning and Zoning Division Staff believes that, as conditioned, the proposed Mixed Use designation allows for residential uses to remain or for the redevelopment of the property to either mixed use or commercial uses. Given the location of the property at a high traffic intersection of two county trunk highways, Staff feels that the conversion of the properties closest to the intersection away from single family residential use is an acceptable progression of land use change if proper site design and buffering considerations are taken into account during the review of any future proposed developments. Historically, corner drug and food stores were commonplace in residential neighborhoods. If properly sited and designed, Staff feels that such uses, with modern day scale and parking needs, can successfully co-exist with nearby residential uses. The availability of a frontage road and an existing established median break on Genesee Rd. will allow for traffic to circulate in and out of the anticipated commercial development without substantially impacting other local roads that serve the surrounding residential neighborhood. Should a future bypass alternative require closure of the median, Condition No. 3 stated above gives the Town Board authority in considering traffic issues as it considers specific rezoning requests going forward. The Planning and Zoning Division Staff recommends that the Town continue to examine its land use plan relative to the larger neighborhood in order to both gauge public interest and to give surrounding neighborhood residents certainty in planning for the future. Specific development parameters can be considered at the rezoning and site plan approval stage in order to further ensure neighborhood sensitivity.

Respectfully submitted,



Jason Fruth  
Planning and Zoning Manager

JF:kb

Attachments: Exhibit "A", "B", "C", "D" and Map

closed on the property, the City of Waukesha asked them to annex the property. Two requests for annexation were rejected by the City and six (6) months later, eminent domain was used to secure a site for a municipal water source for the City. In 2010, the DNR acquired 190 acres of the site in two (2) separate purchases. In summary, there was originally 297 acres, 190 acres were sold to the DNR, the City of Waukesha has reduced the eminent domain to approximately 12 or 13 acres and 15 acres near the Fox River are to be dedicated to the County for greenway purposes. Fiduciary worked with Applied Ecological Consultants to design an environmentally friendly subdivision. Over the years the wetlands on the site have been delineated by the DNR and Army Corps of Engineers, floodplain mapping has been completed and reviewed by the County, the DNR has confirmed that there are no Butler Garter Snakes and no archeological sites are located on the property, the soils passed percolation testing and the area for the greenway has been laid out. About a year ago, Fiduciary approached the Town of Waukesha for approvals and worked with them for nine (9) months. He said they are comfortable and excited with the development and the Town Board and Plan Commission approved the petition for a land use amendment to the Suburban 1 Density Residential category. Mr. Fruth pointed out on the aerial photograph the floodplain, floodway and wetland areas and the topography of the site.

Two citizens spoke in opposition of the proposed land use amendment for reasons summarized below:

- Concerns with safety regarding a subdivision being located adjacent to DNR public hunting grounds.
- If the land use category is changed it should be to a 5, 10 or 20 acre minimum parcel size with no dense housing.
- Environmental concerns for the Vernon Marsh Wildlife area.
- Preservation of wetlands and water.
- Preserve the rural character of the land.

Chairperson Mitchell asked if there were any other comments from the audience, Committee or Commission, there being none he moved on to the next item on the agenda.



- B. *Mark Lake, MRED-Cummings*, W228 N745 Westmound Drive, Waukesha, WI 53186, requests properties located in part of the NE ¼ of Section 17, T6N, R19E, Town of Waukesha (Tax Key No's WAKT 1361.982, WAKT 1361.994, WAKT 1361.995, WAKT 1361.996, WAKT 1361.997 and WAKT 1361.998), be changed from the Low Density Residential category to the Mixed Use category in order to accommodate a proposed commercial development that would include a potential Walgreens and one additional retail site.

Chairperson Mitchell announced that the Public Hearing for this particular land use amendment would be held open to a date uncertain, because of the undetermined route of the Waukesha West bypass, which may affect this property, however, the request is being presented to the Commission and Committee as part of the Public Hearing process. A member of the audience asked if there would be another Public Hearing, to which Chairperson Mitchell replied, that the Public Hearing would be held open and continued for this issue. Mr. Fruth recommended that the Public Hearing be continued at the Waukesha County Park and Planning Commission's June 2, 2011, regular meeting.

