



Office of the City Attorney

City Hall, Suite 206
201 Delafield Street
Waukesha, Wisconsin 53188-3646
Telephone (262) 524-3520
Fax (262) 650-2569
Email attorneys@waukesha-wi.gov

Brian E. Running
City Attorney
Miles W.B. Eastman
Assistant City Attorney
Julie M. Gay
Assistant City Attorney
Anne Marie Iselin
Assistant City Attorney
Donna Hylarides Whalen
Assistant City Attorney
Rebecca L. Pipp
Legal Assistant

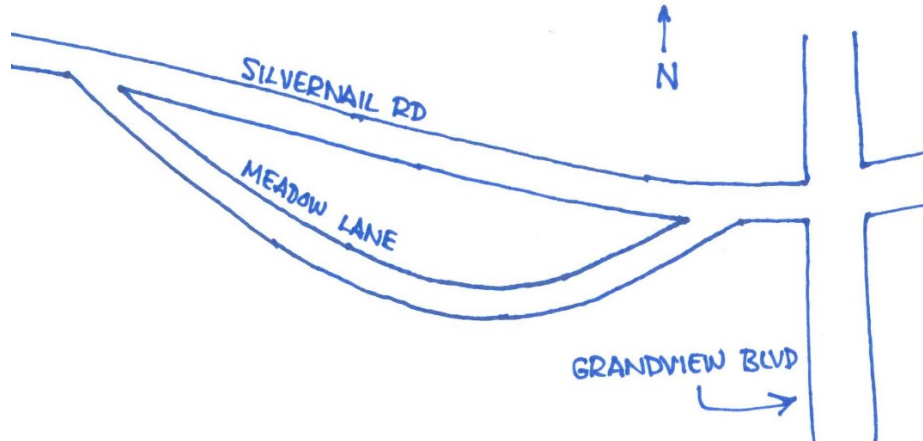
April 25, 2018

Memorandum

To: Common Council, Mayor
From: Brian Running
Re: Vacation of Remnant Parcel, Attachment to Panda Express Development

One of the final issues remaining for the Panda Express development at Silvernail and Grandview is the vacation of a part of City right of way that will be incorporated into the development parcel. You'll recall that the Council approved the CSM for the development, but conditioned that approval on the conveyance of the remnant parcel to the developer. The Correction Instrument and Resolution that accompany this memo accomplish that conveyance.

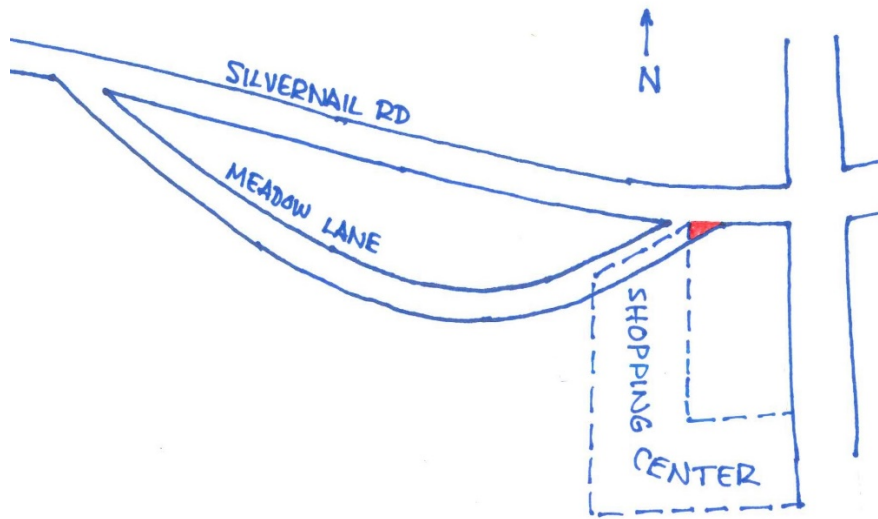
Meadow Lane used to be a street that looped south from Silvernail Road, from just west of the Grandview intersection to approximately where Good Harvest is now. It looked like this:



Meadow Lane was a remnant of old State Highway 30, which was rendered obsolete when Silvernail Road was built. It served no purpose, and Engineering had long recommended discontinuation and vacation of it.

