

<p style="text-align: center;">APPROVAL</p> <p style="text-align: center;"><i>Slw</i></p>	<p style="text-align: center;">REQUEST FOR COUNCIL ACTION</p>	<p style="text-align: center;">MEETING DATE</p> <p style="text-align: center;">08/21/12</p>
<p style="text-align: center;">REPORTS &amp; RECOMMENDATIONS</p>	<p style="text-align: center;">ORDINANCE TO AMEND THE CITY OF FRANKLIN 2025 COMPREHENSIVE MASTER PLAN TO CHANGE THE FUTURE LAND USE MAP USE DESIGNATION FOR PROPERTY LOCATED AT THE EASTERN CORNER OF WEST LOOMIS ROAD AND WEST ST. MARTINS ROAD (STH 100), FROM MIXED USE TO COMMERCIAL USE AND TO CHANGE THE CITY OF FRANKLIN CROSSROADS TRADE AREA REGULATING PLAN TO ALLOW FOR SUCH COMMERCIAL USE (APPROXIMATELY 29.48 ACRES) (DAVID W. BEHRENS, PRINCIPAL OF GREENBERGFARROW ARCHITECTURE INC., APPLICANT)</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;"><i>G.2.</i></p>

At their meeting on August 9, 2012, the Plan Commission recommended approval of an ordinance to amend the City of Franklin 2025 Comprehensive Master Plan to change the Future Land Use Map use designation for property located at the eastern corner of West Loomis Road and West St. Martins Road (STH 100), from Mixed Use to Commercial use and to change the City of Franklin Crossroads Trade Area Regulating Plan to allow for such commercial use (approximately 29.48 acres) (David W. Behrens, Principal of GreenbergFarrow Architecture Inc., Applicant).

**COUNCIL ACTION REQUESTED**

A motion to adopt Ordinance No. 2012-\_\_\_\_\_, an ordinance to amend the City of Franklin 2025 Comprehensive Master Plan to change the Future Land Use Map use designation for property located at the eastern corner of West Loomis Road and West St. Martins Road (STH 100), from Mixed Use to Commercial use and to change the City of Franklin Crossroads Trade Area Regulating Plan to allow for such commercial use (approximately 29.48 acres) (David W. Behrens, Principal of GreenbergFarrow Architecture Inc., Applicant).



STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

*[Draft 6-8-12]*

ORDINANCE NO. 2012-\_\_\_\_\_

AN ORDINANCE TO AMEND THE CITY OF FRANKLIN 2025 COMPREHENSIVE MASTER PLAN TO CHANGE THE FUTURE LAND USE MAP USE DESIGNATION FOR PROPERTY LOCATED AT THE EASTERN CORNER OF WEST LOOMIS ROAD AND WEST ST. MARTINS ROAD (STH 100), FROM MIXED USE TO COMMERCIAL USE AND TO CHANGE THE CITY OF FRANKLIN CROSSROADS TRADE AREA REGULATING PLAN TO ALLOW FOR SUCH COMMERCIAL USE  
(APPROXIMATELY 29.48 ACRES)  
(DAVID W. BEHRENS, PRINCIPAL OF GREENBERGFARROW ARCHITECTURE INC., APPLICANT)

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WHEREAS, pursuant to Wis. Stat. §§ 62.23(2) and (3) and 66.1001(4), the City of Franklin is authorized to prepare and adopt and to amend a comprehensive plan as defined in Wis. Stat. §§ 66.1001(1)(a) and 66.1001(2); and

WHEREAS, David W. Behrens, Principal of GreenbergFarrow Architecture Inc. has applied for an amendment to the Comprehensive Master Plan to change the proposed use of certain property from Mixed Use to Commercial Use and to change the City of Franklin Crossroads Trade Area Regulating Plan to allow for such Commercial Use; and

WHEREAS, the Plan Commission of the City of Franklin by a majority vote of the entire Commission on July 5, 2012, recorded in its official minutes, has adopted a resolution recommending to the Common Council the adoption of the Ordinance to Amend the City of Franklin 2025 Comprehensive Master Plan to change the Future Land Use Map use designation for property located at the eastern corner of West Loomis Road and West St. Martins Road (STH 100), from Mixed Use to Commercial Use and to change the City of Franklin Crossroads Trade Area Regulating Plan to allow for such Commercial Use; and

WHEREAS, the City of Franklin held a public hearing upon this proposed Ordinance, in compliance with the requirements of Wis. Stat. § 66.1001(4)(d); the Common Council having received input from the public at a duly noticed public hearing on July 10, 2012; and

NOW, THEREFORE, the Mayor and Common Council of the City of Franklin, Wisconsin, do ordain as follows:

SECTION 1: The City of Franklin 2025 Comprehensive Master Plan is hereby amended to change the Future Land Use Map use designation for the property located at approximately the eastern corner of West Loomis Road and West St. Martins Road (STH 100), from Mixed Use to Commercial Use and to change the City of Franklin Crossroads Trade Area Regulating Plan to allow for such Commercial Use. Such

property is more particularly described within Ordinance No. 2012-\_\_\_\_ of even-date herewith.

SECTION 2: The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 3: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 4: This ordinance shall take effect and be in force from and after its passage and publication.

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by Alderman \_\_\_\_\_.

Passed and adopted by a majority vote of the members-elect of the Common Council at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

APPROVED:

\_\_\_\_\_  
Thomas M. Taylor, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_



Franklin

MAY 25 2012

City Development

**Meijer, Inc.**

2929 Walker Ave. NW  
Grand Rapids, MI 49544

**Project Narrative for the Northeast Corner of St. Martins  
Road (STH 100), Loomis Road (STH 36) and Puetz Road**

May 25, 2012

This document is being submitted on behalf of Meijer, Inc. (the "Applicant") in connection with the redevelopment of approximately 29.48 acres of land consisting of eight (8) parcels at the northeast corner of West St. Martins Road (STH 100), West Loomis Road (STH 36) and West Puetz Road (the "Site") in the City of Franklin (the "City").

Meijer proposes to construct and operate a 191,352 square foot grocery and retail facility with an associated parking field (the "Project") at the Site. The Project will include site lighting, landscaping and stormwater facilities.

The following materials are being filed together with the associated application documents:

1. Comprehensive Master Plan Amendment Application;
2. Planned Development District Application, including a Major Planned Development District Amendment (PDD No. 31 Boundary Modification);
3. Unified Development Ordinance Text Amendment Application;
4. Natural Resource Special Exception Application; and
5. Certified Survey Map Application.

Each of the foregoing applications requires a Project Narrative setting forth a detailed description of the Project, as well as other information relevant to the particular application. Meijer is

submitting this master Project Narrative to address all of the requirements of the various applications.

## **I. Applicant Information**

In 1934, a modest local barber in Greenville, Michigan, had a need and saw an opportunity. In an effort to take care of the customers who visited his barbershop, Hendrik Meijer purchased \$328.76 worth of merchandise on credit. Together with his 14-year-old son, Fred, they opened the North Side Grocery. As the customer base grew, Meijer sought ways to cater to his growing popularity by being one of the first to use mass marketing techniques (newspaper ads), automatic conveyor belts and metal shopping carts. These innovations led Meijer to develop the concept of a one stop store where customers were able to purchase groceries and general merchandise in a convenient and easy “one” shopping trip experience. This notion paved the way for the familiar “One Stop” supercenter shopping concept that is prevalent today.

### **A. *Meijer as a Company***

Meijer, now based in Grand Rapids, Michigan, remains a family owned and operated business. Meijer currently operates nearly 200 supercenters and grocery stores throughout Michigan, Ohio, Indiana, Illinois and Kentucky. Meijer stores have evolved through the years and include fresh produce and meat departments, as well as pharmacies, electronics departments, garden centers, general merchandise and apparel. Unlike its competitors, Meijer has strong history in the grocery business and is well known for its perishables, commitment to quality and everyday low prices.

During this tough economy, people not only need to save time, they need to save money. At Meijer consumers will find the largest selection, at higher standards and for incredible values. The high standards carry through from the customer service in its stores to the quality of the merchandise itself. As a result, Meijer has been recognized in an article published in *Forbes Magazine* as one of the Top 30 most reputable companies in the world.

### **B. *Commitment to Community***

Meijer is committed to serve the communities where its customers and team members work and live. In fact, each year Meijer donates more than 6% of its net profits to charity. While Meijer donates to thousands of charitable organizations throughout the year, helping fight hunger has been a primary focus. Meijer has addressed hunger relief through a variety of philanthropic efforts including its “Simply Give” food pantry donation program, which has helped raise more than \$3 million for local food pantries during the last few years.

*C. Supporting Local Farms*

Meijer is the largest purchaser of local produce in the markets we serve. Buying local allows Meijer to support local economies while providing fresher and more affordable products.

*D. Conservation/Preservation*

In 1994, Fred Meijer made a landmark donation of \$265,000 to help purchase an abandoned rail line in Greenville, Michigan. This would become the Fred Meijer Heartland Trail that stretched more than 41 miles. Meijer continues to donate funds to preserve existing trails, and create new sanctuaries.

*E. Sustainability*

Meijer is a retail leader in the industry by promoting strong sustainable business practices and green choices:

- Meijer has been recognized by the USEPA as a SmartWay award winner for advancements in transportation efficiency.
- Meijer is currently testing wind turbines at several locations. Understanding and recognizing the use of wind as a renewable power source can lead to the reduction of our carbon footprint.
- As of 2008, Meijer is constructing all new stores consistent with LEED (Leadership in Energy and Environmental Design).
- Meijer strives and seeks out new ways to reduce energy use through innovative store designs. Whether it is changing the lighting in all stores to highly efficient fluorescent fixtures or the installation of high efficiency motors and improved ventilation equipment, Meijer is continually working towards reducing its carbon footprint.
- In 2010, Meijer unveiled a pilot program and installed electric vehicle charging stations at three of its Michigan stores.
- In 2012, Meijer unveiled a broad seafood sustainability program, working with its suppliers and several Non-Governmental Organizations to ensure the seafood we sell is caught and farmed in the most environmentally responsible manner.

- Meijer has partnered with the Nature Conservancy to teach and help consumers choose non-invasive plant products that are best suited for backyards in the Midwest.

## **II. Project Details**

In the City, Meijer proposes to construct and operate a 191,352 square foot retail store with over 40 departments including grocery, health and beauty care, fashion, automotive, home decor, pharmacy (in-store and drive-thru facilities), electronics, pets, a garden center and more.

Meijer's Project and operational details are as follows:

### ***A. Hours of Operation***

The store will be open 24/7 with the exception of Christmas Day. Meijer's hours recognize that no two people operate on the same schedule and our founding family's dedication to customer service means that we want to be there (and open) for our customers whenever they need us.

Despite being open 24 hours, Meijer closes certain departments for periods of time including:

1. Garden Center
2. Drive-Thru Pharmacy
3. Alcohol Sales (prohibited between 9:00 p.m. and 8:00 a.m. pursuant to § 158-8.C., Code of the City of Franklin)

### ***B. Employees (full and part-time).***

Staffing is estimated to include both full and part-time employees and will require a variety of skills and management experience. Meijer promotes hiring from within the community and it will offer opportunities in a variety of departments, during several different shifts and on a full or part time basis.

The store will employ between 200-250 total employees.

Construction employment related to the Project will involve several hundred individuals from various segments of the construction industry over 10 to 12 months.

### ***C. Security.***

Meijer takes a proactive approach to its store and site security. By being open 24/7, Meijer employees always have a presence in the area. The Site will have interior and exterior

security cameras. Meijer also utilizes a loss prevention team. All store security personnel are trained to protect the customers and employees first followed by the store and its merchandise. Additionally, the staff is trained to cooperate with the Franklin Police Department at all times.

***D. Deliveries to Site.***

Deliveries will occur on a daily basis to maintain the store's inventory as needed. Meijer's distribution needs typically require one to three (1-3) Meijer semi-truck deliveries per day and with increased frequency during the holiday season. Other prearranged and authorized third-party vendor deliveries – generally related to the grocery store – will occur daily.