*2011 Amendments to the Comprehensive Development Plan for Waukesha County*

Mr. Fruth indicated that the petitioner removed one parcel from the request, which was incorrectly identified as WAKT 1361.998, but is actually WAKC 1361.998, a parcel located in the City of Waukesha, located on the southwest corner of C.T.H. "D" and "X". He explained that the Comprehensive Development Plan for Waukesha County cannot incorporate lands owned by the City. The parcel in question is being proposed for storm water facilities for the development. Surrounding properties include the Waukesha State Bank located directly across the street to the east, the Sentry and Kohl's development and Cooper Power Systems to the north and residential properties to the south and west.

In 2009, the petitioner considered submitting an amendment request application, however, they delayed their request on the advice of County Staff mainly due to the ongoing Waukesha West bypass planning process. The Planning and Zoning Division Staff recommends deferring action and holding the Public Hearing open until June 2, 2011, for this matter, until the bypass study advances further. According to the Department of Public Works, more information regarding the bypass route will be available in late spring/early summer. In 2009, the Town of Waukesha approved the land use plan amendment request, however, many citizens spoke in objection to the proposal. At that time, the County urged the Town to consider thinking more globally about the surrounding area and the change being proposed on the edge of an otherwise residential neighborhood. The Town planner included a number of other properties in the original request, which was not the desire of the petitioner.

Mr. Fruth referred to the proposed Preliminary Site Plan and indicated there are two (2) accesses for the development. One access would be located directly across from the Waukesha State Bank driveway on C.T.H. "X" and the other would be a "right in/right out" access onto Sunset Drive. The development would be served by a private well and septic system (holding tank). An eight (8') ft. fence is being proposed to screen the development from the neighbors, but landscaping only appears to be provided inside of the fence.

Mr. Lake, petitioner, introduced himself and noted the accesses described above have been approved by the Waukesha County Department of Public Works. This particular site was chosen because Walgreens tends to locate their stores at high traffic intersections. He explained there is a significant grade change west of the site. The view for the nearest neighbor to the west would look over the top of the building. In addition, an eight (8) ft. cedar fence with heavy landscaping is being proposed for screening. The original application has been held off for over a year by the bypass issue and now the contract time is running short with the property owners.

Mrs. Haukohl asked what effect the bypass route would have on the development if it was located at the intersection of Sunset Drive and C.T.H. "X"? Mr. Lake replied, there would be no effect on the development because the road construction of the intersection has been completed and accesses have been approved. Mr. Inda expressed concerns regarding the access to the development off of Sunset Drive. His concerns were that traffic traveling west on Sunset Drive might try to enter the development even though it is a "right in, right out" access. Mr. Lake responded there would be a median on Sunset Drive blocking off and preventing traffic traveling west from turning left into the development.

Ms. Janet Glade, (adjacent property owner to the west) spoke in opposition of the development for the reasons summarized below:

- Two of the Town of Waukesha Board members that voted in favor of the development were recalled and she wondered if their decisions should be upheld.
- Today's public hearing is being held in the afternoon while most people are working.
- All building should be on hold until the bypass route is decided so work on the intersection would not have to be redone costing more money.
- Many mature trees will be removed to build the Walgreens, resulting in the loss of wildlife and shade.
- The proposed 8' tall fence will block her view and the cooling eastern breezes in the summer. Snow will pile up on her side of the proposed fence because the prevailing winds are from the west making her driveway hazardous and melting snow will cause runoff problems. She questioned if the developer would provide landscape funding for her side of the fence.
- Increased traffic on Sunset Drive.
- Concerns for her septic and well.

