

ENROLLED ORDINANCE 166-2

YEAR 2011 APPROVAL OF AMENDMENT TO THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY (2A – FRED-LATHERS, LLC./FIDUCIARY REAL ESTATE DEVELOPMENT INC., SECTIONS 29, 31 AND 32, 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 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 March 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 March 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 attached “Chart of Actions”

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.

1. In the Town of Waukesha, the following request is being made:
 - A. ***Fred-Lathers, LLC., c/o Fiduciary Real Estate Development Inc.***, 789 N. Water Street, Suite 200, Milwaukee, WI 53031, requests properties located in part of the SW ¼ of Section 29, the NE ¼ of Section 31 and the NW ¼ of Section 32, T6N, R19E, Town of Waukesha, be changed from the Rural Density and Other Agricultural Land, Primary Environmental Corridor and Other Open Lands to be Preserved categories to the Suburban I Density Residential (1.5 to 2.9 acres per dwelling unit) and Primary Environmental Corridor categories. The proposed request would accommodate a future single-family residential subdivision. The parcels in question include the following Tax Key No.’s (Tax Key No. WAKT 1411.996.001 and WAKT 1421.998.004, subject to the following conditions:

1. The lands must be developed as a conservation type development with continuous areas of upland open space incorporated, subject to the approval of the Town of Waukesha and Waukesha County.
2. In accordance with the petitioner's proposal that they will dedicate lands for the county greenway, all acreage to the west of the Fox River and the environmental corridor lands immediately adjacent to the east side of the Fox River and an 85' upland area to the east of the wetlands along the Fox River shall be dedicated to Waukesha County at such time as the subject lands are proposed for further division.
3. The lands proposed to be changed from the Other Open Lands to be Preserved category to the Suburban I Density Residential category shall remain in the Other Open Lands to be Preserved category.

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 (2A - FRED-LATHERS, LLC./FIDUCIARY REAL
ESTATE DEVELOPMENT INC., SECTIONS 29, 31 AND 32, TOWN OF WAUKESHA)

Presented by:
Land Use, Parks, and Environment Committee

<Absent>
Fritz Ruf, Chair

[Signature]
Robert Hutton

<Absent>
Michael J. Inda

[Signature]
James Jeskewitz

[Signature]
Walter L. Kolb

[Signature]
Ted Rolfs

[Signature]
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: 4-29-2011, [Signature]
Kathy Nickolaus, County Clerk

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

Approved: X
Vetoed: _____
Date: 4-29-11, [Signature]
Daniel P. Vrakas, County Executive

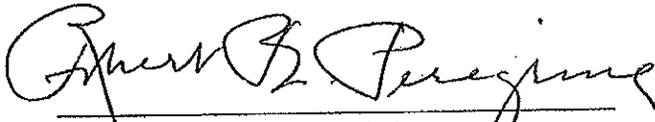
COMMISSION ACTION

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, (2A – Fred-Lathers, LLC., c/o Fiduciary Real Estate Development Inc., Sections 29, 31 and 32, 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).

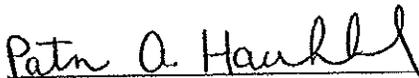
PARK AND PLANNING COMMISSION

March 3, 2011

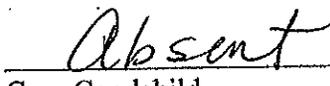

William Mitchell, Chairperson


Robert Peregrine, Vice Chairperson


Walter Kolb


Pat Haukohl


Jim Siepmann


Gary Goodchild


Fritz Ruf

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

DATE: March 3, 2011

NATURE OF REQUEST:

Year 2011 amendments to the Comprehensive Development Plan for Waukesha County pursuant to the procedures outlined in the Plan.

PUBLIC HEARING DATE:

Thursday, February 17, 2011, 1:00 p.m.

A copy of the public hearing Minutes associated with the various properties requested for change are included herein as an attachment (see Exhibit "A").

REQUESTS:

1. In the Town of Brookfield, the following request is being made:
 - A. *The Town of Brookfield Plan Commission and Town Board*, requests that the former Pleasant Hill School property owned by the Waukesha School District be amended from the Government and Institutional category to the Mixed Use category.

TAX KEY NO.:

BKFT 1129.998

LOCATION

The parcel is located in part of the NE ¼ of Section 31, T7N, R20E, Town of Brookfield. More specifically, the property is located south of I-94 and west of C.T.H. "Y" (Barker Road), containing 10 acres:

EXISTING LAND USE CATEGORY

Government and Institutional.

PROPOSED LAND USE CATEGORY

Mixed Use.