All deliveries will occur at the 6-bay loading dock at the northeast corner of the building. *See Site Plan.* The loading dock is designed to enable all delivery vehicles – including semi-trucks – to turn around and enter and exit from the same location. The location of the loading dock is situated away from the existing residential uses near the Site and more than 160 feet from the east property line. *See Site Plan.* The loading dock will be screened.

Delivery vehicles will utilize the fully-signalized Loomis Road intersection and proceed to the loading dock without entering the customer vehicle parking field. "No Trucks" signage will be posted at the drive behind the store and at the Puetz Road intersection.

***E. Building and Building Materials.***

The proposed retail store will be in the format of a single 191,352 square foot building on approximately 29.48 acres of land. *See Site Plan.* However, the building will be anything but a single-purpose entity. Inside, the store will have over 40 departments offering a wide variety of goods and services.

Outside, the building will be constructed with a steel frame and precast concrete walls. A buff colored brick will be cast into the panels for the main wall field with a darker brown brick cast in for wall accents, at the building base at the rear and for pilaster elements on all sides.

In addition, a stone veneer will be used at the building base along the front and portions of the sides as well as on some accent pilaster elements and the canopy/trellis columns. The entry canopy and trellis elements are proposed to be structural steel – highlighted in Meijer's corporate blue color for the entries and almond for the trellis features. The building walls, towers and pilaster elements will be capped with stepped decorative metal cornices also highlighted in blue at the entry towers and almond elsewhere.

These canopy, trellis and tower elements serve to give the building a varied look which thereby avoids presenting a single, big box presence.

***F. Exterior Signage.***

The proposed signs include monument signs, wall signs and directional signage. *See Site Plan and Building Elevations.*

***G. Lighting Plan.***

The proposed lighting plan will involve up-lights on the building to reveal the architectural features. The parking lot will include cutoff fixtures designed to prevent light escape from the Site. *See Building Elevations and Outdoor Lighting Plan.* Inside the store, the lighting will be state-of-the-art, highly efficient fluorescent fixtures.

***H. Site and Landscaping Plan***

The Site will be completely relandscaped with approximately a 61% landscaping ratio which exceeds the zoning code requirement of 40%. *See Site Plan and Landscape Plan.* Meijer will install finish landscaping at the front and sides of the store. Berms and buffers will be installed to absorb sound and vehicle headlights. *See Site Plan.*

The stormwater detention pond beside the Loomis Road intersection will be designed to enhance the water quality at discharge and will be surrounded by landscaped amenities. Similarly, a signature landscaped amenity will be established at the northeast corner of Loomis Road and St. Martins Road. *See Site Plan.*

***I. Traffic and Parking Lot Plan***

At the north end of the Site on Loomis Road (STH 36), Meijer proposes to construct a full access, signal-controlled intersection with one inbound lane and two outbound lanes

On St. Martins Road (STH 100), Meijer proposes a right-in, right-out driveway.

On Puetz Road, Meijer proposes a full access intersection with one inbound lane and two (2) outbound lanes. This access point is located in alignment with the Garden Center. The Puetz Road and St. Martins intersection will be reconfigured and realigned in order to form a more square intersection.

The Meijer parking lot will be designed for a total of 703, vehicles which includes 28 handicapped stalls.

***J. Estimated Project Costs and Fiscal Impact.***

Meijer estimates that the total project costs to construct and open the store will be a minimum of \$15,000,000.

### III. Comprehensive Master Plan Amendment Request

Meijer requests a Comprehensive Master Plan ("CMP") Amendment to enable it to construct the grocery and retail facility proposed herein. The current CMP is the City of Franklin Crossroads Trade Area Regulating Plan (the "Crossroads Plan"). The City hired Planning & Design Institute, Inc., a local planning consultant, to draft the Crossroads Plan. The Crossroads Plan was approved in November, 2004.

As can be seen from the Crossroads area today, only limited development has occurred, particularly in Quadrant C, which has included some deviations from the Crossroads Plan. Importantly, no redevelopment has occurred in the past 8 years at the Loomis/St. Martins intersection corners in Quadrants A, B and D. Of course, during the past 8 years, the world economy and local real estate market have gone from robust and expanding to contracting and stagnant. Despite these changes, the Crossroads Plan has not been amended to accommodate today's development opportunities which are significantly different than the types of projects proposed prior to the 2008 market implosion and subsequent recession.

While the Crossroads Plan has not been amended, the City reviewed this very issue several months ago. At its January 19, 2012 meeting, the Plan Commission formed consensus that:

"the Crossroads Trade Area Plan was a guideline and flexibility was needed for development potential within this area, and indicated that staff pursue informal discussion with Aldermen and Common Council for direction regarding building caps within this area.

Commissioner Bennett moved to direct staff to incorporate into the minutes the Plan Commissioner's comments following the Planning Manager's statement to that effect and as a guide which will include Mr. Ritter's recommendation that the plan is definitely a guide and that staff keep an open mind and work with potential new development because there are issues with the plan as discussed at the Plan Commission and that there are different and better forms of development which may not be addressed in this plan."

See January 19, 2012 Minutes, p. 2, ¶ C. The motion unanimously carried.

Thereafter, the City's Planning Manager prepared a memorandum dated February 2, 2012. The memorandum noted that "a number of issues have arisen since adoption of the

Crossroads Trade Area Plan that will likely affect its implementation.” It further reported that because of those changed circumstances, the Plan Commission unanimously recommended that the Crossroads Plan be considered a guide, that staff keep an open mind and work with potential new development, and that the best form of development today for the area may not be addressed in the Plan. *See* February 2, 2012 Memorandum from Joel Dietl.

The Common Council subsequently reviewed the Memorandum at its meeting on February 7, 2012. While a motion to amend the Memorandum with some additional information failed on a voice vote, no further action was taken and the Memorandum was effectively placed on file. *See* February 7, 2012 Minutes, p. 1, ¶ F.1.

Notwithstanding the review by the City earlier this year, the following 2004 Crossroads Plan guidelines are relevant to Meijer’s proposal today and, where indicated, Meijer requests a CMP amendment:

***A. The Plan illustrates the areas to be preserved and the buildable areas.***

In the first paragraph on p. 2, the Crossroads Plan illustrates the preservation and buildable areas. However, as it relates to the Site, the Crossroads Plan depicts on pp. 2-5 that the significant wetlands were to be theoretically relocated to the property to the east. However, the City has previously approved PDD No. 31 (Forest Hill Highlands-United Financial Group, Inc.) for a 600+ unit senior housing development to the east of the Site, meaning the wetlands and waterways cannot be relocated. Because the Quadrant D preservation and buildable areas have already been revised, a formal amendment is required to accommodate this or any other development of the Site.

Further, as indicated by the Plan Commission action earlier this year, the Plan in general should be considered a guide and that there are different and better forms of development (such as the Project) which may not be addressed in the Plan.

***B. The Plan illustrates the suggested site layout, building sizes, and densities. ... The buildings should be implemented approximately per their location on the approved plan.***

In the second paragraph on p. 2, the Crossroads Plan suggests approximate site plans, building sizes and densities. These notions of suggestions and approximate locations are consistent with Chapter 66, Wisconsin Statutes, which provides that comprehensive plans serve as a guide to rezoning actions. The Plan Commission’s action earlier this year and the subsequent staff Memorandum concur that the Plan in general should be considered “a guide.”

Here, the City has already approved a large-scale development to the east of the Site precluding Meijer or any other owner of the Site from implementing the Quadrant D suggested

plan because of the significant natural resources on the Site that can no longer be accommodated on property owned by United Financial Group. Further, the realities of today's real estate market and development opportunities present a chance for the City to amend the approximate building layout, sizes and densities from the Crossroads Plan in order to facilitate a project that is ready today. In other words, the City will not have to wait another 8 years (or more) to fulfill a 2004 vision that may never be realistic in light of the market changes of the past 5 years.

Finally, it must be noted that the Crossroads Plan acknowledges that it provides suggested and approximate locations and standards. With an overlay of the Project on Quadrant D, the core concepts suggested for approximate site plans, building sizes and densities are met inasmuch as Quadrant D contains a larger retail facility, a sizeable parking field and full-service access at Loomis Road and Puetz Road (including the realignment of the Puetz intersection as included by Meijer's plans).

In short, where the Crossroads Plan cannot under Chapter 66, and does not by its own text, require strict adherence to the layout, sizes and densities, Meijer's proposal satisfies these core concepts and a CMP amendment by the City is justified to enable this Project.

*C. A mix of uses is recommended to create a "Village Center" character.*

In the first paragraph on p. 3, the Crossroads Plan recommends a mix of uses to create a "Village Center" character. The Village Center is really centered at the greater Loomis/St. Martins intersection and the mixed use requirement does not apply to each quadrant as an independent node. Indeed, to do so would contradict the visionaries' goals because it would result in 4 separate Village Centers.

Because the Village Center concept applies to the entire Crossroads Area, the proposal for a single retail use in Quadrant D will not preclude the future mix of uses within the Village Center as envisioned by the Crossroads Plan. In short, Meijer actually establishes one of the uses for the future mix and we do not propose an amendment of the mixed use goals of the Crossroads Plan. Meijer's store is also one such "different and better form[] of development which may not be addressed in the plan."

However, to the extent an amendment is required, the transportation improvements facilitated by the Project, the mitigation of the environmental impacts at the Site and the quality of the development (including the building design, landscape amenities and pedestrian connections) all provide the basis for justifying any necessary amendment from the mixed use guidance principle.

*D. Shared parking at a ratio of 4 per 1,000 square feet is recommended.*

In the first paragraph on p. 3, the Crossroads Plan recommends a shared parking concept for each quadrant at a standard of 4 spaces per 1,000 square feet. Meijer does not object to shared parking but as a single retail use, the shared parking concept is not applicable except as it relates to a store with over 40 departments all being served by one parking facility.

Further, Meijer's parking ratio of 3.7 spaces per 1,000 square feet is actually less than what is recommended by the Crossroads Plan and is intended to minimize a large front field of parking and to provide the store only with what is needed. As a result, Meijer generally satisfies these parking principles and we do not propose an amendment in this instance.

*E. No 24 hour uses are permitted.*

On p. 3, the Crossroads Plan states that 24 hour uses are not permitted. As described above, Meijer operates its stores 24/7 and we request an amendment of the Crossroads Plan on this score in order to allow a 24 hour use in Quadrant D.

The City knows well the realities of today's real estate market. The development opportunities which have been presented to the City in recent years are at a significantly different pace and format than what developers were proposing prior to 2008. Here, Meijer is proposing a multi-million dollar development in the form of a first-in-state retail store that operates 24 hours. Based upon the market changes since the 24 hour prohibition was created in 2004, the transportation improvements facilitated by the Project, the mitigation of the environmental impacts at the Site and the quality of the development (including the building design, landscape amenities and pedestrian connections), the City is justified in amending the Crossroads Plan to allow for 24 hour uses in Quadrant D.<sup>1</sup>

Finally, the 24 hour restriction of the Plan must be considered a guide at this point and the City should review the Project with an open mind because the specifics of the Meijer proposal may not be addressed in the 2004 Plan.

*F. Maximum tenant space allowed is 100,000 square feet.*

On p. 3, the Crossroads Plan states that single tenant spaces larger than 100,000 square feet are not permitted. As described above, Meijer's prototype store is 191,352 square feet and

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<sup>1</sup> Importantly, the store features that might have an adverse impact on surrounding properties on a 24 hour basis actually have limited hours. Neither the Garden Center nor pharmacy drive-thru are open 24 hours.

we request an amendment of the Crossroads Plan on this score in order to allow such a store size in Quadrant D.<sup>2</sup>

The Plan Commission discussion on January 19<sup>th</sup> specifically addressed this point: staff should “pursue informal discussion with Aldermen and Common Council for direction regarding building caps within this area.” Meijer has itself engaged in those informal discussions and taken the next steps to formalize them by virtue of our April 30<sup>th</sup> presentation to the Committee of the Whole, hosting the May 17<sup>th</sup> Neighborhood Meeting and Open House, and submitting the applications discussed herein.