Mr. Banske, Town of Waukesha Supervisor read into the record a letter stating that the Town of Waukesha Board members are of the understanding by way of a letter from Dale Shaver dated January 21, 2011, that no further action will be undertaken to advance the application through the County committee approval sequence until the bypass study has advanced to a point where it can be determined that this project would not adversely affect potential bypass routes. The Town's Attorney also sent a letter to Dale Shaver stating the above with the addition that the public hearing for the MRED Cummings Commercial Development Corporation amendment be kept open until after the bypass route has been determined. He submitted certified copies of Minutes from the Town of Waukesha Joint Public Hearing, Town of Waukesha Plan Commission and Board meetings, all held on September 10, 2009, reflecting strong opposition from area residents to the land use change and the Walgreens development. In addition, Town of Waukesha Plan Commission Minutes from October 8, 2009, Town of Waukesha Board Minutes from October 22, 2009, December 10, 2009 and January 27, 2011 were submitted. At the October 22, 2009, Town Board meeting, Supervisor Smart abstained from voting on the amendment due to a financial conflict of interest, however, at the December 10, 2009, Town Board Meeting he voted in favor of the amendment. In summary, the Town of Waukesha's request is that the County take no action to promote or advance this request until the full complete analysis of the alternate routes of the Waukesha West bypass have been completed and until the Town has advised the County in writing that such consideration should be given for the referenced amendment. In addition, he felt if this public hearing was not held during normal working hours that many more residents would have come to speak against the proposed amendment.

Attorney Tom Schmitzer, from Hippenmeyer Reilly Moodie Blum, representing the developer MRED Cummings and the property owner Robert Smart, spoke in response to Mr. Banske's comment with regards to Mr. Smart abstaining from voting due to a potential conflict of interest. He clarified that initially Supervisor Smart felt he might have had a financial interest as his business does work with Redmond Construction, which was the construction company for the Walgreens development. It was later determined that Mr. Smart did not have a financial interest with respect to MRED Cummings. The matter was fully investigated by the Waukesha County District Attorney Brad Schimel and it was determined that no such conflict of interest existed.

Carol Smart introduced herself as the wife of Robert Smart.

Mrs. Haukohl asked what type of view the neighbors to the west would see from their property to which Mr. Fruth responded, it was hard to say, but possibly the roof of the Walgreens building or the fence may screen the view.

Chairperson Mitchell asked if there were any other comments from the audience, Committee or Commission, there being none he moved on to the next item on the agenda.

3. *The Waukesha County Department of Parks and Land Use* requests that the Waukesha County Farmland Preservation Plan be incorporated as Appendix D of the Comprehensive Development Plan for Waukesha County and that a preface, amended Table of Contents and revisions to Chapter 7 relative to farmland preservation be incorporated into the Comprehensive Development Plan in order to comply with the requirements of the State of Wisconsin farmland preservation law, which are set forth in Chapter 91 of the *Wisconsin Statutes*.

Mr. Fruth indicated an Advisory Committee was assembled to guide the planning effort. The State adopted new farmland preservation laws in 2009 and required that Waukesha County adopt a new plan by December 2011. The updated preface, table of contents, chapters and maps are located on the Waukesha County website.

As an overview, new and revised Planning and Zoning requirements, specifically for lands to be mapped as farmland preservation areas were created such as: lands must be planned for agricultural use for at least 15 years, and Land Use Plans and Zoning must match. The new law also includes revised tax credits (3 different tiers) and land conversion fees. Plan objectives include identifying sustainable blocks of productive agricultural land to target for preservation, minimize land use conflicts in designated preservation areas and encourage agricultural investment and promote farmland incentive programs for preservation areas. He stated that Waukesha County lost approximately 80,000 acres of agricultural lands since 1980 with 92,000 acres left as of 2010.

The primary criteria for Farmland Preservation areas include that the planned use of the property would be for agricultural purposes, open space or environmental corridors, the mapped area would contain five (5) sq. miles, 75% of the parcels are 35+ acres in size, 75% of the area agricultural, open space or unused land and designation must be supported by the local government.

Due to the concerns of possibly excluding too many farmers from an opportunity to participate in the new program a secondary category was created (Unrefined Areas for Future Agricultural Enterprise Area Designation). The criteria for the category includes that the planned use of the property would be for agricultural purposes, open space or environmental corridors, the property would contain 1,000 acres of contiguous lands, 60% of the parcels are 35+ acres in size, 60% of the area is in agricultural, open space or unused land and the designation must be supported by the local government.

