

ENROLLED ORDINANCE 171-46

AMEND THE TEXT OF THE TOWN OF BROOKFIELD ZONING CODE TO  
REPEAL AND RECREATE SECTION 17.02(14)(b)(4)(D) RELATING TO  
DRIVE-THROUGH AND FAST FOOD RESTAURANTS (ZT-1836)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Brookfield Town Board on May 17, 2016, and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section (60.62), Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the text of the Town of Brookfield Zoning Code, adopted by the Town of Brookfield on December 27, 1988, is hereby amended to repeal and recreate Section 17.02(14)(b)(4)(D) relating to drive-through and fast food restaurants, more specifically described in the "Staff Report and Recommendation" on file in the office of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance by reference ZT-1836, is hereby approved.

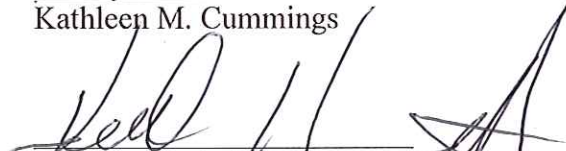
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Brookfield.


AMEND THE TEXT OF THE TOWN OF BROOKFIELD ZONING CODE TO  
REPEAL AND RECREATE SECTION 17.02(14)(b)(4)(D) RELATING TO  
DRIVE-THROUGH AND FAST FOOD RESTAURANTS (ZT-1836)


Presented by:  
Land Use, Parks, and Environment Committee

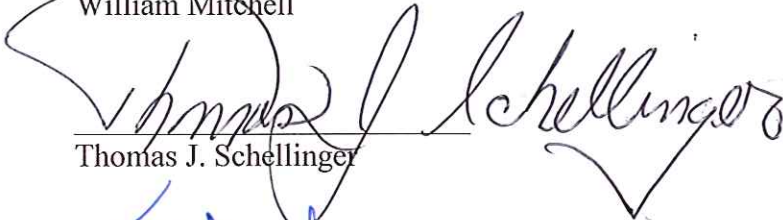
  
David D. Zimmermann, Chair

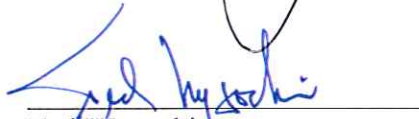
~~PRESENT~~  
Kathleen M. Cummings

  
Keith Hammitt


  
Robert L. Kolb

  
William Mitchell


  
Thomas J. Schellinger

  
Ted Wysocki

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

Date: 10/25/16,   
Kathleen Novack, County Clerk

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

Approved: X  
Vetoed: \_\_\_\_\_  
Date: 10/31/16,   
Paul Farrow, County Executive

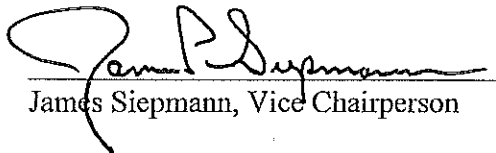
COMMISSION ACTION

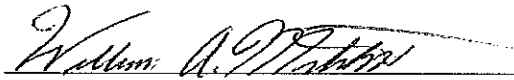
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Brookfield Zoning Code hereby recommends approval of ZT-1836 (Text Amendment) in accordance with the attached "Staff Report and Recommendation".

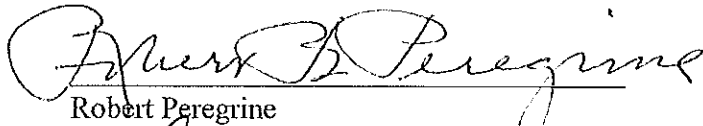
PARK AND PLANNING COMMISSION

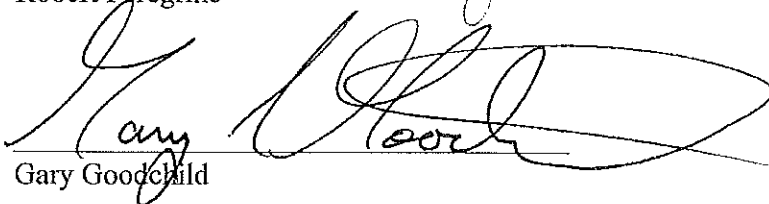
August 18, 2016


  
Richard Morris, Chairperson

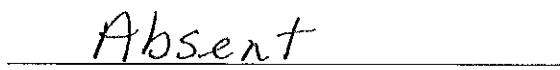
  
James Siepmann, Vice Chairperson

  
William Mitchell, Secretary

  
Robert Peregrine

  
Gary Goodchild

  
William Maslowski

  
Keith Hammitt

**WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE**  
**STAFF REPORT AND RECOMMENDATION**  
**TEXT AMENDMENT**

**FILE NO.:** ZT-1836

**DATE:** August 18, 2016

**PETITIONER:** Town of Brookfield Board of Supervisors  
Town of Brookfield Hall  
645 North Janacek Road  
Brookfield, WI 53045-6052

**NATURE OF REQUEST:**  
Repeal and re-create Section 17.02(14)(b)(4)(D) of the Town of Brookfield Zoning Code relating to drive-through and fast food restaurants.