For many of the same reasons already discussed, the time is right for the City to resolve the “issues with the plan” and consider what is a “different and better” form of development not envisioned by the Plan 8 years ago. Where flexibility is needed and the Plan should be considered a guide, the specific proposal for a Meijer store on the Site in Quadrant D can be approved with a narrowly-construed amendment to the CMP to allow for stores up to 192,000 square feet in Quadrant D.

***G. Loading areas should be screened with landscaping and/or fencing.***

On p. 3, the Crossroads Plan recommends that loading areas be screened with landscaping and/or fencing. The Project includes screening of its loading docks such that Meijer generally satisfies this principle and we do not propose an amendment in this instance.

***H. Drive-thru uses should be considered but circulation be integrated with the parking area or screened by landscaping.***

On p. 3, the Crossroads Plan recommends that drive-thru uses should be considered but that the routing of vehicle circulation should be integrated within the parking area and not on the build-to line or that it be screened by landscaping. The Project includes a drive-thru for the pharmacy so the identified use is met and the circulation is not only within the Site and away from the build-to line, but landscaped berms will be created along Puetz and St. Martins Roads to form a buffer. Accordingly, Meijer generally satisfies this principle and we do not propose an amendment in this instance.

***I. Four-sided architecture strongly preferred.***

On p. 3, the Crossroads Plan identifies that it is “preferred” that four-sided architecture be implemented. As described above and depicted on the Building Elevations, the store will include buff colored brick for the main wall field with a darker brown brick cast in for wall accents as

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<sup>2</sup> An amendment to the Unified Development Ordinance, Ordinance No. 2004-1803, limiting the size of retail and commercial buildings, is also required as discussed below.

well as at the building base at the rear and for pilaster elements on all sides. This includes the rear of the building which faces to the east but is more than 160 feet from the property line with a natural wetlands habitat further providing a buffer. Where the store satisfies the preference for four-sided architecture, we do not propose an amendment in this instance.

*J. Road Layout Recommendations.*

On p. 4, the Crossroads Plan recommends that roads be located within 20 feet of the center lines as depicted in the Plan. It further identifies that primary access points should have traffic signals when warranted by a traffic impact study.

Along Puetz Road, the Project will include a site access point for local traffic in nearly the same location as depicted in the Plan. Further, the intersection of Puetz and St. Martins Roads is realigned and squared off for better and safer traffic flow. That realignment is accomplished by re-routing part of Puetz Road through land that is part of the Site and will be contributed by Meijer and dedicated as public right-of-way.

Due to Meijer's traffic impact analysis, a right-in-right-out access point on St. Martins Road is also proposed. That additional access point is not inconsistent with the Plan which, as indicated above, is to serve as a guide, especially where the additional access point will alleviate congestion at other intersections.

On Loomis Road, Meijer proposes a full access intersection with traffic signals as the warrants for signals will be met. The location of Meijer's proposed intersection, approximately 570 feet north of the Plan's recommended location, is generally consistent with the Plan given that it should be a guideline and that flexibility is needed for the development potential of the entire area. Considerations for the location proposed by Meijer include the formal wetlands delineation on the Site and the need to manage stormwater on site by virtue of a stormwater detention pond. Siting that pond in relation to the wetlands and the other development needs of the Project dictated the proposed location of the intersection. Further, being approximately one-quarter mile (1,320 ft.) from the intersection of Loomis and St. Martins Road, the new intersection's proposed location is in accordance with Wisconsin DOT preferences.

Finally, the proposed location farther to the north does not compromise the ability of the landowner on the west side of Loomis Road to undertake development in Quadrant A. The proposed location aligns directly with that owner's property and the internal Quadrant A road recommended by the Plan can be accomplished in nearly the same fashion in the slightly relocated route to the north; notably no specific development plan has been proposed for Quadrant A and when it is, the plan can be tailored accordingly.

Because the Plan's road layout and access points are simply recommendations and the Plan states that traffic signals be installed when warranted, the foregoing demonstrates that

Meijer complies with the Plan. The City must have flexibility and use the Plan to serve as a guideline when faced with implementation in an actual development scenario. Accordingly, Meijer does not request an amendment to the Plan for the road layout recommendations and traffic signal requirements, but to the extent an amendment is required, the City will be justified in amending these principles of the Plan.

***K. Street Sections and Landscaping.***

On p. 5, the Crossroads Plan identifies that the street edges should be lined with landscaping. As described above and depicted on the Site Plan, Landscaping Plan and Perspectives, the Site will be landscaped as recommended by the Plan. Where the Project satisfies the street sections and landscaping recommendations, we do not propose an amendment in this instance.

***L. Public Places and Landscaping.***

On p. 7, the Crossroads Plan recommends that green spaces be created in Quadrant D and that stormwater be integrated with the development and serve as a feature where possible. As described above and depicted on the Site Plan and Landscaping Plan, the Site will include landscaping and it will manage its stormwater in a fashion that will be integrated with the Project and will be surrounded by landscaped amenities to serve as a feature amenity.

In addition, the Plan's suggestion for a plaza with outdoor seating (Plaza 2) is addressed with the provision of a signature landscaped amenity at the northeast corner of Loomis Road and St. Martins Road. *See Site Plan.*

Despite these features, the Project cannot completely adhere to the Plan in part because the City has previously approved PDD No. 31 for a senior housing development to the east of the Site meaning that the wetlands and waterways cannot be relocated and opportunities within Quadrant D for additional public places are limited.

Where the Plan serves as a guide for public places and landscaping features in Quadrant D, the Project satisfies these principles as described above and we do not propose an amendment in this instance.

***M. Sidewalks and Paths.***

On p. 8, the Crossroads Plan recommends sidewalks and pedestrian paths be established. In light of the delineated wetlands on the Site and the previously approved senior housing development, the best pedestrian connections to the Site are via the public sidewalks proposed along Loomis and St. Martins Roads. *See Site Plan.* If a sidewalk along Puetz Road is desired by the City, Meijer is willing to incorporate that into its plan. Accordingly, because the Project

provides sidewalks in compliance with the Plan, we do not propose an amendment in this instance.

*N. Comprehensive Master Plan Conclusion.*

Generally Meijer's proposal is in compliance with the vision set forth in the Crossroads Plan. Additionally, given that the Crossroads Plan is to serve as a guide and flexibility must be allowed, the requested amendments should be granted to facilitate the Project.

**IV. Planned Development District (PDD) Application**

The preceding sections of this document are intended to serve as the Project Narrative for the Planned Development District (PDD) Application which also includes a Major PDD Amendment to PDD No. 31 (Boundary Modification). The major amendment is due to the necessary boundary change as it relates to the eastern portion of the Site that is currently part of PDD No. 31 (Forest Hill Highlands – United Financial Group, Inc.). The subject parcel, under contract to be owned by Meijer, is no longer owned by United Financial Group and is no longer a part of that development.

In addition, and as a result of the combination of the multiple parcels forming the Project, Meijer is applying to create a new PDD for the grocery and retail facility with an associated parking field development which will also allow for the uniformity and consistency in the zoning regulations and design standards.

**V. Unified Development Ordinance (UDO) Text Amendment Application**

The preceding sections of this document are intended to serve as the Project Narrative for the Unified Development Ordinance (UDO) Text Amendment Application. By way of background, at the same time as the Crossroads Plan was created and adopted, the City enacted Ordinance No. 2004-1803 limiting the size of individual commercial and retail buildings to 125,000 square feet. The size limitation applied to all City Zoning Districts, as well as Planned Development Districts and special use permits.

While the policymakers debated and imposed the size limitations back in 2004, many of the same reasons that provide the basis for the requested amendments to the Comprehensive Master Plan also establish the grounds to justify a narrow amendment to Ordinance No. 1803.

Meijer proposes that the City amend Ordinance No. 1803 as narrowly as possible such that the size limitations remain on the books and continue to be of uniform application but that the City may review proposed developments that exceed 125,000 square feet on a case-by-case basis.

To that end, Meijer proposes a UDO text amendment to Ordinance No. 1803 to simply remove the Planned Development District zoning category from the list of districts subject to the 125,000 square foot size limitation. In so doing, the City will not open the door to any other large format retail stores being a permitted use as a matter of right but rather, if others are proposed, the City can evaluate such a store as part of a Planned Development District as that use specifically relates to a particular site and a specific operator as well as all of the associated impacts related to the both aspects.

In other words, should the City amend the UDO to allow for large format retail stores and thereafter approve the proposed Meijer store of 191,352 square feet at the Site, it could well be that the City will not approve any other large retail stores in the future because no other proposal satisfies the Planned Development District requirements for a particular user at a particular site.

#### **VI. Natural Resource Special Exception Application**

The preceding sections of this document are intended to serve as the Project Narrative for the Natural Resources Special Exception (NRSE) Application, in addition to the Questionnaire answers and the Attachment to the Questionnaire.

With respect to the NRSE request, the Project is designated for commercial development by the Crossroads Plan. However, to accommodate actual development on the Site, the natural resource features have to be considered. Avoidance is always the preferred approach and Meijer considered numerous design iterations in an attempt to minimize the wetland impacts. As part of the design process Meijer decided to eliminate its fuel center which is typically a part of its projects, reduce the parking count to less than City requirements, incorporate retaining walls, loading dock redesign, design subsurface stormwater systems and incorporate a stormwater system that is conducive to recharging the present water ecosystem.

Meijer used the Crossroads Plan as a baseline and our chosen plan approaches enable us to minimize the number of impacts to be far less than those suggested by the vision development of the Crossroads Plan.

#### **VII. Certified Survey Map (CSM) Application**

Meijer is petitioning the City to allow for the creation of a single parcel through the Certified Survey Map (CSM) process for this development. The preceding sections of this document are intended to serve as the Project Narrative for the CSM Application on file.

#### **VIII. Conclusion**

On behalf of Meijer, we request that this submission be considered the Project Narrative for, and be made a part of, the Comprehensive Master Plan Amendment Application, Planned

Meijer Project Narrative  
May 25, 2012  
Page 16

Development District Application, Unified Development Ordinance Text Amendment Application, Natural Resource Special Exception Application, and Certified Survey Map Application.

We further respectfully request that the applications be granted to approve the construction and operation of a 191,352 square foot grocery and retail facility with an associated parking field at the northeast corner of St. Martins Road, Loomis Road and West Puetz Road in the City of Franklin.

Respectfully Submitted,

FRIEBERT, FINERTY & ST. JOHN, S.C.



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**Meijer, Inc.**  
2929 Walker Ave. NW  
Grand Rapids, MI 49544

## **2025 Comprehensive Master Plan and Crossroads Trade Area Regulating Plan Addendum**

June 25, 2012

This document is being submitted on behalf of Meijer, Inc. (the "Applicant") as an addendum to the Project Narrative, Section III (Comprehensive Master Plan Amendment Request) and Meijer's application for such an amendment. The Project Narrative primarily focused on the 2004 Crossroads Trade Area Regulating Plan (the "Crossroads Plan") adopted for the area including the Meijer site but City staff has asked the Applicant to review the 2025 Comprehensive Master Plan (the "2025 Plan") as well.

The following is to supplement the extensive analysis regarding the Crossroads Plan in the Project Narrative.

### **I. 2025 Comprehensive Master Plan**

#### **A. *Background.***

Adopted October 21, 2009, the 2025 Plan provides a framework for the future growth and development of the City and was enacted to meet the requirements of Wisconsin's Comprehensive Planning Legislation (the "smart growth law"). The Meijer site is located in Planning Area C. See 2025 Plan, Map 2.2.

#### **B. *Economic Development and Planning Analysis.***

Chapter 4 of the 2025 Plan focuses on economic development issues and the analysis of the characteristics of the Crossroads Trade Area appears at Tables 4.11 and 4.12 and is discussed at pp. 4-33 – 4-34. Of particular relevance is the 2025 Plan's finding that an "aging population will impose health care, residential, and retail goods/service demands on a market." See p. 4-33.

Potential business types identified in Table 4.11 for the Crossroads Trade Area include clothing stores and grocery stores, both of which are among the goods offered by Meijer. *See also* p. 4-34.