In 2003, Redmond Development approached the City with plans for a shopping center in the area of Meadow Lane. The proposed shopping center would lie on a part of the Meadow Lane right of way, so the proposal was a good reason to finally discontinue and vacate Meadow Lane. On November 12, 2003, the Plan Commission voted to vacate the "eastern portion of Meadow Lane adjacent to its intersection with Silvernail Rd. and West of Grandview Blvd." A copy of the minutes of that meeting are attached. The intent of the Plan Commission was to vacate all of Meadow Lane from its eastern terminus at Silvernail Road to a point to the west that was large enough to accommodate the proposed development. There is no indication in the minutes that any portion of the eastern end of Meadow Lane was to be excluded.

The parcel on which the center would be built was situated like this, in relation to Meadow Lane:



As you can see, the shopping center did not cover the entire eastern end of Meadow Lane, a small triangle (in red) would not be included in the development.

Street vacation is accomplished by a Common Council resolution. The vacated street is split down its centerline, and it attaches to the adjacent parcels. When the 2004 resolution was drafted for the vacation of Meadow Lane, the legal description for the right of way that was being vacated was generated by the shopping center developer. Unfortunately, because the developer didn't need the little red triangle, they didn't include it in the legal description that was attached to the resolution. The end result is that the resolution didn't include all the land that the Plan Commission had intended to be vacated, and the little red triangle remained City property. If it had been included, the triangle would have attached to the Gasthaus property. A copy of the 2004 Resolution is also attached.

The current City right of way map shows the remnant, which is not actually a triangle when you look at it on the official GIS map instead of my rough hand-drawn map. It's the extension of the Silvernail right of way in the red circle. I've also attached a map of the remnant to this memo.



The Panda Express developer needs that little parcel added to their property, in order to have enough room for the drive-through lane at the northern building. The parcel has no value to the City. The small portion of Meadow Lane to the north of the centerline is being retained by the City, and will be used for a traffic-control box for the adjacent intersection.

The attached "Correction Instrument," which incorporates a Council resolution vacating the remnant parcel, accomplishes the conveyance of the land, by correcting the original 2004 Common Council Resolution to include the mistakenly-omitted remnant. This document has already been approved by the developer's title insurance company as sufficient to accomplish the purpose. All that remains to be done is to pass the resolution, authorize the City Attorney to execute the Correction Instrument, and record the Correction Instrument. Once that's done, the CSM can be recorded, and the development can go on to completion.

All of this is being done as part of the settlement of the lawsuit between the developer and the City, and is one of the steps that must be completed before the suit can be dismissed.

Please read the Correction Instrument and the proposed Resolution carefully, and let me know if you have any questions about any of this.

Thank you for your careful consideration of this.