**PUBLIC HEARING DATE:**  
May 9, 2016.

**PUBLIC REACTION:**  
A developer said he supported amendments to the Town Zoning Code to eliminate the restriction on the number of drive-through restaurants.

**TOWN PLAN COMMISSION:**  
The Town Plan Commission unanimously recommended approval of the proposed request on May 9, 2016.

**TOWN BOARD ACTION:**  
The Town of Brookfield Board of Supervisors unanimously approved the request on May 17, 2016.

**OTHER CONSIDERATIONS:**

The Town of Brookfield Zoning Code allows for drive-through and fast food restaurants in the B-2 Limited General Business District provided that there be no more than two such facilities within a one-mile radius of one another. The Town is proposing to remove the limitation of two such facilities within one mile of each other.

**STAFF RECOMMENDATION:**  
It is the opinion of the Planning and Zoning Division Staff that this request be approved. Staff believes that the Town retains broad discretion in considering the appropriateness of such uses via the Conditional Use approval process. Traffic flow and site design issues can be considered through such a review. An arbitrary requirement on the number of allowable drive-through and fast food restaurants within a one-mile radius does not seem to serve a useful purpose.

Respectfully submitted,

*Jason Fruth*

Jason Fruth  
Planning and Zoning Manager

Attachment: Town Ordinance

ORDINANCE AMENDING SECTION 17.02(14)(b)(4)(D)  
OF THE TOWN CODE OF THE  
TOWN OF BROOKFIELD, WAUKESHA COUNTY, WISCONSIN

THE TOWN BOARD OF THE TOWN OF BROOKFIELD, WAUKESHA COUNTY,  
WISCONSIN, DOES ORDAIN AS FOLLOWS:

SECTION 1: Section 17.02(14)(4)(d) of the Town Code of the Town of Brookfield is hereby amended to read as follows:

\* \* \*

4. **BUSINESS USES.** The following commercial uses shall be conditional uses and may be permitted as specified:

\* \* \*

**D. DRIVE-THROUGH AND FAST FOOD  
RESTAURANTS** in the B-2 Business District.

SECTION 2: All ordinances, or parts of this ordinance, conflicting or contravening the provisions of this ordinance are hereby repealed.

SECTION 3: This ordinance shall take effect upon passage and posting as provided by law.

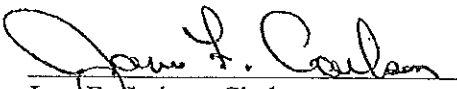
Dated this 17<sup>th</sup> day of May, 2016.

**RECEIVED**

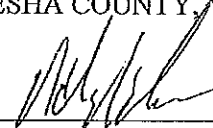
SEP 07 2016

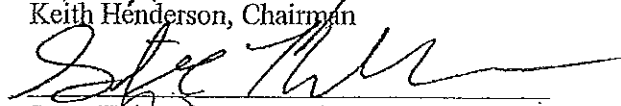
DEPT OF PARKS & LAND USE

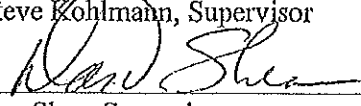
ATTEST

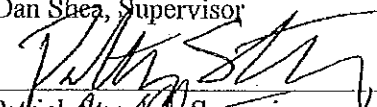
  
Jane E. Carlson, Clerk

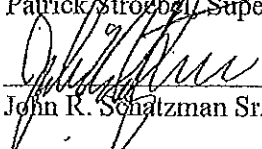
TOWN BOARD, TOWN OF BROOKFIELD  
WAUKESHA COUNTY, WISCONSIN

  
Keith Henderson, Chairman

  
Steve Kohlmann, Supervisor

  
Dan Shea, Supervisor

  
Patrick Stroh, Supervisor

  
John R. Schatzman Sr., Supervisor

Roll Call	Discussion	Voting...	Results	Agenda	Setup	Options
D1 - Kolb			AYE	D14 - Wood		AYE
D2 - Zimmermann			(M) AYE	D15 - Mitchell		AYE
D3 - Morris			AYE	D16 - Crowley		AYE
D4 - Batzko			AYE	D17 - Paulson		AYE
D5 - Dondlinger			AYE	D18 - Nelson		AYE
D6 - Walz			AYE	D19 - Cummings		AYE
D7 - Grant			Notified	D20 - Schellinger		AYE
D8 - Michalski			AYE	D21 - Zaborowski		AYE
D9 - Heinrich			AYE	D22 - Wysocki		(2) AYE
D10 - Swan			AYE	D23 - Hammitt		AYE
D11 - Howard			AYE	D24 - Whittow		AYE
D12 - Wolff			AYE	D25 - Johnson		AYE
D13 - Decker			AYE			
171-0-045	Passed (24 Y - 0 N - 1 Absent)			Majority Vote		