These characteristics of the trade area were then considered by the 2025 Plan for the planning area analysis. *See* Table 4.13. In other words, the 2025 Plan extrapolated the area's characteristics and identified the types of consumer demands that could be met by planning for the area. *See* p.4-38 (demand for "varied grocery store selection"). The "[f]amily centered households [of Planning Area C] demand goods/services like varied grocery store selection and family style restaurants." *See* p. 4-41.

### ***C. Development and Redevelopment Guidelines.***

Chapter 5 of the 2025 Plan sets the framework for development and redevelopment for the planning areas. The opportunities identified for Planning Area C include mixed use with the Crossroads Plan serving as the guide for design development concepts. *See* p. 5-41. As indicated Meijer's original CMP Amendment request and Project Narrative, the Applicant is requesting, to the extent an amendment is required, an amendment to the mixed use guidance principle of the Crossroads Plan.<sup>1</sup>

The Crossroads Plan was expressly incorporated into the 2025 Plan as the Future Land Use Plan to guide development in that specific area in order to implement an actual proposal. *See* pp. 5-41, 5-62. However, if an amendment to the Crossroads Plan is required, the 2025 Plan contemplates that such amendments may appropriate. *See* p. 5-62, second bullet point (The Crossroads Plan, "as may be amended from time to time", shall guide future land use recommendations).

In fact, the City has already acknowledged that amendments are appropriate. In the City Planning Manager's memorandum dated February 2, 2012, he wrote that "a number of issues have arisen since adoption of the Crossroads Trade Area Plan that will likely affect its implementation" and because of those changed circumstances, the Plan Commission unanimously recommended that the Crossroads Plan be considered a guide, that staff keep an open mind and work with potential new development, and that the best form of development

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<sup>1</sup> As explained in the Project Narrative, the Crossroads Plan recommends a mix of uses to create a "Village Center" character. The Village Center is really centered at the greater Loomis/St. Martins intersection and the mixed use requirement does not apply to each quadrant as an independent node. Indeed, to do so would contradict the visionaries' goals because it would result in 4 separate Village Centers. Because the Village Center concept applies to the entire Crossroads Area, the proposal for a single retail use in Quadrant D will not preclude the future mix of uses within the Village Center as envisioned by the Crossroads Plan. In short, Meijer actually establishes one of the uses for the future mix and an amendment to the mixed use goals of the Crossroads Plan may not even be necessary.

today for the area may not be addressed in the Plan. *See* February 2, 2012 Memorandum from Joel Dietl.

Meijer's proposal is such a different and better form of development which was not addressed in the Crossroads Plan and, where they should simply guide new development, the Crossroads Plan and 2025 Plan should be amended to the extent necessary.

*D. Goals and Objectives.*

The 2025 Plan establishes a number of goals and, of the ones that are applicable, Meijer's proposal either satisfies them or includes some or all of the objectives related to each goal.

City staff requested that Meijer list the goals and objectives that will be met by the Meijer project. To the extent that further explanation will be helpful or requested, we will be happy to supplement this list in writing or as part of our upcoming presentations before the Plan Commission and Common Council.

The following 2025 Plan goals and objectives will be met by Meijer:

1. Preserve and enhance the City's community character, including individual planning area identities, while directing growth and development. (see Chapter 2)
  - Protect the City's remaining natural resource features.
  - Require high value development that contributes to the City's tax base and helps to lower the City tax rate.
  - Allow existing agriculture land to remain in farming production until alternative long-term uses are identified and come to fruition.
  
2. Protect environmental resources. (see Chapter 3)
  - Discourage incompatible development and alteration of floodplains, lakes, rivers and streams, wetlands, shorelands, steep slopes, and woodland areas so as to preserve the integrity of these resources and to promote the ecological value of these assets, and to minimize adverse impacts upon adjacent properties.
  - Control and minimize development within the Southeastern Wisconsin Regional Planning Commission's delineated Environmental Corridors and Isolated Natural Resource Areas to protect, preserve, and enhance those natural resource features contained within, to maintain the natural beauty of the City, to balance these with the development rights of the underlying

existing and planned zoning, and to minimize adverse impacts to surrounding properties.

5. **Protect natural resources while permitting growth and high quality suburban character. (see Chapter 3)**
  - The opinions of the residents and property owners indicate a strong desire for the City of Franklin to permit growth while protecting the natural resource features and high-quality suburban character that currently exists.
  - Prevent and control erosion, sedimentation, and other pollution of the surface and subsurface waters through stormwater management policies and practices.
  
7. **Pursue and achieve business attraction, retention, and expansion. (see Chapter 4)**
  - Although this aspect of economic development may seem to overlap the other goals and objectives, or may seem to be a strategy through which the other goals and objectives can be attained, it is such a core aspect of economic development that it is, in and of itself, a goal and objective.
  
8. **70/30 Goal. (see Chapter 2 and 4)**
  - Strive toward a 70/30 ratio of residential to commercial assessed valuation.
  
9. **Balanced Development. (see Chapter 2 and 4)**
  - Permit growth while protecting the natural resource features and high quality suburban character, and promoting business development to enhance the tax base while promoting residential development to meet citizen demands for residential housing.
  
10. **High quality and high value development. (see Chapter 2 and 4)**
  - Apply to all development regardless of use, that high quality and high value go hand in hand and, importantly, that high value development decreases the tax burden.

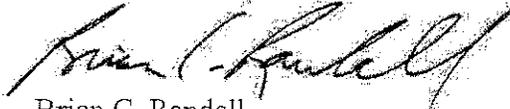
11. Expand and stabilize the current economic base. (see Chapter 4)
  - Establish an economic development program that can effectively react to requests for information from potential developers and proactively work to recruit business to the City.
12. Create Jobs. (see Chapter 4)
  - Create a range of employment opportunities at the state, regional, and local levels.
14. Decrease homeowners tax burden through quality non-residential development. (see Chapter 4)
17. Encourage land uses, densities, and regulations that promote efficient development patterns and relatively low municipal and utility costs. (see Chapter 5)
19. Encourage compatible uses, such as high-quality non-residential development next to residential development, and/or by providing appropriate buffers between them. (see Chapter 5)
  - Create a Plan that provides direction but allows flexibility in the development of residential and non-residential areas.
  - Direct retail centers and other high-intensity and community and regional scale commercial development, other than those specifically identified in the Land Use Plan, to major traffic arterials.
  - Encourage the use of natural resources as visual and physical amenities for development and as buffers between different developments.
  - Establish a program that identifies unique natural areas to be preserved.
32. Provide appropriate facilities to encourage recreational and commuter bicycle trips. (see Chapter 7)
33. Develop a system of sidewalks and paths that links neighborhoods to active destinations. (see Chapter 7)

Conclusion

Generally, Meijer's proposal is in compliance with the vision set forth in the Crossroads Plan and it fulfills numerous goals and objectives of the 2025 Plan. To the extent amendments to either document are necessary, Meijer respectfully requests that the Comprehensive Master Plan Amendment be approved.

Respectfully Submitted,

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 **CITY OF FRANKLIN**   
**REPORT TO THE PLAN COMMISSION**

Meeting of July 5, 2012

**Comprehensive Master Plan Amendment, Planned Development District  
 No. 36, Planned Development District No. 31 Amendment, Certified  
 Survey Map, Unified Development Ordinance Text Amendment, and  
 Natural Resource Special Exception**

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**RECOMMENDATION:** Planning Department staff does not recommend approval of Planned Development District No. 36, the Comprehensive Master Plan amendment, or of the Natural Resource Special Exception for the proposed Meijer grocery and department store development at the eastern corner of West Loomis Road and West St. Martins Road.

However, staff would recommend approval of the amendment of Planned Development District No. 31, of the Certified Survey Map, and of the Unified Development Ordinance Text Amendment, subject to the conditions set forth in the draft ordinances and resolutions, should the subject property owner wish to proceed with those changes.

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<b>Project Name:</b>	Meijer grocery and department store development
<b>Project Address:</b>	Approximately the eastern corner of West Loomis Road and West St. Martins Road (STH 100)
<b>Applicant:</b>	David Behrens, GreenbergFarrow
<b>Property Owner:</b>	Paul Bouraxis, Legend Creek LLC
<b>Current Zoning:</b>	B-3 Community Business District, Planned Development District No. 31 and FW Floodway District
<b>2025 Comprehensive Plan</b>	Mixed Use
<b>Use of Surrounding Properties:</b>	Commercial to the north and west, residential to the south and east
<b>Applicant Action Requested:</b>	Recommendation of approval for the creation of PDD No. 36 and associated applications to support the proposed Meijer store development

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**Introduction**

Please note:

- Staff recommendations are *underlined, in italics* and are included in the draft ordinance.
- Staff suggestions are only underlined and are not included in the draft ordinance.

Should the Plan Commission recommend approval of the subject requests, staff would recommend including the conditions set forth in the attached draft ordinances and resolutions.

On May 25, 2012, the applicant submitted the following applications for the development of a Meijer grocery and department store at the eastern corner of West Loomis Road and West St. Martins Road:

- **Comprehensive Master Plan Amendment Application** to amend the 2025 Future Land Use Map from Mixed Use to Commercial and to allow deviations from the City of Franklin Crossroads Trade Area Regulating Plan
- **Planned Development District (PDD) Application** to create a new PDD for the Meijer store development
- **Major PDD Amendment Application** to modify the boundary of PDD No. 31
- **Unified Development Ordinance Text Amendment Application** to strike "PDD" from Section 15-3.0505A.2.
- **Certified Survey Map Application** to combine the eight parcels involved with this development
- **Natural Resource Special Exception Application** to allow encroachments into protected natural resource features

Meijer is a privately held company based in Grand Rapids, Michigan. Meijer currently operates approximately 200 supercenter stores throughout Michigan, Ohio, Indiana, Illinois and Kentucky, and is now entering the Wisconsin market. Additional company information can be found in the applicant's project narrative.

The applicant's project narrative states that the total project costs will be a minimum of \$15,000,000 and the store will be constructed consistent with Leadership in Energy and Environmental Design (LEED) standards. Meijer anticipates the store will create between 200 and 250 jobs. Meijer estimates approximately 25 percent of those jobs will be full-time positions and approximately 75 percent will be part-time employees.

### **Project Description/Analysis**

The subject project area encompasses eight separate parcels, which are proposed to be combined via Certified Survey Map. The eight parcels are currently zoned B-3 Community Business District, Planned Development District No. 31 and FW Floodway District.

Please note that throughout this report staff will utilize the B-3 Community Business District standards as well as all applicable standards of the Unified Development Ordinance for comparisons to the standards proposed by the applicant for the Meijer store development. Unless otherwise stated, these B-3 standards are intended to form the basis of proposed PDD No. 36.

### **Creation of Planned Development District No. 36:**

The proposed Meijer store development is generally in compliance with B-3 Community Business District standards and Part 5 Design Standards of the Unified Development Ordinance, unless otherwise set forth within the PDD No. 36 draft ordinance (attached).

However, due to its inconsistency with the Comprehensive Master Plan and Ordinance 2004-1803 (as discussed later in this staff report), staff does not recommend approval of this PDD.

The draft PDD No. 36 ordinance utilizes B-3 Community Business District setbacks and zoning requirements pursuant to Table 15-3.0303. However, PDD No. 36 contains a maximum building height of 3.0 stories/45 feet whereas the B-3 District limits retail buildings to 2.0 stories/35 feet and office buildings to 3.0 stories/45 feet. The multi-story entrance/exit features on the Meijer store would have a peak height of 42 feet. The draft PDD No. 36 ordinance also further restricts fencing, temporary structures and ancillary structures, which are prohibited without Plan Commission approval.

The Meijer store is planned to operate 24-hours per day, seven days a week; however, the applicant is proposing to limit the hours of operation for the garden center to 6:00 a.m. to 10:00 p.m. Should this project be approved, staff recommends that the hours of operations for the garden center and drive-thru pharmacy be limited to 7:00 a.m. to 10:00 p.m. to ensure adjacent residential properties are not adversely impacted by store operations.