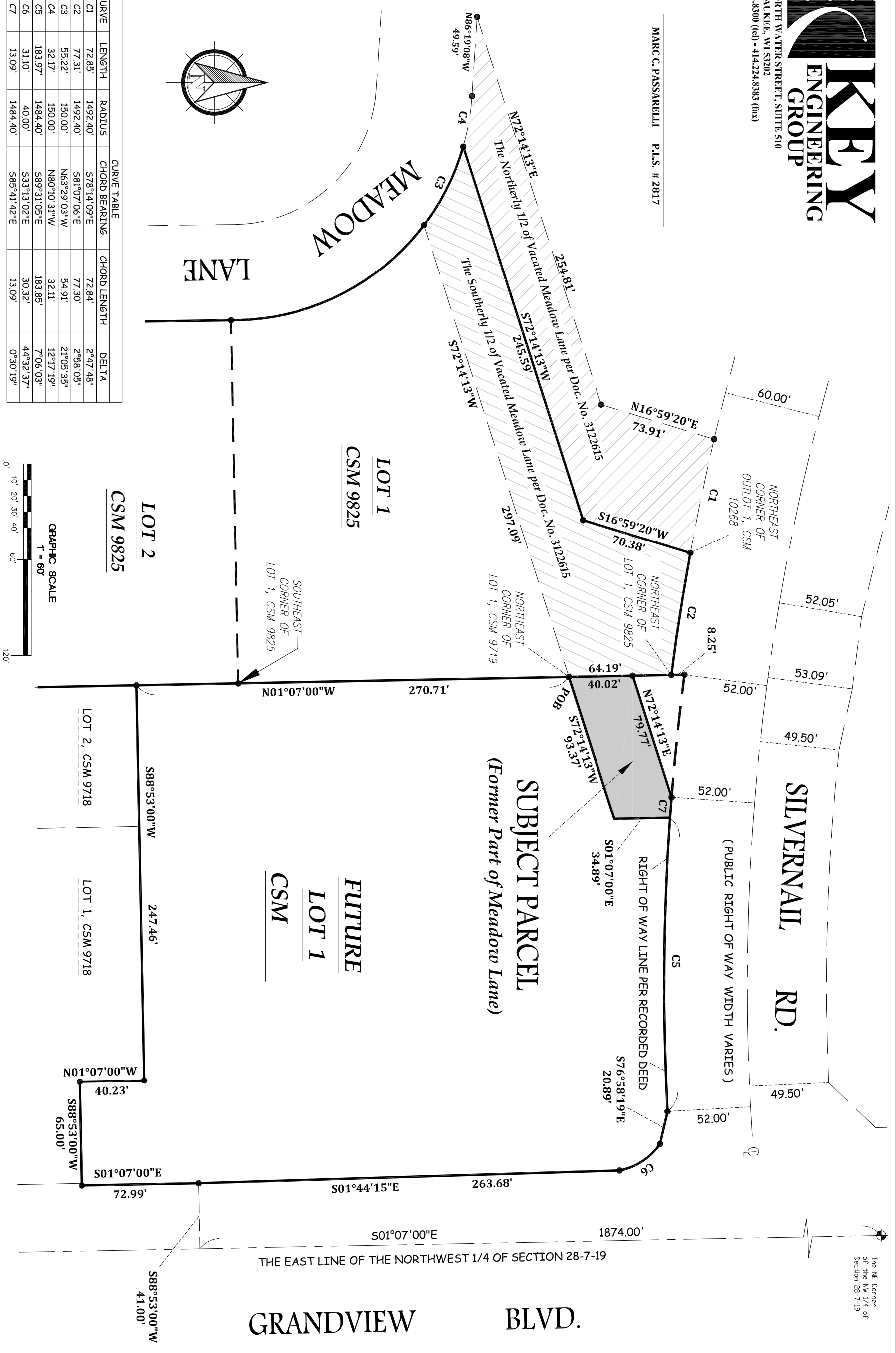
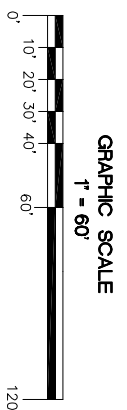
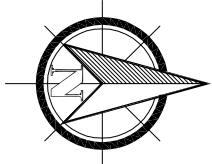
PARCEL EXHIBIT



735 NORTH WATER STREET, SUITE 510
MILWAUKEE, WI 53202
414.224.8300 (tel) - 414.224.8383 (fax)

MARC C. PASSARELLI P.L.S. # 2817

CURVE	LENGTH	RADIUS	CHORD BEARING	CHORD LENGTH	DELTA
C1	72.85'	1492.40'	S78°14'09"E	72.84'	2°47'48"
C2	77.31'	1492.40'	S81°07'06"E	77.30'	2°58'05"
C3	55.22'	150.00'	N63°29'03"W	54.91'	21°05'35"
C4	32.17'	150.00'	N80°10'31"W	32.11'	12°17'19"
C5	183.97'	1484.40'	S89°31'05"E	183.85'	7°06'03"
C6	31.10'	40.00'	S33°13'02"E	30.32'	44°32'37"
C7	13.09'	1484.40'	S85°41'42"E	13.09'	0°30'19"



GRANDVIEW BLVD.

THE EAST LINE OF THE NORTHWEST 1/4 OF SECTION 28-7-19

The NE Corner
of the NW 1/4 of
Section 28-7-19

SILVERNAIL RD.