Mr. Shaver clarified that the County would wait until the State submits their comments after a 90-day review period and then bring the final text back for formal action.

Chairperson Mitchell asked if there were any other comments from the audience, Committee or Commission, there being none he moved on to the next item on the agenda.

**MEETING MINUTES****Town of Waukesha Town Board Meeting**

W250S3567 Center Road, Waukesha, Wisconsin 53189

Thursday, December 10, 2009 immediately following two Public Hearings and the Plan Commission meeting which all started at 6:30 p.m.

Chairman Tallinger called the meeting to order at 7:52 p.m.

**Present were:** Chairman Robert Tallinger, Supervisors Stephen Smart and Everett German. Tom DeLacy of Independent Inspections, Ltd., Town Attorney James Hammes of Cramer, Multhauf and Hammes, LLP., Richard Eberhardt of Ruckert & Mielke, Inc., and Town Clerk/Treasurer Michaelene Knoebel. There were approximately 40 people in the audience. Notice of this meeting was posted, sent to the media and uploaded to the Town website on December 4, 2009.

A **MOTION** was made by Everett German, seconded by Steve Smart and carried to **approve** and dispense with reading meeting **minutes** from October 27, November 6, 10, 11, 12, and 17, 2009

3. Discussion/Possible Action: **Vacating Pleasant Lane**  
Public Hearing held on December 10, 2009

It was explained this request originated from Waukesha County Department of Public Works. This relates to the designed improvements for CTH X between STH 59 and Harris Highlands Drive which will involve the reconstruction and widening of the roadway along with intersection improvements. The project is scheduled for summer of 2010. The Town is formally abandoning Pleasant Lane. The only property owner affected will be W253S2229 Genesee Road.

A **MOTION** was made by Steve Smart, seconded by Everett German and carried to **vacate** Pleasant Lane.

4. Discuss/Possible Action: **Land Use Map Amendment Request for Walgreens**  
Petitioner: Mark Lake, MRED/Attorney **Thomas Schmitzer**  
Joint Public Hearing held September 10, 2009  
Tabled on October 22, 2009  
Recommendation from the Plan Commission

Attorney Hammes stated he had put together a non-annexation agreement. He crafted the agreement by using the Town's recent lawsuit regarding an annexation issue that was upheld by the Court of Appeals. The figure for liquidated damages of \$100,000 is based on the value of the land. We have heard comments that the \$100,000 is not a reasonable amount. When you draft a liquidated damage agreement if you are disproportionate in the amount, the agreement may not be upheld and that's the figure we've arrived at.

**EXHIBIT "B"**

Town Board Meeting Minutes  
December 10, 2009  
Page Two

**Item # 4: Discuss/Possible Action: Land Use Map Amendment Request for Walgreens, continued:**

Supervisor German referenced a letter from Attorney Thomas Schmitzer from the Hippenmeyer, Reilly, Moodie & Blum law firm regarding Supervisor Smart abstaining from voting on the matter. Mr. German asked Supervisor Smart if he was able to vote.

Supervisor Smart stated yes. The issue before us is purely for a (future) land use change. When a specific project comes in, that may be different. This matter is not for rezoning or any approval of a project.

Supervisor German stated he does not feel \$100,000 is enough money. We should have let them give us a figure. I also have issues with the proposed West By-pass. Everyone spoke against this at the public hearing. I am a supporter of business, but at the right time and right place. I don't feel this is right. The people have rights. I have too many unanswered questions. I'm not comfortable with this.

A **MOTION** was made by Steve Smart, seconded by Bob Tallinger and carried to accept the recommendation of the October 8, 2009 Plan Commission that due to the logical use for this corner, **approval** is granted to change the land use category from Low Density Residential to Commercial Use within the Mixed Use category for just the five Town properties petitioned by Walgreens **subject to all development issues being met.**  
Supervisor German opposed

A **MOTION** was made by Steve Smart, seconded by Bob Tallinger and carried to **approve** the Waiver of Rights and Agreement Not to Annex Property between the Town of Waukesha and MRED Cummings Acquisition, Inc., Brian Cummings, President  
Supervisor German opposed

5. Discussion/Possible Action: **Fence in Easement**  
**Patrick Martin – W254S4923 Gruettner Drive**

No one was present.