REQUESTED LAND USE

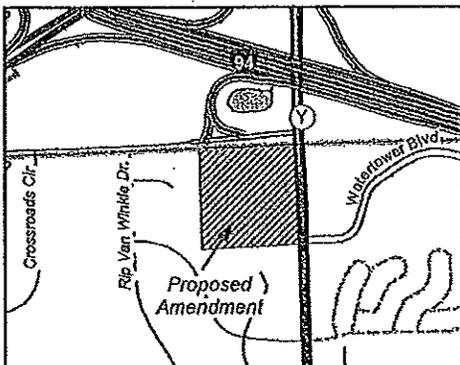
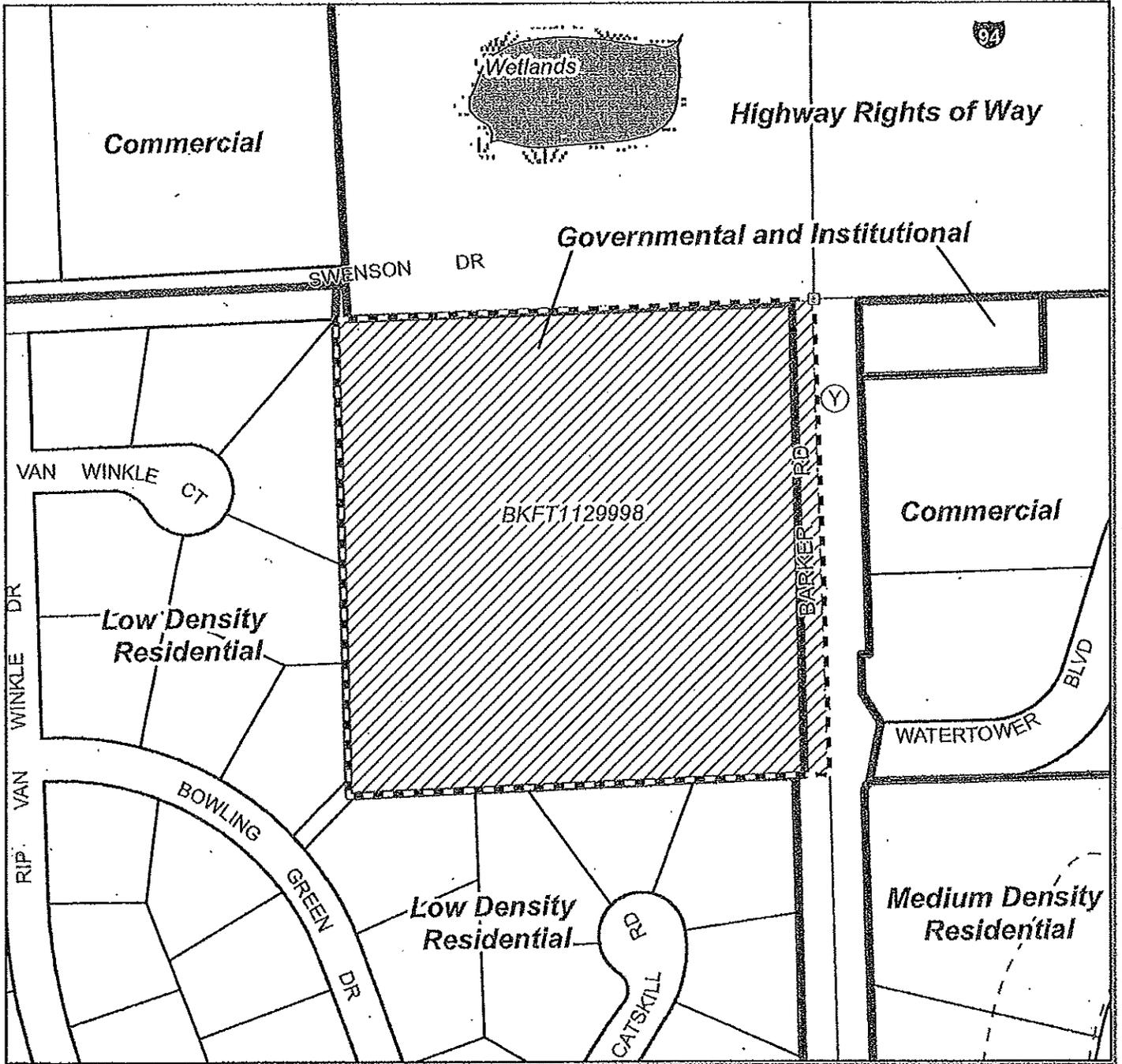
No specific re-development proposal has been presented. The site contains a vacant school, and the Town wishes to make this change in light of the closure of the school in 2010.

PUBLIC REACTION

There were no comments from the public at the February 17, 2011 public hearing. A few neighboring property owners asked questions about the proposal at the Town of Brookfield public hearing on January 25, 2011.

DEVELOPMENT PLAN AMENDMENT

PART OF THE NE 1/4 OF SECTION 31
TOWN OF BROOKFIELD

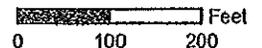


DEVELOPMENT PLAN AMENDMENT FROM
GOVERNMENTAL AND INSTITUTIONAL TO MIXED USE

PETITIONER.....TOWN OF BROOKFIELD
DATE OF PLAN COMM. CONSIDERATION.....03-03-11
AREA OF CHANGE.....10 ACRES
TAX KEY NUMBERS.....BKFT 1129.998



1 inch = 200 feet



Prepared by the Waukesha County Department of Parks and Land Use

166-0-002

TOWN PLAN COMMISSION ACTION

The Town of Brookfield Plan Commission approved the local plan amendment request to the Mixed Use category at their January 25, 2011, meeting.

TOWN BOARD ACTION

The Town Board of Brookfield approved the Mixed Use amendment request at their February 1, 2011 meeting.

STAFF ANALYSIS:

The Pleasant Hill School is owned by the City of Waukesha School District and was operated as a public school until it was closed in the fall of 2010. The ten acre property abuts Barker Road (C.T.H. "Y") and is immediately south of the I-94 freeway ramp along the west side of Barker Road. Should the school district elect to sell the site, the property is a prime candidate for re-development given its central location, size and excellent access to the highway system. The property is opposite a large office complex east of Barker Road. To the south and west, the site abuts single-family residential development.