SUBJECT PARCEL
(Former Part of Meadow Lane)

LOT 1
CSM 9825

LOT 2
CSM 9825

FUTURE
LOT 1
CSM

LOT 2, CSM 9718

LOT 1, CSM 9718

MEADOW

LANE

(PUBLIC RIGHT OF WAY WIDTH VARIES)

RIGHT OF WAY LINE PER RECORDED DEED

RIGHT OF WAY LINE PER RECORDED DEED

NORTHEAST CORNER OF LOT 1, CSM 9719

NORTHEAST CORNER OF LOT 1, CSM 9825

NORTHEAST CORNER OF OUTLOT 1, CSM 10268

N86°19'08"W
49.59'

C4

S72°14'13"W
245.59'

C3

S72°14'13"W
297.09'

C2

S72°14'13"W
93.37'

C7

S01°07'00"E
34.89'

S76°58'19"E
20.89'

C6

S01°44'15"E
263.68'

C5

N172°14'13"E
254.81'

N72°14'13"E

S16°59'20"W
70.38'

C1

N16°59'20"E
73.91'

C1

60.00'

52.05'

53.09'

49.50'

52.00'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

49.50'

52.00'

CORRECTION INSTRUMENT

Wis. Stats. §706.085

Parcel ID Numbers: Adjacent to WAKC 0974 985 and WAKC 0974 986 001

After recording return to:
City Attorney
Waukesha City Hall
201 Delafield St Ste 206
Waukesha WI 53188-3646

Instrument to be Corrected

This Correction Instrument corrects a legal description in the following-described instrument, recorded by the Register of Deeds for Waukesha County, Wisconsin:

Instrument name: Resolution by the Common Council of the City of Waukesha to Discontinue and Vacate a Portion of Meadow Lane, a Public Street
Grantor: City of Waukesha
Date of instrument: January 21, 2004
Recording date: January 26, 2004
Document number: 3122615

Legal Description of Subject Real Estate

Contained in the attached Resolution of the Common Council of the City of Waukesha.

Correction

The instrument being corrected omitted a parcel, this Correction Instrument adds the omitted parcel to the legal description.

Statement of Person Executing this Correction Instrument

The undersigned has personal knowledge of the circumstances of the original conveyance as the City Attorney for the City of Waukesha; after review of the pertinent records of actions of the City's Plan Commission on November 12, 2003, and of the Common Council on January 21, 2004; and after review of the City's land records showing a remnant parcel that was intended to be included in the original 2004 resolution. The undersigned was authorized to execute this instrument on behalf of the City of Waukesha by the Common Council on May 1, 2018.

Dated May 1, 2018.

Brian E. Running

Brian E. Running, known to me to be the City Attorney for the City of Waukesha, personally came before me the 1st day of May, 2018, declared on oath that the contents of the foregoing instrument are true, and signed it in my presence.

_____, Notary Public
Waukesha County, Wisconsin
My commission (is permanent)(expires_____)

This instrument was drafted by Brian E. Running, City Attorney, Waukesha, Wisconsin.

**Common Council
of the
City of Waukesha, Wisconsin**

Resolution No. _____ – 18

**A Resolution Correcting Resolution 2-04, Dated January 21, 2004,
to Discontinue and Vacate a Portion of Former Meadow Lane.**

Whereas on November 12, 2003, the City of Waukesha Plan Commission resolved that the “eastern portion of Meadow Lane adjacent to its intersection with Silvernail Road, south of Silvernail Road and west of Grandview Boulevard” be discontinued and vacated; and

Whereas the discontinuation and vacation of that portion of Meadow Lane was being done at the request of Redmond Development, which at that time was developing a shopping center that would lie in part on the discontinued and vacated portion of Meadow Lane; and

Whereas when Resolution 2-04 was prepared for passage by the Common Council a legal description for the vacated portion of Meadow Lane was prepared by Redmond Development and was incorporated into the Resolution; and

Whereas the legal description prepared by Redmond Development included only that portion of Meadow Lane that was required for Redmond’s shopping center and did not include the entire portion intended to be vacated by the Plan Commission; and

Whereas the legal description incorporated into Resolution 2-04 excluded a small portion of Meadow Lane to the east of Redmond’s shopping center and thus left that remnant as City property when it was the intent of the Plan Commission and Common Council to discontinue and vacate the entire portion of Meadow Lane and not to leave a remnant; and

Whereas if the remnant had been included in the resolution, it would have been attached to the parcel adjacent to the south; and

Whereas the Common Council wishes to correct the omission of the remnant parcel from Resolution 2-04 and to effectuate the intent of the Plan Commission’s November 12, 2003 resolution, and to discontinue and vacate the remnant parcel and to attach it to the parcel adjacent to the south;

Now, therefore, be it resolved by the Common Council of the City of Waukesha that:

The following-described real estate is discontinued and vacated as a street and public right of way:

That part of the Meadow Lane right-of-way located in the Southeast ¼ of the Northwest ¼ of Section 28, Town 7 North, Range 19 East in the City of Waukesha, Waukesha County, Wisconsin, and being more particularly described

as follows: Beginning at the Northeast corner of Lot 1 of Certified Survey Map No. 9719; thence North 01° 07' 00" West, 40.02 feet; thence North 72° 14' 13" East, 79.77 feet; thence along an arc of a curve which has a radius point to the North, a radius of 1484.40 feet and a chord 13.09 feet long that bears South 85° 41' 42" East, 13.09 feet along said curve; thence South 01° 07' 00" East, 34.89 feet; thence South 72° 14' 13" West, 93.37 feet to the point of beginning. Containing 3,547 square feet of land.

This Resolution corrects and amends the "Resolution by the Common Council of the City of Waukesha to Discontinue and Vacate a Portion of Meadow Lane, a Public Street," recorded on January 26, 2004, as Document Number 3122615, by the Register of Deeds for Waukesha County, Wisconsin, by adding the above legal description to the legal description contained in that resolution.

This Resolution was passed and adopted by the Common Council of the City of Waukesha the 1st day of May, 2018.

Shawn N. Reilly, Mayor

Gina L. Kozlik, City Clerk

STREET VACATION - MEADOW LANE – A request from Redmond Development to vacate the eastern portion of Meadow Lane adjacent to its intersection with Silvernail Rd. Located south of Silvernail Rd. and west of Grandview Blvd. (2-E-6)

Mr. Kopp explained that this is a proposed vacation of Meadow Lane, which is also part of the new Grandview Plaza commercial development. The area is now zoned B-5, Community Business District. The proposed vacation of the eastern portion and the terminus of Meadow Lane were what was to be discussed. This is a road that was inherited from the Town of Waukesha many years ago and is in very poor condition. The road comes in at a very sharp angle from Silvernail Rd., and there is not a lot of safety or visibility to the road. Mr. Kopp believes that the Engineering Department expressed a desire to get rid of this road a long time ago. The road is not needed. The Grandview Plaza development is proposing to put in a new road that is going to wrap all the way around the area. There is also, further to the east, the Weissgerber parcel which has a new driveway and new cross easements which is going to bring traffic off of Silvernail Road and will allow cars to head down toward the new Walgreens. Of the land that will be vacated, the northerly portion will go to the parcel north of it and the southerly half will go to the parcel to the south of that. This will make both of those parcels a little larger. That land would then be suitable, when added to that respective parcel, for possible development. The early petitions that were brought in by the developer's agent had some technical flaws, and had to be rejected. The start of the legal description in this petition is also in need of a minor revision, in that the language used brings in unnecessary statements about one of the dimensions. Mr. Kopp said he quickly spoke with the Attorney's Office and they felt that it was not a big issue. They felt it should be cleaned up and then brought forward for resolution. The project's engineer and architect also brought in a correction prior to the meeting. This vacation, when accomplished, will finally complete some of the last missing pieces of this development.

Engineering Department Comments:

1. *The Engineering Department requires any bonds or agreements required by the Plan Commission and Common Council.*
2. *The area to be vacated is proposed to have stormwater management facilities and storm sewer constructed in it as part of the Grandview Plaza project. The City should retain storm sewer and drainage rights over areas of the vacation that take drainage from the City right-of-way.*
3. *In the northerly half of the legal description, the point of commencement is the northeast corner of Parcel 1, CSM #8359. Should be either:*
 - A. *The northeast corner of CSM #8359 (not northeast corner of Parcel 1)*
 - B. *Or, if the point of commencement is the northeast corner of Parcel 1, then the first course of 14.03 feet should be removed.*
4. *The existing underground gas and telephone are shown on the development plans for the vacation area for Grandview Plaza. The utility easement rights should be maintained for utilities that will remain within the vacation area.*

With all of those conditions and comments, and with the idea that the unnecessary language in the proposed legal description will be corrected before it comes back for the Common Council's action on the vacation resolution, Staff would recommend in favor of the proposed vacation of Meadow Lane.

Mr. Crowley made the motion to approve based on Staff's comments and conditions. Mr. Mindiola seconded the motion.

Ms. Kay Clabault, of Redmond Development, stated that they agree with the Engineering Department's comments as far as the City retaining any rights to any utilities.