The outdoor garden center has a communication system, which staff suggested be eliminated to reduce noise on the site. The applicant stated that the communication system would be turned off in the outdoor area between the hours of 6:00 p.m. and 7:00 a.m. The draft ordinance limits the hours of operation for the communication system as proposed by the applicant. The applicant has indicated they do not believe the loud speakers will be heard beyond the property, but will install a volume control in the event that the volume needs to be adjusted in the future to address relevant complaints.

Meijer will have approximately one to three semi-truck deliveries to the store daily. Deliveries will occur more frequently during holiday seasons, and additional daily deliveries will be made to the grocery store department of the Meijer store. The applicant has indicated that "No Trucks" signage will be posted at the drive behind the store and at the West Puetz Road ingress/egress. Should this project be approved, staff recommends prohibiting truck deliveries and refuse collection between the hours of 10:00 p.m. and 7:00 a.m. The applicant does not believe the noise from the delivery trucks will adversely affect the surrounding area. Staff also recommended, and the applicant agreed, to prohibit trucks from idling while unloading.

The applicant indicated to staff that other Meijer stores have included interior space for separate businesses. This remains under consideration for this location. The draft PDD ordinance allows B-3 Community Business District uses in addition to the Meijer store. These uses would be allowed within or outside the Meijer store in the future. Meijer also holds periodic sidewalk sales events. The draft PDD allows temporary uses and special events as permitted under the City of Franklin Unified Development Ordinance and Municipal Code; therefore, these types of uses may be subject to Temporary Use and/or Extraordinary and Special Event approvals. Staff suggests the applicant provide additional details regarding the anticipated sidewalk sales events and revise the draft PDD ordinance appropriately, doing so would eliminate separate review and approval each time a sidewalk sales event is held.

The draft PDD No. 36 does not include a provision for a Surety or Demolition Bond to cover the costs of razing and site maintenance if the store becomes vacant in the future. This is not an uncommon practice by municipalities for large retail buildings (often those buildings over 100,000 square feet in size). The bond is carried for the life of the building and is utilized if the building is vacant for more than a set amount of time (e.g. 12 months). A number of communities require Surety or Demolition Bonds to alleviate the risk of being left with a large vacant store that is difficult to reuse. Staff suggests the Plan Commission consider the necessity of a demolition bond or other type of surety.

Site plan and other project details relating to PDD No. 36 and the proposed Meijer store development plans are discussed later in this report.

Planned Development District No. 31 Major Amendment:

The 15.18 acre property located at 9530 West Puetz Road is currently zoned PDD No. 31. Section 15-3.0103A.3 of the UDO prohibits split zoning; therefore, the parcel must be rezoned to PDD No. 36 for the Meijer store development to proceed, prior to recording of the CSM, which is discussed below.

Staff would note that should creation of PDD No. 36 not be approved, amendment of PDD No. 31 would still be appropriate at this time as the subject 15 acre parcel is under ownership separate from the rest of PDD No. 31 and such amendment would help facilitate combination of the eight parcels into one larger more developable parcel.

Staff is recommending, with agreement from the applicant, that the Plan Commission and Common Council classify the proposed amendment to PDD No. 31 as a Major PDD Amendment. Section 15-9.0401A. Fee Schedule of the UDO lists “change in boundary” as an example of a Major Amendment. To expedite the process, the applicant has paid the Major PDD Amendment Application fee and a public hearing notice was published. Major PDD Amendments are typically reserved for changes to the exterior boundaries of a PDD, changes to uses and changes to street layouts. The amendment will remove approximately 15.18 acres of land from PDD No. 31.

The property owner and developer of Foresthill Highlands, a multiple building senior apartment development to the east, sold the subject PDD No. 31 zoned property to Legend Creek LLC. PDD No. 31 included two alternative site plans. One site plan and related standards were based on the inclusion of the 15.18-acre parcel and another alternative plan was included for development without the inclusion of the subject parcel. Consequently, the removal of the property from PDD No. 31 will not adversely impact the future development of the senior apartments as planned.

Unified Development Ordinance Text Amendment:

Section 15-3.0505A.1. of the Unified Development Ordinance (UDO) limits the maximum permitted floor area for a retail building to 125,000 square feet in the B-1, B-2, B-3 and B-5 zoning districts. Furthermore, Section 15-3.0505A.2. states, “Notwithstanding, any other

provision of this Ordinance, no special use permit, PDD District, special exception or variance may be approved or granted that would allow a retail building to exceed the size limits of this subparagraph (1) and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subparagraph (1).”

The applicant is proposing to strike “PDD District” from subparagraph 2. in order to construct the 191,352 square foot Meijer grocery and department store under Planned Development District zoning. Doing so would then allow the City to approve retail buildings larger than 125,000 square feet if it so desired during its review and consideration of a Planned Development District.

It is important to note that this building size limitation was adopted by the City of Franklin in Ordinance 2004-1803 during preparation of the *Crossroads Trade Area Regulating Plan* and is slightly larger than a similar building size limitation recommended within the Crossroads Plan.

Based upon the information provided by the applicant, and the information noted in this report, it is staff’s professional opinion that in general the proposed Text Amendment would be consistent with the City’s adopted plans, would facilitate sound planning, and would generally be in the public interest. In particular, staff would agree with the applicant that proper opportunity for review and consideration of such a change would be afforded by the PDD process.

However, staff would not recommend approval of such a PDD for the Crossroads area due to its inconsistency with a preponderance of the principles, goals, objectives, and policies set forth in the Comprehensive Master Plan as discussed later in this staff report.

Staff would suggest that should the proposed development be revised to come into greater compliance with the Comprehensive Master Plan’s principles, goals, objectives, and policies, and should the proposed development achieve a higher level of design and quality, that consideration of a building slightly larger than the 125,000 square foot limit may be appropriate.

Comprehensive Master Plan Consistency:

- *Consistent with, as defined by Wisconsin State Statute, means “furthers or does not contradict the objectives, goals, and policies contained in the comprehensive plan.”*

Comprehensive Master Plan. The City of Franklin 2025 Comprehensive Master Plan (CMP) identifies the majority of the subject property as Mixed Use, with Areas of Natural Resource Features within the eastern portion of the subject area. The surrounding future land uses are Mixed Use, Residential, and Areas of Natural Resource Features. The CMP anticipates that public sanitary sewer and water service will be provided to development within this area.

It can be noted that the Meijer proposal is not consistent with certain elements of the City’s Comprehensive Master Plan including but not limited to:

- The future land use map, which envisions that the subject area will be developed for mixed uses.
- The Development and Redevelopment Opportunities section found within the land use chapter, which states that for the subject area “Mixed use development is the main focus at the intersection of Loomis Road and STH 100. The Crossroads Plan should be followed for design development concepts for this area.”
- The Crossroads Trade Area Plan, which is incorporated into the CMP, and recommends:
  - “Maximum tenant space allowed is 100,000 square feet.”
  - “No 24-hour uses are permitted in the Crossroads Trade Area.”
  - “A mix of uses is recommended to create a ‘Village Center’ character.”
- The Franklin First Plan, which is incorporated into the CMP, and recommends for Area H (the Crossroads Area):
  - “The Crossroads area is expected to evolve into a convenience and neighborhood-oriented retail district serving the south central neighborhoods of the City.”
  - “The McComb Group’s Retail Development Potential report indicates that the Crossroads Center Area could support an additional 40,000 square feet (4 acres) of leasable retail space by year 2002 and an additional 100,000 square feet (10 acres) by year 2020.”
  - “The recommended use is Neighborhood Commercial.”

However, it can be noted that the Meijer proposal is consistent with certain elements of the City’s Comprehensive Master Plan primarily relating to the economic development chapter, including but not limited to:

- The following Economic Development Principles,
  - “Create jobs for a growing population.”
  - “Stabilize and expand a diverse tax base.”
- The 70/30 Goal, which states “that it remain the goal of the Common Council to obtain the 70/30 ratio of residential to commercial assessed valuation.”

Crossroads Plan. As previously noted, the Comprehensive Master Plan incorporated the *City of Franklin Crossroads Trade Area Regulating Plan* by reference, which encompasses the subject area. More specifically, the Crossroads Plan recommends that:

- the subject area be developed as part of a “Village Center that integrates high quality development with pedestrian amenities.”

[Staff would note that the Village Center character is to be founded upon a number of elements including: a mix of uses; limited building sizes and heights; four sided architecture; buildings located adjacent to the street with a majority of the parking in back; shared parking; a well developed road network including a well defined internal circulation system; streets with urban cross-sections and lined with landscaping and pedestrian amenities; and significant amounts of landscaping and public spaces integrated throughout the development, all to be located within each quadrant of the Crossroads area. However, while the Meijer project encompasses all of quadrant D, it proposes only one use comprised of one large building setback a significant distance from the street, with parking in front,

- with a poorly connected pedestrian and public space system, and with limited amounts of landscaping to screen and break-up the large parking area.]
- “The buildings should be implemented approximately per their location on the approved plan.”
  - [Staff would note that 14 separate buildings (one large retail building, four probable two-story mixed use buildings, and nine small office buildings) were envisioned by the Crossroads Plan within quadrant D, however, the Meijer project proposes only one use contained within one large building.]
- “No 24-hour uses are permitted...”
  - [Staff would note that no other 24-hour uses exist within or adjacent to the Crossroads area. Staff would further note that other similar uses within or adjacent to the Crossroads area have hours of operation generally limited to 7:00 a.m. to 10:00 p.m. However, the applicant proposes a 24-hour principle use, with limited hours only for the garden center.]
- “Maximum tenant space allowed is 100,000 square feet. Liner shops can be added to the perimeter of the primary building.”
  - [Staff would note that no other larger than 100,000 square foot retail/commercial building exists within the Crossroads area. Staff would further note that the nearest such building is the Target store located at Hwy 100 and Drexel Avenue at approximately 125,000 square feet, that there are only 7 such buildings within the City, that all but the Target store are located in areas planned for community or regional scale development, and that only 2 buildings (located on 27<sup>th</sup> Street) are larger than the proposed Meijer store. Whereas the applicant proposes an approximately 192,000 square foot building within an area planned for neighborhood scale development.]

However, it can also be noted that the Meijer project is consistent with a few elements of the Crossroads Plan including: parking ratios; screening of loading areas; drive-thru uses; four-sided architecture; and primary access points to the existing road network.

Franklin First/Tichnor Report. The Comprehensive Master Plan also incorporated the Franklin First plans (the Ticknor & Associates plan dated March 2000 and the R.A. Smith & Associates plan dated October 2001) by reference. The Ticknor report identified 12 areas which it believed must be reserved for their commercial, office, or industrial development potential in order to strive toward the City’s 70/30 goal, i.e. expanding the City’s nonresidential tax base to 30 percent in order to reduce the residential tax burden. The subject area is located within Area H which was recommended to “evolve into a convenience and neighborhood-oriented retail district serving the south central neighborhoods of the City.” The Tichnor report notes that the retail potential of this area is limited by low density housing to the south but that this area could evolve into a neighborhood shopping area if sewer service is extended southward from this area (which has recently occurred). It can be noted that this area was not selected in the follow-up R.A. Smith report as one of the five key development areas within the City.

Based upon the information provided by the applicant, and the information noted in this report, it is staff’s professional opinion that PDD No. 36 as currently

proposed would not be consistent with a preponderance of the principles, goals, objectives, and policies set forth in the Comprehensive Master Plan.

However, staff has provided the applicant with a number of suggestions over the course of its review which would increase the compatibility of this project with the CMP, and if such changes were made (a smaller building footprint and smaller parking lot which might in turn allow additional outlots and buildings, move the building closer to Hwy 36 and Hwy 100 and relocate some parking to the east side of the property, no 24-hour uses, and higher quality development including less natural resource impacts and/or better mitigation, and enhanced landscaping, pedestrian, and open space amenities), reconsideration of the proposed PDD would be warranted.

Staff would also note that the amendment of PDD No. 31, the UDO Text Amendment, and the CSM, are generally consistent with the Comprehensive Master Plan.