The Town of Brookfield has adopted a Town Land Use Plan, which mirrors that of the Waukesha County Development Plan. Both plans provide a Mixed Use category that allows for a mix of various land uses on one or more parcels. The category allows for a broad range of uses in order to allow for combinations of compatible uses in the various municipalities within the county. The category also recognizes that a range of uses may be appropriate for a given site. The Town has requested that this property be placed in the Mixed Use category, recognizing that the school district may look to sell the property in the future. The Town noted that because County plan amendments are typically considered only once a year during the annual amendment cycle, which begins in January, they believed that being proactive in changing the future use designation might make re-development of the site easier and more expedient. It should be noted that the proposed Mixed Use category would not preclude the re-opening of the school as either a public or private school facility.

Given the neighboring adjacent residential properties, questions were raised by Waukesha County Park and Planning Commission and Land Use, Parks and Environment Committee members as to what range of uses could be allowed under the Mixed Use category designation. Planning staff suggested that the Mixed Use category does not exclude specific uses but suggested that conditioning the range of permissible uses for a site such as the subject property would be very appropriate in light of the surrounding neighborhood.

It should be noted that the property is currently zoned I-1 Institutional under the Town's zoning code, and there is no proposal to amend the zoning classification at this time. Conversion of the property to a new use, such as office or residential, would require a rezoning to be approved by the Town of Brookfield and Waukesha County. 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 properties and other site conditions to ensure that any re-development is complimentary to the neighborhood.

STAFF RECOMMENDATION:

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

1. Residential, institutional, commercial and office uses shall be the only uses permitted for this property and any redevelopment proposal must contain buffering provisions for adjacent residential uses, subject to the approval of the Town of Brookfield.

The Planning and Zoning Division Staff believes that, as conditioned, the proposed Mixed Use designation sets forth a more appropriate long-term vision for the former school site in light of the school closure. This designation change will make re-development of the vacant property easier and will limit the range of potential uses to those that would be compatible with the surrounding neighborhood. Specific development parameters can be considered at the rezoning stage in order to further ensure context sensitivity.

2. In the Town of Waukesha, the following requests are being made:
 - A. *Fred-Lathers, LLC, c/o Fiduciary Real Estate Development Inc.*, 789 N. Water Street, Suite 200, Milwaukee, WI 53031, requests properties located in part of the SW ¼ of Section 29, the NE ¼ of Section 31 and the NW ¼ of Section 32, T6N, R19E, Town of Waukesha, be changed from the Rural Density and Other Agricultural Land, Primary Environmental Corridor and Other Open Lands to be Preserved categories to the Suburban I Density Residential (1.5 to 2.9 acres per dwelling unit) and Primary Environmental Corridor categories.

TAX KEY NO'S.:

WAKT 1411.996.001 and WAKT 1421.998.004.

LOCATION

Part of the SW ¼ of Section 29, the NE ¼ of Section 31 and the NW ¼ of Section 32, T6N, R19E, Town of Waukesha. More specifically, the property contains frontage either side of the Fox River and is located both east and west of River Road (C.T.H. "F") and contains approximately 94.9 acres.

EXISTING LAND USE CATEGORY

Rural Density and Other Agricultural Land (5 acres per dwelling unit), Primary Environmental Corridor and Other Open Lands to be Preserved categories.