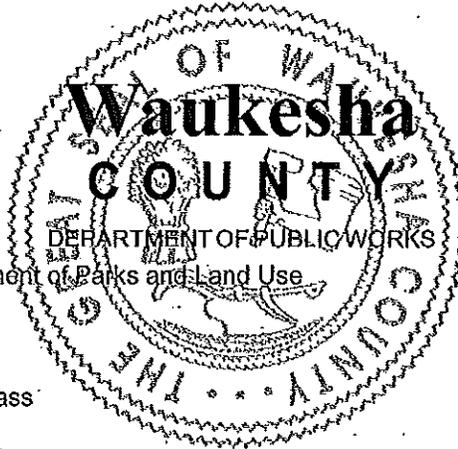
Attorney Hammes stated he had spoken with Attorney Roger Pyzyk, Mr. Martin's Attorney. Mr. Pyzyk wants to speak with Waukesha County regarding this agricultural easement. They cannot move the fence at this time of year. They have asked to have the matter tabled.

Supervisor German stated the Town did not ask him (Mr. Martin) to get rid of the horses. He could run another section of rope to keep the horses out of the easement area. Mr. Hammes will tell Attorney Pyzyk what the Board recommends.



Daniel P. Vrakas  
County Executive

Allison Bussler  
Director of Public Works



October 27, 2011

To: Jason Fruth, Department of Parks and Land Use

From: Gary Evans

Re: Waukesha West Bypass  
I-94 to STH 59  
Project ID 2788-01-00  
Walgreens Development at CTH D and CTH X

RECEIVED

OCT 27 2011

DEPT OF PARKS & LAND USE

**EXHIBIT "D"**

The Waukesha County Department of Public Works, in cooperation with the Wisconsin Department of Transportation, City of Waukesha, Town of Waukesha and other governmental and review agencies, is preparing an Environmental Impact Statement (EIS) for the proposed Waukesha West Bypass. This process is ongoing at this time and will result in a recommended alternative for the construction of a west bypass. One of the remaining alternates under consideration follows CTH X (Genesee Road) from STH 59 to CTH D (Sunset Drive), then heads west on Sunset to CTH TT (Merrill Hills Road). The other remaining alternate heads north west from the STH 59 and CTH X intersection, toward CTH D. the route runs to the west of the Pebble Creek wetland and floodplain complex crosses CTH D and then follows the same route north to I-94 as the alternate previously described.

The Walgreens Development is planned for the Southwest corner of CTH X and CTH D in the Town of Waukesha. This intersection was recently reconstructed as part of a project to rebuild CTH X from STH 59 to Harris Highlands. For this project, the intersection was designed to adequately accommodate traffic movements should the West Bypass be routed along CTH D and CTH X. The intersection has two thru lanes in each direction, in addition there are double left turn lanes for the northbound to west and southbound to east movement. There are single left turn lanes for the west bound to south and east bound to north movements. There are also right turn lanes/tapers.

As part of the of The West Bypass Study, we have updates our traffic studies and reviewed access control for the remaining alternates and we have reviewed the design of the intersection as it is currently built and determined that should the selected route follow CTH X and CTH D then we would need to extend the northbound CTH X to westbound CTH D double left turn lane an additional 300 feet to the south. To enhance access control the existing median opening which serves Waukesha State Bank and the residences on the west side of CTH X would be closed. Also we would need to convert the existing eastbound CTH D to southbound CTH X from a single right turn lane into a double right turn lane.