Certified Survey Map:

As previously stated, the project area consists of eight properties. To develop the Meijer store, the applicant is proposing to combine the eight properties into a single lot. The properties are listed below:

Tax Key No.	Address	Zoning	±Size
840 9969 000		B-3 Community Business District	0.14
840 999 7003	9661 W. Loomis Rd.	B-3 Community Business District	3.89
840 999 7002	9745 W. Loomis Rd.	B-3 Community Business District	3.92
840 9994 000	9821 W. Loomis Rd.	B-3 Community Business District	0.73
840 9998 000	9710 W. St. Martins Rd.	B-3 Community Business District	1.13
840 9997 001	9760 W. St. Martins Rd.	B-3 Community Business District	3.91
840 9993 000	9824 W. St. Martins Rd.	B-3 Community Business District	0.77
840 9999 001	9530 W. Puetz Rd.	PDD No. 31	15.17

The newly created lot, Lot 1, will have an area of 28.2609 acres or 1,231,043 square feet. As shown on the CSM, approximately 2.21 acres of the site will be dedicated to the Wisconsin Department of Transportation for right-of-way purposes. The CSM submitted for Plan Commission review contains a number of omissions and errors that will have to be corrected prior to recording. For example, the CSM shows only one storm water pond and storm water detention pond easement. The Conservation Easement is also not shown for the remaining protected natural resource features. These and any other technical omissions or errors must be corrected prior to recording with Milwaukee County per Condition No. 1 of the draft CSM resolution.

Staff would note that should creation of PDD No. 36 not be approved, approval of the subject CSM would still be appropriate at this time as combination of the eight parcels into one larger more developable parcel would likely help facilitate the eventual development of this property.

Site Plan:

Should PDD No. 36 be approved, staff would request that the following recommendations and suggestions be incorporated into the subject site plan. However, due to the number of unanswered questions, possible concerns, and ongoing review by other regulatory agencies, many of which will likely lead to further site plan changes, staff would suggest that approval of the site plan be tabled until more information related to the Traffic Impact Analysis (ongoing DOT review, etc.), Stormwater Management Plan (verification of the appropriate water quality standards to be met, etc.), Natural Resource Special Exception (lack of mitigation details, intrusion into a Secondary Environmental Corridor, etc.), and the Landscaping Plan (questions about existing vegetation credits, etc.), is obtained.

Currently, there are four existing one-story commercial buildings abutting West Loomis Road and two 2-story single-family homes, a detached garage and a barn structure north of West Puetz Road within the project area. The applicant is proposing to raze all existing structures and construct a 191,352 square foot Meijer grocery and department store. In addition to the Meijer store building, a garden center is attached to the south side of the building and enclosed with a black steel ornamental fence. The site contains approximately 594,199 square feet of impervious surface with approximately 636,844 square feet of greenspace, resulting in a Landscape Surface Ratio (LSR) of approximately 52 percent. As a comparison, the B-3 Community Business District requires a minimum LSR of 40 percent.

Ingress and Egress. The site plan includes ingress and egress from West Loomis Road (Highway 36), West St. Martins Road (Highway 100) and West Puetz Road. A traffic signal is envisioned at the access to Hwy 36. Staff has encouraged the applicant to place a traffic signal at the intersection of West Puetz Road and Hwy 100. Additionally, citizen and Alderman comments requested a traffic signal at the intersection of Hwy 100 and West Puetz Road. The applicant has indicated that ultimately the Wisconsin Department of Transportation (WisDOT) will determine the need for a traffic signal at this intersection. The Traffic Impact Analysis submitted by the applicant determined that a traffic signal was not warranted. It is staff's understanding that the WisDOT has not yet made a final determination in regard to these access connection and signalized intersection proposals, and that their approval is required.

Engineering Department staff recommend that a deceleration lane be constructed on Puetz Road for entrance into the site from the east, and that the radii at all proposed drives be increased to 20 feet.

Pedestrian Amenities. The site plan includes two pedestrian seating areas. Four benches are provided within an area adjacent to the Hwy 36 and Hwy 100 intersection. Three benches are also located on the north side of the parking lot adjacent to the Hwy 36 access drive, storm water detention basin and an approximately 17-foot high retaining wall. The applicant is also providing two benches, three trash receptacles and a bike rack along the front of the store. Specification sheets for all pedestrian amenities are attached.

The applicant indicates that sidewalks will be eventually be developed along Hwy 36, Hwy 100, and along the south side of West Puetz Road, by the DOT. Walkways are also proposed

internally by the applicant. Staff recommends the applicant construct a sidewalk along the north side of West Puetz Road along the entire length of their property. In the future, this sidewalk will provide pedestrian access to the Foresthill Highlands multi-family residential development to the east.

Citizen and Alderman comment also requested a trail through the natural resource features on the site to connect to the Foresthill Highlands development to the east. Staff also suggested that the applicant consider a paved multi-purpose trail directly connecting the future Foresthill Highlands apartment development to the Meijer store. Staff suggested the trail extend approximately at the intersection of West Highland Park Avenue and Brenwood Park Drive to the northwest corner of the building. There is an existing culvert crossing, which should be utilized if the location is appropriate. The applicant has indicated they believe the best connection with the least amount of environmental impacts is construction of a sidewalk along West Puetz Road. It should be noted that a trail would increase encroachments into natural resource features and require changes to the Natural Resource Special Exception request.

Staff suggests that further changes or additions to the sidewalk system be made, such as extension of the internal sidewalk along the entire northern bio-swale, alignment of the internal sidewalks with the store entrances and/or additional pavement markings for the pedestrian crossings of the drive lanes, a sidewalk connection directly to Puetz Road, sidewalks along Hwy 36 and Hwy 100, etc. Any such sidewalks must be constructed to City or State standards as appropriate.

Parking Lot. The applicant has illustrated thirty-two, approximately 19-foot long cart corrals within the parking lot. Staff suggests that at least two cart corrals be relocated or added to the rear of the parking lot, closer to Hwy 36. If shoppers utilize these spaces and cart corrals are not located nearby, it may result in carts frequently being scattered throughout the rear of the parking lot. Staff also suggested decorative, covered style cart corrals be utilized for the site. The applicant has stated, "Given the quantity of cart corrals required to support a grocery store, we believe decorative structure styled corals will be distracting and a long term maintenance issue. Meijer's experience is that it is more appropriate to use standard corrals that recess into the area around them." Staff continues to suggest that more decorative cart corrals be utilized. These would not necessarily have to be covered.

Miscellaneous. The applicant has located the transformer and generator on the north side of the building near the truck docks. A chain-link fence is proposed to enclose the transformer, generator and the wheeled milk container racks that are stored until they are picked up by the vendor. As requested per citizen and staff comments, the applicant has added a 12-foot high wall for the length of the truck docks. A tiered retaining wall is also located on the opposite side of the rear drive from the loading docks. A dumpster enclosure is not proposed as the trash and cardboard compactors will be kept within the interior of the loading dock area. Engineering Department staff recommend that a fence be installed at all locations where retaining walls are greater than three feet in height, and suggest such fences for all retaining walls.

Staff would suggest that the garden center be removed. This would allow more room for: the pharmacy drive-thru, ingress and egress to Puetz Road, buffering along Puetz Road, relocation of

one of the site amenities, and/or possibly more parking. Staff would suggest that the building be moved further to the west. Depending upon the amount of change, fewer natural resources might be impacted and/or additional room may be created for parking or other uses on that side of the building.

Staff recommends that a Market Analysis, as required by the Unified Development Ordinance, be prepared prior to consideration of this matter by the Common Council. The applicant has indicated that they will not provide such an analysis as they consider such information proprietary and confidential.

Engineering Department staff suggest that the easternmost berm located along Puetz Road be further extended to the east to provide further screening of this area.

#### Mechanical Plan:

The majority of mechanical equipment will be located on the roof of the building. The applicant has submitted a rooftop mechanical plan as well as a site-line drawing. Staff believes the rooftop mechanicals are adequately screened by the parapet walls.

#### Cross-access:

Currently cross-access is not provided to the property to the north, 9609 West Loomis Road. The applicant has indicated that they do not wish to provide cross-access at this time as it would require additional environmental impacts; however, Meijer would consider cross-access in the future upon WisDOT, Army Corps of Engineers and Wisconsin DNR review. Staff included language within the draft PDD No. 36 ordinance requiring a cross-access easement be provided at the time the property to the north is redeveloped, subject to approval of a Natural Resource Special Exception (NRSE) and submittal of a recorded cross-access agreement providing for cross-access with the adjoining property to the north, 9609 West Loomis Road. If the City of Franklin determines at that time the cross-access is not appropriate or denies the NRSE, the applicant will not have to provide the cross-access.

#### Parking:

The applicant is proposing to provide 684 parking spaces, including 28 ADA accessible spaces. Table 15-2.0203 of the UDO requires a parking ratio of six parking spaces per 1,000 square feet of gross floor area for grocery or foodstores and four parking spaces per 1,000 square feet of floor area for department stores. The applicant has indicated approximately 65 percent of the store is grocery and 35 percent general retail sales. Therefore, 747 parking spaces are required for the grocery portion of the store and 268 parking spaces required for the department store, which is a total of 1,015 parking spaces. Please note, the applicant has provided parking calculations on the Site Plan utilizing just the 6/1,000 parking ratio.

With 684 provided parking spaces, the applicant is proposing 331 less parking spaces than required by the UDO standard parking ratio, which is a reduction of approximately 33 percent. Please note the UDO does allow for parking reductions as approved by the Plan Commission.

In comparison, the Crossroads Trade Area Plan recommends parking at a ratio of four parking spaces per 1,000 square feet of floor area, which would require 765 parking spaces. Staff is in favor of the reduction in parking from UDO and Crossroad Trade Area Plan standards.

The 28 ADA accessible parking spaces provided complies with ADA standards and Table 15-5.0202(I)(1) of the UDO, which requires at least 2 percent of the total parking spaces provided install be ADA accessible spaces. In this case, 14 ADA spaces are required.

#### Landscaping:

The Landscape Plan includes 100 canopy/shade trees, 157 evergreen trees, 82 decorative trees and 287 shrubs. As a comparison, Table 15-5.0302 of the Unified Development Ordinance (UDO) requires one canopy/shade tree, one evergreen tree, one decorative tree and one shrub for every five provided parking spaces. A 20% increase is also required as the property abuts less intense residential uses. Since the applicant is providing 684 parking spaces on the property, 164 plantings of each type are required, which includes the 20% increase.

The Landscape Plan contains a note stating, "322 existing trees within natural area, to remain, to count toward over all tree totals on the site." Including the 322 existing trees and the proposed plantings, the site contains a total of 661 trees and 287 shrubs for a total of 948 plantings, opposed to 656 as required pursuant to UDO standards. Per Section 15-5.0302D. of the UDO, developments may get credit for preserving existing plant materials, depending on the size and type of the tree and whether it is located within a non-bufferyard or bufferyard. It also requires that plantings to be preserved shall be shown on the submitted landscape plan, including exact location, size and type. Due to the number of existing trees for which the applicant is requesting credit for, staff suggested the applicant provide quantities, types and general sizes of plant materials within the natural resource areas. The submitted Landscape Plan includes approximate location of existing trees and types of trees within the designated area, although size and location of individual trees is not included. Staff is not able to identify the size of every existing tree nor if it is located within a bufferyard or not, nor if noxious or subnoxious species are being counted; therefore, there is insufficient information to determine if an adequate number of trees are being preserved to comply with UDO landscape standards; however, staff believes a significant number of trees are being preserved and should be considered in review of the Landscape Plan. Staff recommends that the Landscape Plan be revised to provide additional information necessary to confirm the amount of existing vegetation eligible for credit, to meet the current UDO quantity standards, and to ensure that the additional plantings are focused within the required bufferyards.

The applicant has illustrated landscape plantings within the 60' x 60' vision triangle. Staff recommends that these plantings comply with Section 15-5.0201 of the UDO.

An underground irrigation system will be utilized for all landscape and grass areas. A detailed irrigation plan will be submitted once a landscape contractor is hired.

The applicant is proposing snow storage within the rear of the parking lot, which will not interfere with landscaping; however, will occupy parking spaces. It will be up to the applicant in the future to haul snow off-site if the parking spaces used for snow storage are needed.