PROPOSED LAND USE CATEGORY

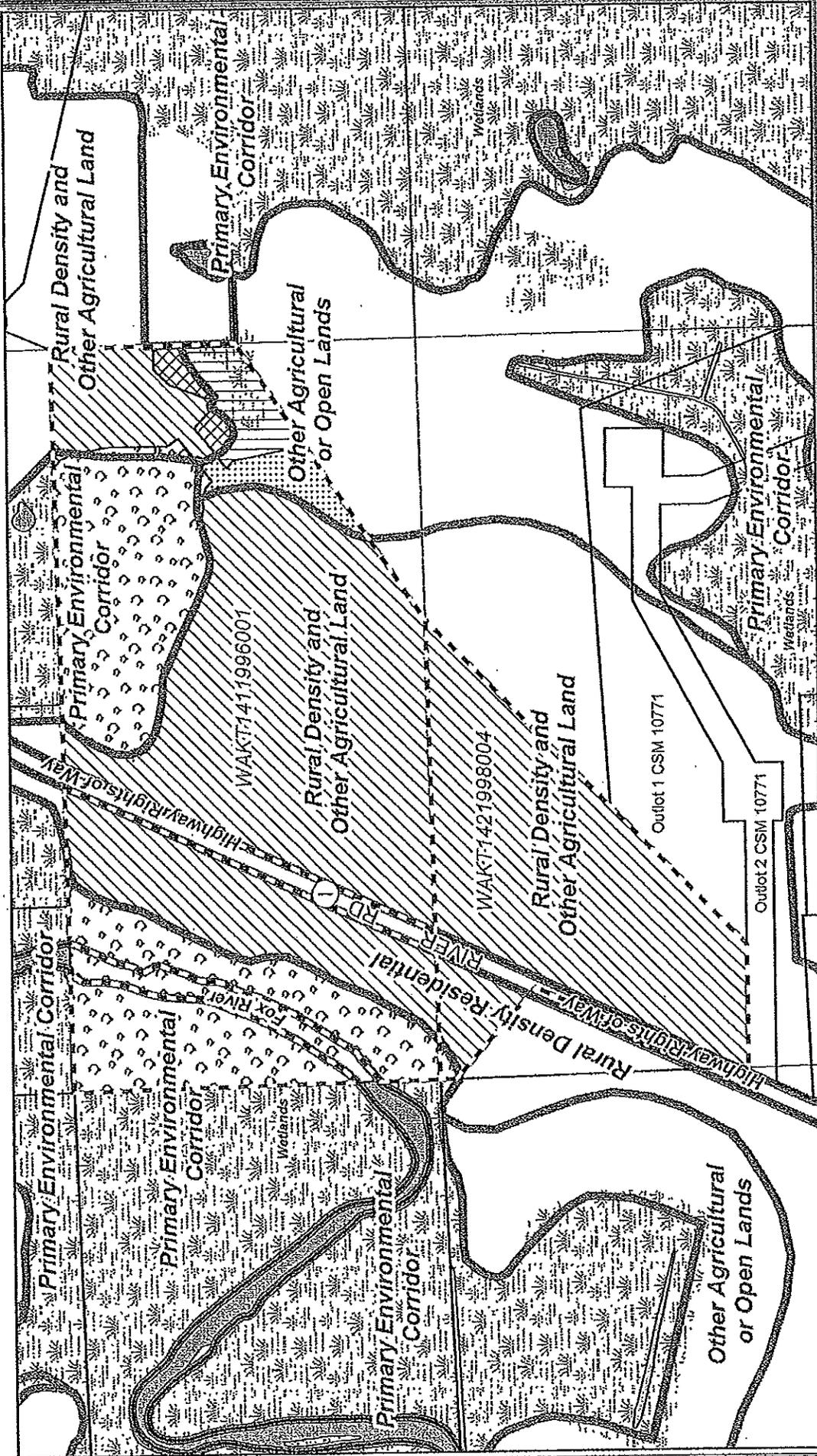
Suburban I Density Residential (1.5 to 2.9 acres per dwelling unit) and Primary Environmental Corridor categories.

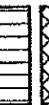
REQUESTED LAND USE

A future conservation design single-family residential subdivision with acreage along the Fox River to be dedicated to Waukesha County for Greenway purposes.

DEVELOPMENT PLAN AMENDMENT

PARTS OF THE SW 1/4 OF SECTION 29, THE NE 1/4 OF SECTION 31, & THE NW 1/4 OF SECTION 32 TOWN OF WAUKESHA

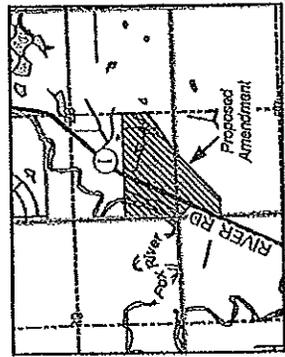


-  DEVELOPMENT PLAN AMENDMENT FROM RURAL DENSITY AND OTHER AGRICULTURAL LAND TO SUBURBAN 1 DENSITY RESIDENTIAL
-  OTHER AGRICULTURAL OR OPEN LANDS TO REMAIN UNCHANGED
-  DEVELOPMENT PLAN AMENDMENT FROM OTHER AGRICULTURAL OR OPEN LANDS TO PRIMARY ENVIRONMENTAL CORRIDOR
-  DEVELOPMENT PLAN AMENDMENT FROM RURAL DENSITY AND OTHER AGRICULTURAL LAND TO PRIMARY ENVIRONMENTAL CORRIDOR
-  PRIMARY ENVIRONMENTAL CORRIDOR TO REMAIN UNCHANGED

PETITIONER.....FRED LATHERS, LLC
 DATE OF PLAN COMM. CONSIDERATION.....03-03-11
 AREA OF CHANGE.....66.42 ACRES
 TAX KEY NUMBER.....WAKT 1411.996.001 & WAKT 1421.998.004



Prepared by the Waukesha County Department of Parks and Land Use



PUBLIC REACTION

At the February 17, 2011 public hearing, one nearby property owner spoke in opposition to a future subdivision, noting the potential for conflict between hunting on adjacent state owned Vernon Marsh holdings and future residential development. Another person objected to the proposed change, noting that the lands should become part of the Vernon Marsh. The Town of Waukesha held two public hearings regarding the related change to the Town Plan designation, and three persons expressed concerns or objected to the proposal.

TOWN PLAN COMMISSION ACTION

The Town of Waukesha Plan Commission approved a local plan amendment request from their Agricultural (5 acre) category to the Suburban I Residential (1.1 to 2.9 acre) category at their January 13, 2011, meeting.

TOWN BOARD ACTION

The Town Board of Waukesha approved the amendment request at their January 13, 2011, meeting, conditioning that the submitted conceptual development plan was not being considered for specific approval.

STAFF ANALYSIS:

Approximately 95 acres of the former Lathers farm is the subject of this request and has been divided by Certified Survey Map from the balance of the nearly 300 acres that comprised the farm. The DNR has acquired approximately 189 wetland and upland acres of the Lathers farm to expand its Vernon Marsh holdings. The acreage that was acquired by the DNR is located to the south and east of the subject parcels. In addition, an irregularly shaped thirteen acre parcel to the south of the subject lands is being pursued by the City of Waukesha for potential use as a municipal well source. The acreage that has been purchased by the DNR and the parcel that the City of Waukesha would like to acquire is not part of this plan amendment request. Although the entire Lathers property is located within the DNR's Vernon Marsh project boundary area, the DNR has indicated that it does not intend to further pursue acquisition of additional lands that were part of the Lathers holdings and has expressed its support for the areas either side of the Fox River to become part of the county greenway. In addition, the DNR and the petitioner are also working towards an agreement that would grant the DNR conservation easements over the wetland acreage that is located to the east of River Road. These easements would allow for habitat restoration projects in these areas. The petitioner is proposing a conservation design subdivision with acreage along either side of the Fox River to be dedicated to Waukesha County for greenway purposes.