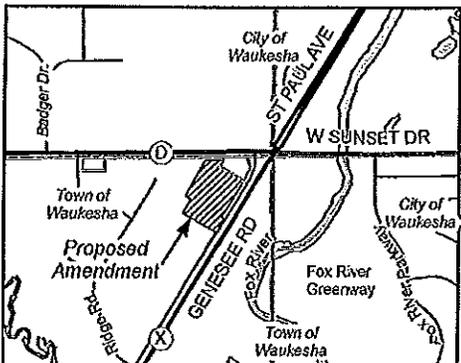
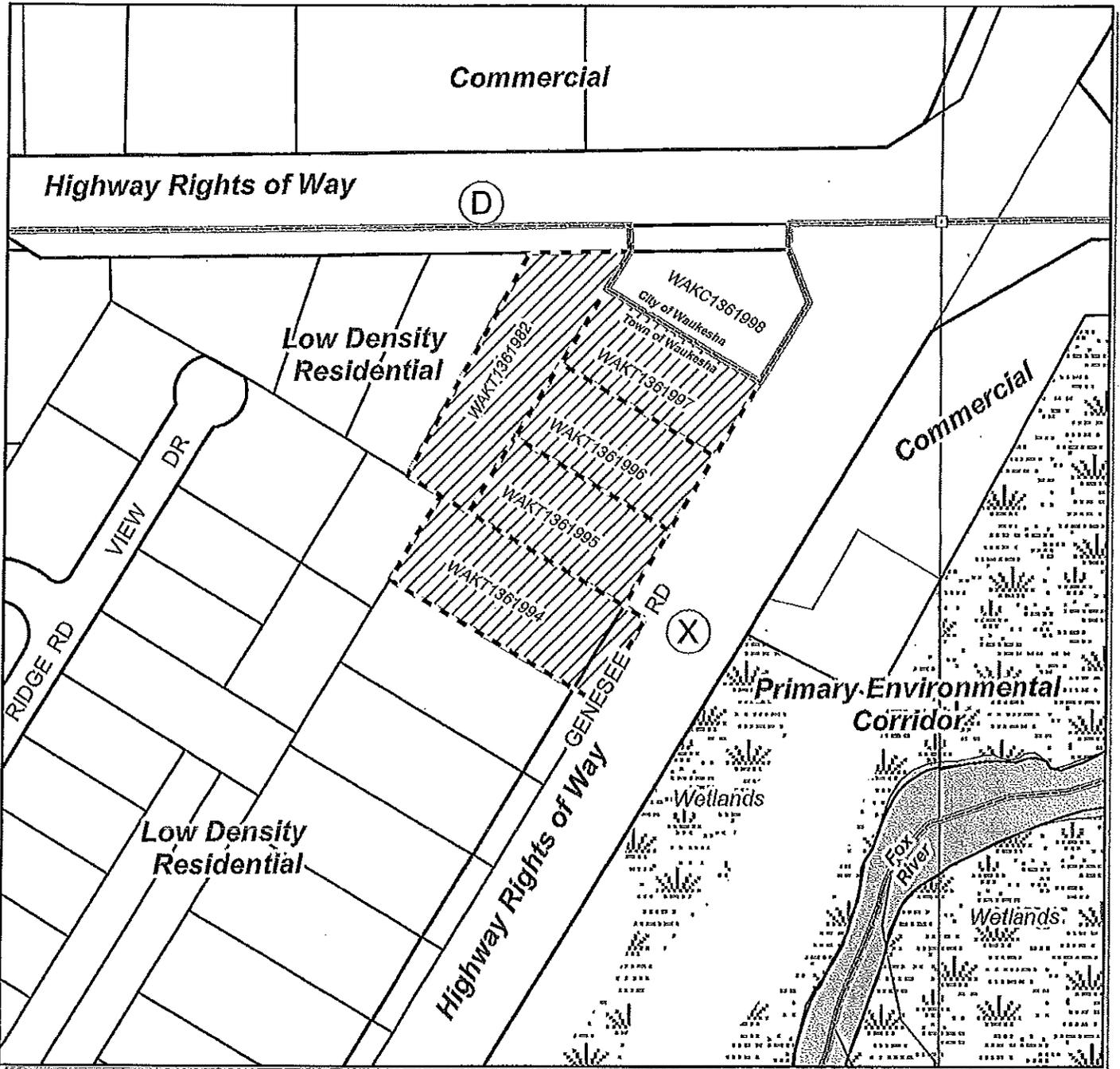
If adequate setbacks are used for the Development from the adopted 200 feet right of way width for the bypass, per Waukesha counties Adopted Street and Highway Width Map, changes required at the CTH X and CTH D intersection will not impact the Walgreens site. However the relocation of the median opening on CTH X to the south may mean that access to the site may not be direct but may instead be from the existing frontage road.