The motion was voted on and it passed unanimously.

001479 JAN 26 8

3122615



WC9122615-003

DOCUMENT TITLE

REGISTER'S OFFICE
WAUKESHA COUNTY, WI
RECORDED ON

01-26-2004 3:11 PM

MICHAEL J. HASSLINGER
REGISTER OF DEEDS

REC. FEE: 8.00
REC. FEE-CO: 5.00
REC. FEE-ST: 2.00
TRAN. FEE:
TRAN. FEE-STATE:
PAGES: 3

This space reserved for recording data

RESOLUTION 2-04

RESOLUTION BY THE COMMON COUNCIL
OF THE CITY OF WAUKESHA
TO DISCONTINUE AND VACATE
A PORTION OF MEADOW LANE,
A PUBLIC STREET

NAME AND RETURN ADDRESS:

City of Waukesha
Dept. of Community Development
201 Delafield Street Room 200
Waukesha, WI 53188

TAX PARCEL NUMBER:

*Due
15/3
WAKC*

RESOLUTION 2-04

RESOLUTION BY THE COMMON COUNCIL
OF THE CITY OF WAUKESHA TO DISCONTINUE
AND VACATE A PORTION OF MEADOW LANE
IN THE CITY OF WAUKESHA, WISCONSIN

BE IT HEREBY RESOLVED by the Common Council of the City of Waukesha, Wisconsin, as follows:

That upon the request and petition to vacate previously filed, the whole of the following described real estate in the City of Waukesha, Wisconsin be and is hereby discontinued and vacated as a street, to wit:

The northerly one-half of the portion of Meadow Lane sought to be vacated is legally described as follows:

A part of the Northwest One Quarter (1/4) of Section 28, Town 7 North, Range 19 East, in the City of Waukesha, Waukesha County, Wisconsin more fully described as follows:

Beginning at the northeast corner of Parcel 1, CSM No. 8359; thence 72.85 feet along the southerly right-of-way line of Silvernail Road and the arc of a curve to the left with a radius of 1492.40 feet whose chord bears South 78° 14' 09.5" East, 72.84 feet to a point; thence South 16° 59' 20" West, 70.38 feet to a point; thence South 72° 14' 13" West, 245.59 feet to a point; thence 32.17 feet along the arc of a curve to the left with a radius of 150.00 feet whose chord bears North 80° 10' 30.5" West, 32.11 feet to a point; thence North 86° 19' 08" West, 49.59 feet to a point on the Southerly line of said Parcel 1; thence North 72° 14' 13" East along said southerly line 254.81 feet to a point; thence North 16° 59' 20" East, 73.91 feet to the point of beginning.

The southerly one-half of the portion of Meadow Lane sought to be vacated is legally described as follows:

A part of the Northwest One Quarter (1/4) of Section 28, Town 7 North, Range 19 East, in the City of Waukesha, Waukesha County, Wisconsin more fully described as follows:

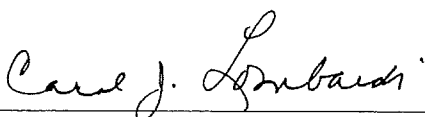
Beginning at the northeast corner of Parcel 1, CSM No. 8946; thence South 72° 14' 13" West, along the north line of said Parcel 1, 297.09 feet; thence 55.23 feet along the arc of a curve to the left with a radius of 150.00 feet whose chord bears North 63° 29' 03" West, 54.91 feet to a

point; thence North 72° 14' 13" East, 245.59 feet to a point; thence North 16° 59' 20" East, 70.38 feet to a point on the southerly right-of-way line of Silvernail Road; thence 77.30 feet along said southerly right-of-way line and the arc of a curve to the left with a radius of 1492.40 feet whose chord bears South 81° 07' 06" East, 77.30 feet to a point; thence South 01° 07' 00" East, 64.19 feet to the point of beginning.

That the street discontinued and vacated by this resolution is designated on the map hereto annexed and made a part hereof as Exhibit "A".

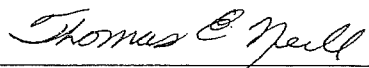
Passed this 20th day of January, 2004.

Approved this 21st day of January, 2004.



Carol J. Lombardi, Mayor

Attest:



Thomas E. Neill, City Clerk