The planned land use in the surrounding area includes Environmental Corridor to the south and east within the Vernon Marsh holdings, Rural Density and Other Agricultural Land to the southwest and north and Low Density and Medium Density Residential approximately ¼ mile to the north and east encompassing both City and Town of Waukesha residential neighborhoods. The Fox Lake Village mixed residential development, approximately ¼ mile north of the subject lands at the intersection of Lawnsdale Rd. (C.T.H. "T") and River Rd. (C.T.H. "T"), represents the southerly boundary of the City of Waukesha within the area. The developer indicated at the February 17, 2011 public hearing that he had envisioned annexation of these lands to the city in the past, but the proposal is now for this project to be developed within the town. The zoning of the upland acreage is A-1 Agricultural District and the wetland acreage is zoned C-1 Conservancy District under both the Town and County

ordinances. Areas of farmed floodplain and wet soils are zoned AE Exclusive Agricultural Conservancy District under the County Shoreland Ordinance. The proposed development of the site would require a rezoning with both the town and county, and rezoning of the lands is not being sought at this time.

The current County Development Plan designation for the property is Rural Density Residential and Other Agricultural Land, Environmental Corridor and Other Lands to be Preserved category. The Rural Density category allows for a maximum density of one dwelling unit per five acres, whereas, the requested Suburban I Density Residential category would allow for a maximum of one dwelling unit per 1.5 acres. The proposed change would allow for a maximum of approximately 48 dwelling units when calculating 1.5 dwelling units per acre for the 63 upland acres that are outside of the environmental corridor and one (1) dwelling unit per five acres for the 28 environmental corridor acres on the site. No change is being proposed to the lands within the Environmental Corridor category. In fact, lands immediately adjacent to the existing environmental corridor are proposed to be added to this category to slightly expand the area to match the boundaries of the 2008 FEMA floodplain mapping. It should be noted the petitioner's request included a proposed change to the Suburban I Density Residential category for a small area of lands designated in the Other Open Lands to be Preserved category. Staff believes that this area should remain in the Other Open Lands to be Preserved category, as this area contains soils mapped with a groundwater table less than three feet below the ground surface.

A conceptual development plan (see Exhibit "B") was presented in conjunction with the application for this amendment, however, it is the intent of the developers to hold the property until such time as the economy improves. The petitioner's application letter suggests that land will be dedicated to Waukesha County for the county greenway system. In addition, the application indicates that the project would obtain municipal water service from the City of Waukesha. Because all acreage to the west of the Fox River is floodplain and wetland, the Waukesha County Parks Division has expressed interest in accepting the dedication of an 85' wide strip of upland acreage abutting and to the landward side of the wetlands along the east side of the Fox River in order to accommodate a future trail and associated buffering. Eighty five ft. (85') is the minimum width needed to accommodate a greenway section that contains a trail. If this amendment request is approved, the Waukesha County Park and Open Space Plan mapping will be revised to incorporate the subject acreage. Lands dedicated to Waukesha County are eligible for density credit in the development of the balance of the site.

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 lands must be developed as a conservation type development with continuous areas of upland open space incorporated, subject to the approval of the Town of Waukesha and Waukesha County.

2. In accordance with the petitioner's proposal that they will dedicate lands for the county greenway, all acreage to the west of the Fox River and the environmental corridor lands immediately adjacent to the east side of the Fox River and an 85' upland area to the east of the wetlands along the Fox River shall be dedicated to Waukesha County at such time as the subject lands are proposed for further division.
3. The lands proposed to be changed from the Other Open Lands to be Preserved category to the Suburban I Density Residential category shall remain in the Other Open Lands to be Preserved category.

The Planning and Zoning Division Staff believes that a change to the Suburban I Density Residential category is appropriate, as the proposed conservation design development concept allows for sensitive environmental lands to be preserved in open space that will either be preserved via conservation easements that will be obtained by the DNR or via dedication to Waukesha County. The proposed land use category change also allows for a limited number of home sites that will be surrounded by substantial open space and natural amenities. Given the substantial provided open space, development of this site should be harmonious with nearby rural uses and natural areas.

- 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.

The Waukesha County Park and Planning Commission voted to hold the public hearing open for this request until the Waukesha West bypass study has advanced further. The public hearing will be continued at the regular Waukesha County Park and Planning Commission meeting held on June 2, 2011, at the Waukesha County Administration Center, 515 W. Moreland Blvd., Room AC 255/259 at 1:05 p.m. No action can be taken regarding this item until the public hearing is closed.

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*.

Action regarding the farmland plan will be delayed until comments regarding the draft plan are received from the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP). It is expected that DATCP comments will be received by late spring or early summer of this year. Once DATCP has approved the plan document, a staff report and recommendation will be forwarded for consideration regarding this request. No action is required for this request at this time.