N:\DPW\Engineer\PROJECTS\WEST BYPASS\WORD\correspondence\walgreen letter.doc

515 W. Moreland Blvd., Rm. 220  
Waukesha, Wisconsin 53188  
Phone: (262) 548-7740  
Fax: (262) 896-8097  
[www.waukeshacounty.gov](http://www.waukeshacounty.gov)

# DEVELOPMENT PLAN AMENDMENT

PART OF THE NE 1/4 OF SECTION 17  
TOWN OF WAUKESHA



DEVELOPMENT PLAN AMENDMENT FROM  
LOW DENSITY RESIDENTIAL TO MIXED USE

PETITIONER.....MRED

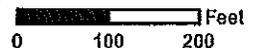
DATE OF PLAN COMM. CONSIDERATION.....11/3/11

AREA OF CHANGE.....4.04 ACRES

TAX KEY NUMBERS.....WAKT1361.982, .994,  
.995, .996, & .997



1 inch = 200 feet



Prepared by the Waukesha County Department of Parks and Land Use

COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance entitled "Year 2011 Approval of Amendment to the Comprehensive Development Plan for Waukesha County, (2B – Mark Lake, MRED-Cummings, Section 17, Town of Waukesha) hereby recommends **approval** in concurrence with the attached chart entitled "Year 2011 Amendments to the Comprehensive Development Plan for Waukesha County" (actions taken by the Park and Planning Commission).

PARK AND PLANNING COMMISSION

November 3, 2011

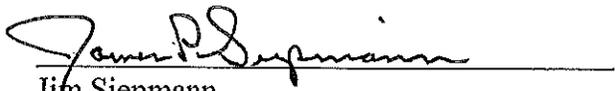
Absent

Gary Goodchild, Chairperson

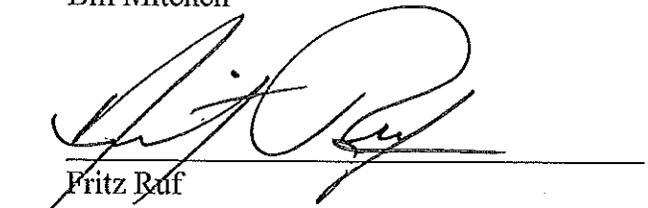
  
Robert Peregrine, Vice Chairperson

  
Walter Kolb

  
Pat Haukohl

  
Jim Siepmann

  
Bill Mitchell

  
Fritz Ruf

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-11/22/11

(ORD) NUMBER-1660069

1 D. FALSTAD.....AYE  
3 R. HUTTON.....  
5 J. JESKEWITZ.....  
7 P. HAUKOHL.....NAY  
9 J. HEINRICH.....  
11 F. RUF.....AYE  
13 P. DECKER.....NAY  
15 P. MEYERS.....NAY  
17 J. TORTOMASI.....NAY  
19 S. WIMMER.....AYE  
21 W. ZABOROWSKI.....NAY  
23 D. DRAEGER.....AYE  
25 G. YERKE.....AYE

2 T. ROLFS.....  
4 J. DWYER.....AYE  
6 J. BRANDTJEN.....NAY  
8 T. SCHELLINGER....AYE  
10 D. SWAN.....AYE  
12 P. WOLFF.....AYE  
14 M. INDA.....AYE  
16 D. PAULSON.....AYE  
18 K. CUMMINGS.....AYE  
20 P. JASKE.....NAY  
22 P. GUNDRUM.....AYE  
24 W. KOLB.....AYE

TOTAL AYES-14

TOTAL NAYS-07

CARRIED   X  

DEFEATED \_\_\_\_\_

UNANIMOUS \_\_\_\_\_

TOTAL VOTES-21