Lighting:

The Lighting Plan provides 29 single fixture lights and 3 double-headed fixtures. The parking lot will consist of 20 MSV style fixtures (see cut sheet attached). MSV fixtures will be attached to a 30-foot light pole. 12 Sternberg 1750 Chateau Series decorative lights are located along the front of the store. These fixtures will be attached to 12-foot poles, for a total height of 14'-2 ½". There are also a total of 31 surface mounted canopy lights and wall mounted lights above the exit doors and within the garden center.

As shown on the Photometric Plan, light levels do not exceed zero footcandles at the property lines. The applicant indicated that lighting would be significantly reduced during off hours in the garden center area. Furthermore, the parking lot lighting will be designed to allow lighting to be reduced during a 24-hour period. The applicant has requested to continue to work with staff to address lighting concerns, while properly providing for the safety of those using the facility. Staff recommends the applicant submit, to the Planning Department for review and approval, a 24-hour lighting management plan to set guidelines for lighting levels on the site throughout a 24-hour period.

Natural Resource Protection Plan and Conservation Easement:

RA Smith National (RASN), Inc. has provided a natural resource protection plan, a wetland delineation report and a floodplain compensatory storage report for the subject 29.48-acre property. RASN conducted field assessments in March, April and May 2012 in order to identify and delineate natural resource features on the property (see the table on NRPP Figure 2A). All of these natural resources contain a 100% protection standard. According to the field assessments, the subject property contains:

- 7.10 acres of wetlands;
- 4.417 acres of wetland buffers;
- 2.87 acres of wetland setbacks;
- 0.17 acres of floodplain;<sup>1</sup>
- 0.36 acres of a navigable stream (Legend Creek); and
- 0.256 acres of shore buffer.

The Southeastern Wisconsin Regional Planning Commission (SEWRPC) visited the property on June 14, 2012 and has confirmed the wetland delineations recorded by RASN. SEWRPC has also field delineated the Secondary Environmental Corridor (SEC), which the applicant has identified

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<sup>1</sup> It is important to note that the floodway/floodplain delineation shown in the attached materials is incorrect. Additional Zone A floodplain (pursuant to adopted FEMA mapping) is located along the creek immediately east of Loomis Road. As such, staff recommends that the applicant identify the correct floodway/floodplain boundaries on the Natural Resource Protection Plan, prior to Common Council review of the Natural Resource Special Exception request.

on the Natural Resource Protection Plan (NRPP). It should be noted that the proposed development does encroach into the SEC, and that such encroachment includes some wetland and floodland resources. Pursuant to Wisconsin Administrative Code, SEWRPC policy, and the recommendations contained within SEWRPC Community Assistance Planning Report No. 176 (2<sup>nd</sup> Edition), such encroachments are discouraged and often prohibited. Any such encroachments will likely need approval from the City, SEWRPC, and the Wisconsin Department of Natural Resources.

Natural Resource Special Exception:

The applicant is requesting approval of a Natural Resource Special Exception (NRSE) in order to develop a 191,352 square foot Meijer Store on the subject 29.48-acre property pursuant to the attached plans. Specifically, the applicant is requesting approval to:

- Completely fill and develop four small isolated wetlands and their respective 30-foot wide wetland buffers and 50-foot wide wetland setbacks;
- Partially fill and develop one large wetland complex and portions of its respective 30-foot wide wetland buffer and 50-foot wide wetland setback;
- Partially fill and develop a 100-year floodplain; and
- Partially fill a 75-foot wide shore buffer;

In total, about 0.940 acres of wetland, 2.546 acres of wetland buffer, 2.222 acres of wetland setback, 0.100 acres of floodplain and 0.139 acres of shore buffer would be filled/developed with the subject request. Each specific natural resource disturbance is described in detail in the attached Environmental Commission report. The UDO's mitigation standards and the applicant's mitigation proposals are detailed in the following sections. If the subject project should be approved, Staff recommends that the applicant obtain all required approvals and permits from the Army Corp of Engineers, the Wisconsin Department of Natural Resources and the Federal Emergency Management Agency (FEMA) prior to issuance of a building permit.

The applicant is proposing the following mitigation measures to offset disturbances to the protected natural resource standards:

**Wetlands:** The applicant is proposing to fill 0.940 acres of wetlands. Using the required 1.5:1 mitigation ratio prescribed in the UDO, a total of 1.410 acres of wetland would typically be mitigated. According to the applicant's response letter dated June 25, 2012, the applicant intends to purchase mitigation credits from the Wisconsin Department of Natural Resources so that all impacts to wetlands are mitigated at a ratio of 1.5:1. The mitigation would occur offsite, on a U.S. Army Corp of Engineers/Wisconsin Department of Natural Resources approved mitigation bank. For this project, the applicant is also proposing to provide rain gardens within two parking lot planter islands and two 20-foot wide bio swales with natural plantings within the parking lot area. (The square footage of these areas was not provided). In addition, the applicant is (1) specifying a storm sewer system that combines catch basins and oil-water debris separators and (2) specifying a wet bottom detention pond to filter the stormwater runoff, reduce soil erosion and provide total suspended solids (TSS) removal.

**Wetland Buffers/Wetland Setbacks:** The applicant is proposing to develop 2.546 acres of wetland buffer and 2.222 acres of wetland setback. Using the required 1.5:1 mitigation ratio prescribed in the UDO for wetland buffer, a total of 3.819 acres would typically be mitigated. The UDO does not discuss specific mitigation requirements for wetland setbacks that are disturbed and not restored to their current, natural state.

According to a letter from the applicant dated June 25, 2012, mitigation for the wetland buffers and setbacks is proposed through the removal of buckthorn in an approximately 0.45-acre swath of land along the east and west sides of Legend Creek. Removal would occur during the winter months when the buckthorn is dormant and the ground is frozen. Each stump would be cut at the base and treated with Glyphosate herbicide approved for woody shrubs. The cut shrubs would be burned or removed off-site to a landfill. A follow-up visit would occur the following spring/early summer to check for re-sprouts and treated as needed.

According to the applicant's response to staff's first review comment letter, mitigation for the buffers and setbacks is also proposed through floodplain compensatory storage. The applicant has indicated that a total of about 379 cubic feet of floodplain compensatory storage area will be provided (a ratio of about 1.8:1 to the amount of floodplain to be filled). The applicant has not indicated how much of the compensatory storage is for wetland buffer/setback impacts and how much is for floodplain impacts. The applicant will provide native seeding within the 0.44-acre floodplain compensatory storage area east of the building with a native seed mix designed to not interfere with floodplain storage function.

The applicant is also proposing to provide native seeding within the 0.02-acre back slope area of the wet detention pond using a native seed mix. Finally, the applicant wishes to obtain credit for preserving approximately 320 trees including a dozen specimen trees. If the project should be approved, Staff recommends that the applicant provide mitigation at a minimum ratio of 1.5:1 for the wetland buffers and wetland setbacks prior to issuance of a building permit. In addition, Staff recommends that the applicant submit a tree preservation plan, in accordance with Section 15-8.0204 of the UDO, prior to issuance of a building permit.

**Floodplain:** The UDO requires mitigation for all floodplain disturbances; however, the UDO does not require a specific floodplain mitigation ratio. According to the submitted NRPP, a total of 0.100 acres of floodplain will be impacted. According to the applicant's response to staff's first review comment letter, mitigation for the floodplain is proposed through floodplain compensatory storage. The applicant has indicated that a total of about 379 cubic feet of floodplain compensatory storage area will be provided (a ratio of about 1.8:1 to the amount of floodplain to be filled). However, the applicant has not indicated how much of this compensatory storage is for wetland buffer/setback impacts and how much is for floodplain impacts.

According to a letter from the applicant dated June 25, 2012, the applicant will provide native seeding within the 0.44-acre floodplain compensatory storage area east of the building with a native seed mix designed to not interfere with floodplain storage function. The applicant is requesting that the native seeding be applied as a credit towards the wetland buffer/setback

encroachments. If the project should be approved, staff recommends that the floodplain delineation be corrected, the floodplain changes reviewed and approved by SEWRPC, and the NRSE and mitigation plan revised accordingly, prior to issuance of a building permit.

**Shore Buffer:** The applicant is proposing to develop a total of 0.139 acres of shore buffer. According to Table 15-4.0100 of the UDO, mitigation is only allowed for shore buffers in cases of crossings (street, bicycle or pedestrian) which are determined to be in the best interest of the City and which crossings are at or near a 90-degree angle. Using the typical 1.5:1 mitigation ratio prescribed in the UDO, a total of 0.209 acres of shore buffer would be mitigated. However, the NRSE Application submittal does not provide any details about proposed mitigation measures for shore buffer disturbances. Staff recommends that the applicant provide shore buffer mitigation at a ratio of 1.5:1, prior to issuance of a building permit.

Per Section 15-10.0208 of the Unified Development Ordinance (UDO), the applicant shall have the burden of proof to present evidence sufficient to support a Natural Resource Special Exception (NRSE) request. The applicant has presented evidence for the request by answering the questions and addressing the statements that are part of the Natural Resource Special Exception (NRSE) application. The applicant's responses to the application's questions and statements are attached for your review. Also attached is a document titled "City of Franklin Environmental Commission" that the Environmental Commission has completed for Common Council review. The questions and statements on this document correspond with the Natural Resource Special Exception (NRSE) application questions and statements that the applicant has answered and addressed.

If the project should be approved, Staff recommends that the applicant clearly describe each mitigation method and demonstrate how each mitigation method meets the requirements set forth in the UDO. In addition, staff recommends that the applicant hire a consultant to provide an annual monitoring report that addresses all mitigation activities per the approved Natural Resource Protection Plan, for a period of three years. Staff suggests that the warranty on all mitigation plantings be no less than 3 to 5 years.

The Environmental Commission reviewed the applicant's Natural Resource Special Exception (NRSE) request at their regular meeting on June 20, 2012, pursuant to Section 15-10.0208 of the UDO. Approximately 12 residents attended the meeting, all of whom were likely there for the Meijer NRSE item. At the meeting, the Environmental Commission recommended approval of the applicant's request, contingent on the applicant obtaining the proper permits from the State of Wisconsin Department of Natural Resources and the Army Corp of Engineers, approval of a Conservation Easement Agreement with the City of Franklin, and referred the evaluation for mitigation to the Plan Commission for their review and approval.

Based upon the information provided by the applicant, and the information noted in this report, it is staff's professional opinion that the Natural Resource Special Exception as currently proposed is not consistent with a preponderance of the standards set forth in Section 15-10.0208 of the Unified Development Ordinance.

In particular, while staff believes sufficient information and appropriate mitigation has been proposed for the filling of the four small isolated wetlands and associated natural resource features, sufficient information, justification, and mitigation has not been proposed for the impacts upon the larger wetland/floodland/shoreland complex. In addition, appropriate information about the extent of temporary disturbances, the relationship of the proposed mitigation measures to the specific resources impacted and to other required standards such as stormwater management and landscaping, and a long-term management plan, do not enable a full and complete analysis of the proposed impacts and mitigation measures.

#### Architecture:

The primary building materials and features specified for the proposed building include brick and stone. The building includes two entrance/exit features, which consist of a multi-story glass element, multiple brick and stone parapets at different heights and blue metal awnings. The building contains additional parapets and corner features, stone pilasters and metal almond colored awnings. The applicant has noted that additional windows beyond the entrance features are "not possible due to the merchandise fixturing that occurs on the perimeter walls."

#### Signage:

The applicant has shown signage on the building elevations and two monument signs on the Site Plan. These signs are shown for reference only. Staff is recommending in the draft PDD ordinance that all signs must be in accordance with the Municipal Code, as amended, approved by the Architectural Review Board and subject to issuance of a Sign Permit through the Inspection Department. On-site directional signage may be allowed in any area needed to control traffic or parking provided such signage has received approval from the Architectural Review Board.

#### Stormwater Management:

The applicant has provided preliminary storm water management plans, which includes underground storage and two detention ponds to the east and west of the access drive extending from West Loomis Road. The applicant is proposing a fountain within the pond east of the entrance drive. The applicant has indicated they are evaluating the size, depth and water volume of the pond west of the drive to determine if a fountain is feasible in this pond as well.