Respectfully submitted,

Jason Fruth / kb

Jason Fruth
Planning and Zoning Manager

JF:kb

Attachment: Exhibit "A" (Public Hearing Minutes) and Exhibit "B"

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for WCDP Amendments 2011.doc

**MINUTES – JOINT PUBLIC HEARING
WAUKESHA COUNTY PARK AND PLANNING COMMISSION
AND LAND USE, PARKS AND ENVIRONMENT COMMITTEE
TO CONSIDER 2011 AMENDMENTS TO THE COMPREHENSIVE
DEVELOPMENT PLAN FOR WAUKESHA COUNTY**

Thursday, February 17, 2011, 1:00 p.m., Room AC 255/259

Waukesha County Administration Center, 515 W. Moreland Blvd., Waukesha WI

CALL TO ORDER

Bill Mitchell, Chairperson, Waukesha County Park and Planning Commission called the Public Hearing to order at 1:00 p.m.

Waukesha County Park and
Planning Commission Members
Present:

Bill Mitchell, Chairperson
Jim Siepmann
Fritz Ruf

Gary Goodchild
Pat Haukohl

Walter Kolb
Bob Peregrine

Commission Members
Absent:

None

Waukesha County Land Use
Parks and Environment
Committee Members Present:

Fritz Ruf, Chairperson
Walter Kolb

Michael Inda
Ted Rolfs

James Jeskewitz

Waukesha County Land Use
Parks and Environment
Committee Members Absent:

Robert Hutton

Thomas Schellinger

Staff Members Present:

Dale Shaver, Director, Department of Parks and Land Use
Jason Fruth, Planning and Zoning Manager
Sandy Scherer, Senior Planner
Sarah Spaeth, Legislative Policy Advisor
Kathy Brady, Secretary Supervisor

Guests Present:

Mary Ann Voss – Fred Lathers/Fiduciary
Mark Lake – MRED-Cummings/Walgreens
Janet Glade – MRED-Cummings/Walgreens
Gary Lake – T/Brookfield Zoning Administrator/Pleasant Hill School Property
Bill Ohm – Fred Lathers/Fiduciary
Craig Raddatz - Fred Lathers/Fiduciary
Sarah Craft - Fred Lathers/Fiduciary
Grundman – MRED-Cummings/Walgreens
Sue Schalig – Fred Lathers/Fiduciary
Joe Banske – T/Waukesha Supervisor, MRED-Cummings/Walgreens
Owen Mason – Waukesha County
Carol Smart – MRED-Cummings/Walgreens
Julie Balicki – MRED-Cummings/Walgreens

Guests Present (continued): David Smart
 Thomas and Kelly Haag -- Fred Lathers/Fiduciary
 Robert Fox
 Tom Schmitzer -- MRED-Cummings/Walgreens

Public Hearing to Consider Amendments to the Comprehensive Development Plan for Waukesha County.

Chairperson Mitchell moved to the items noted on the agenda.

1. In the Town of Brookfield, the following request is being made:

- A. *The Town of Brookfield Plan Commission and Town Board*, requests that the former Pleasant Hill School property owned by the Waukesha School District be amended from the Government and Institutional category to the Mixed Use category. The parcel is located in part of the NE ¼ of Section 31, T7N, R20E in the Town of Brookfield (Tax Key No. BKFT 1129.998).

Mr. Fruth pointed out the location of the property, south of I-94 and west of Brookfield Road on the aerial photograph and explained that the former Pleasant Hill School property is owned by the City of Waukesha. The Town of Brookfield is being proactive in requesting the amendment to a category that will be workable for that area in the future. The school is currently vacant and at some time in the future the City may attempt to sell the property. The Mixed Use category is broad in that allows a mix of any range of land uses. Surrounding properties include single-family residential to the west and south, office uses east of Barker Road and a condominium development to the southeast. The Town Plan Commission approved the request at their January 25, 2011, meeting and the Town Board approved the request at their February 1, 2011, meeting. Neighboring property owners questioned what the future use of the property would be, however, at this time there is no specific use being proposed.

Mr. Lake, Town of Brookfield Zoning Administrator, introduced himself and explained that the school was closed in the fall 2010. Properties to the north and east are designated in the Mixed Use category (former Menards property and the West Point Theater and shopping plaza). At this time, there is no development proposal for the property. The Waukesha School District submitted written comments to the Town supporting the change to the Mixed Use category, however, they indicate there are no current plans to dispose of the property. The School District has been involved in discussions with several other school users for use of the existing structure. He added that the request was a proactive measure by the Town to accommodate future redevelopment proposals for the property.

Chairperson Mitchell questioned whether the change in designation would exclude the School District from selling to a private school? Mr. Lake replied "No," the zoning remains in place as Institutional and if another type of school continues the use on the property it would be legal and conforming. Mrs. Haukohl stated the only concern she had was the residential uses on two (2) sides of the property. Mr. Siepmann asked what the Mixed Use category allows in the Town of Brookfield, specifically residential uses? Mr. Fruth replied that the Town's Plan language is the same as the County's Plan language and would allow residential uses, as the category was left intentionally very open. In addition, it may be appropriate to exclude specific uses when

considering a plan amendment request such as this that is located in close proximity to residential neighbors. Mr. Inda asked what types of uses would be excluded? Mr. Fruth said on a site like this he felt it would be appropriate to possibly consider prohibiting industrial uses. It may also be suggested that it would be permissible for the site to contain a range of commercial office and residential uses. Mr. Rolfs questioned allowing the change without a specific proposal or use being proposed. Mr. Fruth replied that specific proposals could be considered at the rezoning stage. Mr. Shaver added this is a land use plan amendment or a long-term plan for the community. Mrs. Haukohl commented that changing to the Mixed Use category may allow the land to be more marketable. Chairperson Mitchell asked if the Town of Brookfield would oppose excluding the Industrial category from this area, to which Mr. Lake replied "No".

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.

2. In the Town of Waukesha, the following requests are being made:

- A. *Fred-Lathers, LLC, c/o Fiduciary Real Estate Development Inc., 789 N. Water Street, Suite 200, Milwaukee, WI 53031, requests properties located in part of the SW ¼ of Section 29, the NE ¼ of Section 31 and the NW ¼ of Section 32, T6N, R19E, Town of Waukesha, be changed from the Rural Density and Other Agricultural Land, Primary Environmental Corridor and Other Open Lands to be Preserved categories to the Suburban I Density Residential (1.5 to 2.9 acres per dwelling unit) and Primary Environmental Corridor categories. The proposed request would accommodate a future single-family residential subdivision. The parcels in question include the following Tax Key No.'s (Tax Key No. WAKT 1411.996.001 and WAKT 1421.998.004.*

Mr. Fruth indicated that the property is located along either side of C.T.H. "P". Wetlands are located west of the Fox River and on the north side of the property with Environmental Corridor east of the river. Currently the area to be amended is being farmed. The proposal is for a conservation design subdivision with 48 lots. He presented a Preliminary Concept Plan and noted that the development of the site would be a number of years out due to economic conditions. The developer is willing to dedicate all of the acreage on either side of the Fox River to the County (Environmental Corridor and an area needed for a trail easement east of the Fox River). The Department of Natural Resources (DNR) purchased 189 acres for an expansion of the Vernon Marsh holdings. A parcel on the south side of the site is being pursued by the City of Waukesha as a possible municipal well site. The City of Waukesha Water Utility is supportive of providing municipal water to the property. The site contains 63 upland and 28 lowland acres and the current zoning of the property is in the A-1 Agricultural District for both the County and the Town. An area is designated within the Open Lands to be Preserved category on the east side of the site with some of the land proposed to be changed to the Primary Environmental Corridor and some to the SDRI Suburban I Density Residential category.

Mr. Raddatz from Fiduciary Real Estate Company introduced himself and summarized the history and progress of the project. He pointed out that the project has been seven years in the making. In 2004/2005 Fiduciary was under option with the Lathers family to develop the property as a Town subdivision. Approximately (six) 6 months prior to option, the City of Waukesha approached Fiduciary indicating that there was a possibility for an adequate supply of shallow aquifer wells for the City's water system. When they

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.

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.

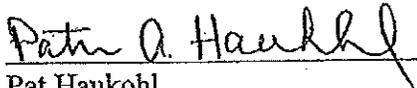
Mr. Shaver clarified that the County would wait until the State submits their comments after a 90-day review period and then bring the final text back for formal action.

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.

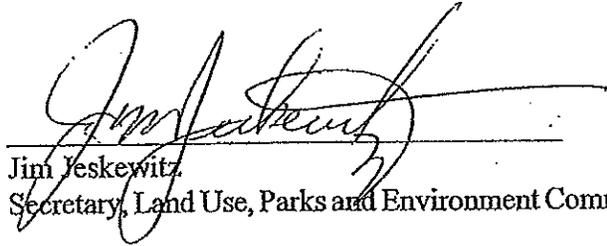
Mr. Fruth announced that after the Public Hearing, the Waukesha County Department of Parks and Land Use Staff will have recommendations prepared for the above requests and on March 3, 2011, the Park and Planning Commission will meet to vote on the requests. The Land Use, Parks and Environment Committee will be invited to the March 3, 2011 meeting, however, will not vote until their meeting on April 19, 2011. The Waukesha County Board of Supervisors will vote at their meeting of April 26, 2011. After the Waukesha County Board's action, the appropriate changes are made a part of the permanent record and the Comprehensive Development Plan for Waukesha County is amended as approved by the Waukesha County Board.

Mr. Peregrine moved, seconded by Mr. Ruf to close the public hearing at 2:50 p.m. with the exception of No. 2B (Mark Lake, MRED Cummings) which was adjourned until June 2, 2011, at 1:05 p.m.

Respectfully submitted,

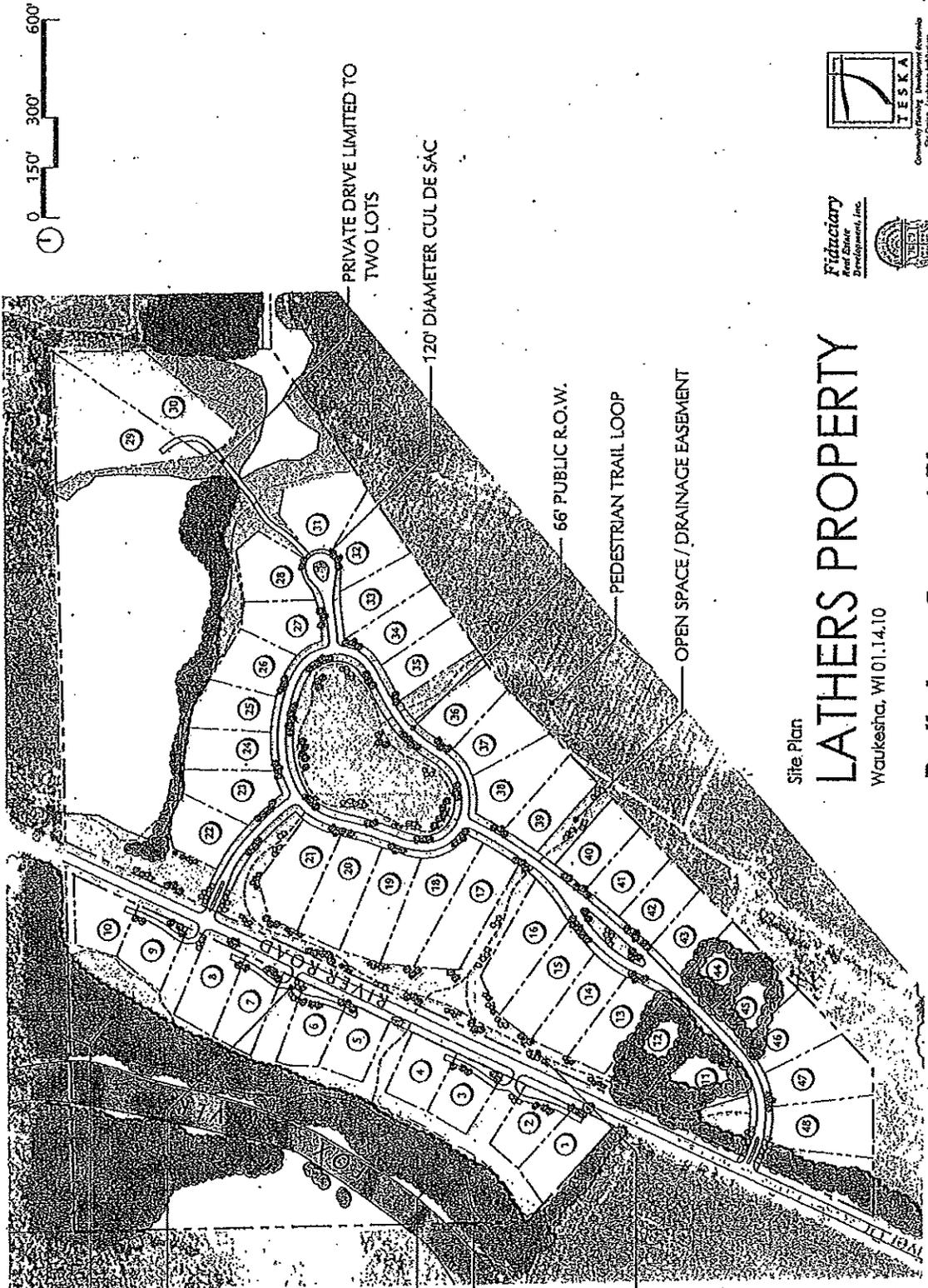


Pat Haukoehl
Secretary, Park and Planning Commission



Jim Jeskewitz
Secretary, Land Use, Parks and Environment Committee

EXHIBIT "B"



PRIMARY ENVIRONMENTAL CORRIDOR

SHARED ACCESS, ONE CURB CUT FOR CLUSTERED LOTS

WETLAND

FLOODPLAIN 100 YR.

LANDSCAPE BUFFER

PRIVATE DRIVE LIMITED TO TWO LOTS

120' DIAMETER CUL DE SAC

66' PUBLIC R.O.W.

PEDESTRIAN TRAIL LOOP

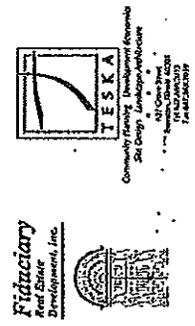
OPEN SPACE / DRAINAGE EASEMENT

SITE DATA:
 County & Town Land Use: Suburban
 Density Residential
 63 upland acres/1.5 = 42
 28 lowland acres/5 = 6
 Total dwelling units = 48

Town Zoning: R-2 single-family. Min area = 30,000 sf; min width = 120' (standard 125' x 250' lot).

Site Plan
LATHERS PROPERTY
 Waukesha, WI 01.14.10

Preliminary Concept Plan
 For Informational Use Only



JAN 14 2011

<p style="text-align: center;">Chart of Actions Year 2011 Amendments to the Comprehensive Development Plan for Waukesha County</p>					
Item No. (outlined in the Staff Report and Recommendation)	Town	Staff Recommendation	Parks and Planning Commission Decision and Vote	LCR Decision and Vote	County Board Decision and Vote
1A – Town of Brookfield Plan Commission and Town Board	Brookfield	Approval with conditions	Approval – Unanimous		
2A – Fred Lathers, LLC, c/o Fiduciary Real Estate	Waukesha	Approval with conditions	Approval - Unanimous		
2B – Mark Lake, MRED-Cummings	Waukesha	The public hearing was held open on this matter until June 2, 2011, pending the Waukesha West Bypass Study advancing			
3 – Waukesha County Department of Parks and Land Use Farmland Preservation Plan	-----	Action regarding the Farmland Plan will be delayed until comments regarding the draft plan are received from the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP).			

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-04/26/11

(ORD) NUMBER-1660002

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

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

TOTAL AYES-19

TOTAL NAYS-02

CARRIED X

DEFEATED _____

UNANIMOUS _____

TOTAL VOTES-21