Bio-swales and three rain gardens are also proposed within the main parking area. The applicant has indicated that best management practices will be utilized for the operation of the storm water management system and a management plan will be included within the Stormwater Report provided by GreenbergFarrow.

The Engineering Department has reviewed the site drainage and preliminary storm water management pond and is working with the applicant to provide a final plan for review and approval. Staff recommends the applicant submit, to the Engineering Department for review and approval, a final storm water management plan, prior to Building Permit. Preliminary

comments from the Engineering Department include: provide connections and spillways for both stormwater ponds, provide larger storm sewer inlets at select locations, detailed calculations are required for the underground storage, the water main should be 12" rather than 10" and must be located within 20' easements, the water main will need to be relocated due to its proximity to the stormwater management pond and retaining wall.

### **Staff Recommendation**

Planning Department staff does not recommend approval of the Comprehensive Master Plan Amendment, the Planned Development District No. 36, or the Natural Resource Special Exception.

Staff does recommend approval of the Planned Development District Amendment to PDD No. 31, the Certified Survey Map, and the Unified Development Ordinance Text Amendment, subject to the conditions set forth in the draft ordinances and resolutions.

To summarize, staff recommendations and suggestions are listed below.

Recommendations:

1. Staff recommends that the hours of operations for the garden center and drive-thru pharmacy be limited to 7:00 a.m. to 10:00 p.m.
2. Staff recommends prohibiting truck deliveries and refuse collection between the hours of 10:00 p.m. and 7:00 a.m. and to prohibit trucks from idling while unloading.
3. Engineering Department staff recommend that a deceleration lane be constructed on Puetz Road for entrance into the site from the east, and that the radii at all proposed drives be increased to 20 feet, prior to a certificate of occupancy for the Meijer grocery and department store.
4. Staff recommends the applicant construct a sidewalk along the north side of West Puetz Road along the entire length of their property, prior to a certificate of occupancy for the Meijer grocery and department store.
5. Engineering Department staff recommends that a fence be installed at all locations where retaining walls are greater than three feet in height, prior to a certificate of occupancy for the Meijer grocery and department store.
6. Staff recommends that a Market Analysis, as required by the Unified Development Ordinance, be prepared and submitted to planning staff prior to consideration of this matter by the Common Council.

7. Staff included language within the draft PDD No. 36 ordinance requiring a cross-access easement be provided at the time the property to the north is redeveloped, subject to approval of a Natural Resource Special Exception (NRSE) and submittal of a recorded cross-access agreement providing for cross-access with the adjoining property to the north, 9609 West Loomis Road.
8. Staff recommends that the Landscape Plan be revised to provide additional information necessary to confirm the amount of existing vegetation eligible for credit, to meet the current UDO quantity standards, and to ensure that the additional plantings are focused within the required bufferyards, prior to issuance of a building permit.
9. Staff recommends that the plantings within the vision triangles comply with Section 15-5.0201 of the UDO.
10. Staff recommends the applicant submit, to the Planning Department for review and approval, a 24-hour lighting management plan that sets guidelines for lighting levels on the site throughout a 24-hour period.
11. Staff recommends that the applicant obtain all required approvals and permits from the Army Corp of Engineers, the Wisconsin Department of Natural Resources and the Federal Emergency Management Agency (FEMA) prior to issuance of a building permit.
12. Staff recommends that the applicant provide mitigation at a minimum ratio of 1.5:1 for the wetland buffers and wetland setbacks prior to issuance of a building permit. In addition, staff recommends that the applicant submit a tree preservation plan, in accordance with Section 15-8.0204 of the UDO, prior to issuance of a building permit.
13. Staff recommends that the floodplain delineation be corrected, the floodplain changes reviewed and approved by SEWRPC, and the NRSE and mitigation plan revised accordingly, prior to issuance of a building permit.
14. Staff recommends that the applicant provide shore buffer mitigation at a ratio of 1.5:1, prior to issuance of a building permit.
15. Staff recommends that the applicant clearly describe each mitigation method and demonstrate how each mitigation method meets the requirements set forth in the UDO, prior to consideration of this matter by the Common Council.
16. Staff recommends that the applicant hire a consultant to provide an annual monitoring report that addresses all mitigation activities, per the approved Natural Resource Protection Plan, for a period of three years.

17. Staff is recommending in the draft PDD ordinance that all signs must be in accordance with the Municipal Code, as amended, approved by the Architectural Review Board and subject to issuance of a Sign Permit through the Inspection Department. On-site directional signage may be allowed in any area needed to control traffic or parking provided such signage has received approval from the Architectural Review Board.
18. Staff recommends that the applicant submit a final storm water management plan to the Engineering Department, for their review and approval, prior to issuance of a building permit.

Suggestions:

1. Staff suggested that the garden center's outdoor sound system be eliminated to reduce noise on the site.
2. Staff suggests the applicant provide additional details regarding the anticipated sidewalk sales events and revise the draft PDD ordinance appropriately.
3. Staff suggests the Plan Commission consider the necessity of a demolition bond or other type of surety.
4. Due to the number of unanswered questions, possible concerns, and ongoing review by other regulatory agencies, many of which will likely lead to further site plan changes, staff would suggest that approval of the site plan be tabled until more information related to the Traffic Impact Analysis (ongoing DOT review, etc.), Stormwater Management Plan (verification of the appropriate water quality standards to be met, etc.), Natural Resource Special Exception (lack of mitigation details, intrusion into a Secondary Environmental Corridor, etc.), and the Landscaping Plan (questions about existing vegetation credits, etc.), is obtained.
5. Staff also suggested that the applicant consider a paved multi-purpose trail directly connecting the future Foresthill Highlands apartment development to the Meijer store.
6. Staff suggests that further changes or additions to the sidewalk system be made, such as extension of the internal sidewalk along the entire northern bio-swale, alignment of the internal sidewalks with the store entrances and/or additional pavement markings for the pedestrian crossings of the drive lanes, a sidewalk connection directly to Puetz Road, sidewalks along Hwy 36 and Hwy 100, etc.
7. Staff suggests that at least two cart corrals be relocated or added to the rear of the parking lot, closer to Hwy 36.
8. Staff also suggested decorative, covered style cart corrals be utilized for the site.

9. Staff continues to suggest that more decorative cart corrals be utilized.
10. Staff would suggest that the building be moved further to the west.
11. Engineering Department staff suggest that the easternmost berm located along Puetz Road be further extended to the east to provide further screening of this area.
12. Staff also suggests that the warranty on all mitigation plantings be no less than 3 to 5 years.
13. Staff would suggest that the garden center be removed.
14. Engineering staff suggests fences for all retaining walls.



## CITY OF FRANKLIN



## REPORT TO THE PLAN COMMISSION

Meeting of July 19, 2012

**Comprehensive Master Plan Amendment, Planned Development District  
No. 36, Planned Development District No. 31 Amendment, Certified  
Survey Map, Unified Development Ordinance Text Amendment, and  
Natural Resource Special Exception**

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**RECOMMENDATION:** Planning Department staff does not recommend approval of Planned Development District No. 36, the Comprehensive Master Plan amendment, or of the Natural Resource Special Exception for the proposed Meijer grocery and department store development at the eastern corner of West Loomis Road and West St. Martins Road.

However, staff would recommend approval of the amendment of Planned Development District No. 31, of the Certified Survey Map, and of the Unified Development Ordinance Text Amendment, subject to the conditions set forth in the draft ordinances and resolutions, should the subject property owner wish to proceed with those changes.

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<b>Project Name:</b>	Meijer grocery and department store development
<b>Project Address:</b>	Approximately the eastern corner of West Loomis Road and West St. Martins Road (STH 100)
<b>Applicant:</b>	David Behrens, GreenbergFarrow
<b>Property Owner:</b>	Paul Bouraxis, Legend Creek LLC
<b>Current Zoning:</b>	B-3 Community Business District, Planned Development District No. 31 and FW Floodway District
<b>2025 Comprehensive Plan</b>	Mixed Use
<b>Use of Surrounding Properties:</b>	Commercial to the north and west, residential to the south and east
<b>Applicant Action Requested:</b>	Recommendation of approval for the creation of PDD No. 36 and associated applications to support the proposed Meijer store development

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**Please bring the materials that were distributed at the July 5<sup>th</sup> meeting. Other than the staff report itself, they are not included in this packet. If you need an additional copy of any of those materials, please contact the Planning Department.**

**INTRODUCTION**

Since preparation of the staff report for the Plan Commission's July 5, 2012, meeting (which is attached) the following has occurred.

Plan Commission meeting of July 5, 2012:

Four public hearings (a rezoning to create Planned Development District (PDD) No. 36, an amendment of Planned Development District (PDD) No. 31, a Unified Development Ordinance Text Amendment, and a Natural Resource Special Exception) were held on this matter at the Plan Commission's July 5, 2012 meeting.

During the public hearings, 20 persons spoke on this matter. In general, six persons indicated support of the project and 14 persons indicated either concern with or opposition to the project. Correspondence on this matter was provided by seven individuals (four of whom also spoke at the public hearing) prior to or at the Plan Commission meeting (copies of all seven of these letters/emails were provided to the Plan Commissioners). Of the three who did not speak at the public hearing, their correspondence indicated concerns with the project.

In general, reasons for support included:

- The proposed store will be an improvement upon what is now located at the site.
- Additional stores and retail opportunities will be a benefit to the City.
- The project will bring needed tax base to the City, and to the Franklin School District without the added burden of additional children.
- The type of development envisioned by the Crossroads Plan has not yet happened and is unlikely to happen, but the proposed development has been determined to be feasible by the applicant.
- The subject location, at the intersection of two state highways, is appropriate for a development of this type.

In general, reasons for concern or opposition included:

- General concerns about increased traffic, primarily on Puetz Road.
- A traffic light should be placed at the intersection of Puetz and Hwy 100.
- Access to Puetz Road should be eliminated or restricted.
- Truck delivery hours should be limited.
- Store hours should be limited.
- General concerns about safety, crime, noise, and litter.
- Potential adverse wetland and drainage impacts.
- The store/development is too large for the area.
- Concern that the Franklin area market will not support another grocery store.
- Location of the access to Hwy 36/Loomis Road should be shifted slightly south of the currently proposed location.

It should be noted that one of the letters, expressing concern with possible adverse impacts upon shoreland wetlands by the proposed project, was from the Wisconsin Department of Natural Resources. The letter stated "the department is recommending that the Plan Commission and Common Council either deny or delay approval of the rezoning request until the applicant is able to provide the City with a copy of the permits, from the department and the Corps of Engineers to fill the wetlands."

During their presentation at the public hearings, representatives of the Meijer project indicated they would also agree to extend a sidewalk along the north side of Puetz Road to the east end of their property. This had been and still is included as a condition of approval within the proposed PDD No. 36 ordinance if the Plan Commission would decide to recommend approval of this project.

Staff also indicated that Wisconsin Department of Transportation (DOT) approval is needed for the access to Hwy 100/St. Martins Road and to Hwy 36/Loomis Road and for any related matters such as traffic signals at these locations, etc. Currently, DOT is still reviewing the project. Staff has therefore included a new condition in the draft PDD Ordinance to the effect that DOT approval is necessary prior to approval of any Building Permit.

The Plan Commission subsequently indicated that it would continue the public hearings held on this matter to their July 19<sup>th</sup> meeting in order to allow more time for review and comment by the public and the Plan Commission. The Plan Commission on this matter took no other action.

#### Common Council meeting of July 10, 2012:

A public hearing on an amendment of the City of Franklin's Comprehensive Master Plan to revise the Future Land Use Map and to allow changes from the Crossroads Plan for the proposed Meijer project was held at the Council's July 10, 2012 meeting. Prior to the hearing, two individuals spoke on this matter, one in support and one in opposition to the proposed project for reasons similar to those noted above. At the hearing, two individuals spoke, both with concerns about the project similar to those noted above.

The Common Council also moved to postpone to its next meeting action on this matter in order to allow the public and Common Council more time for review and comment.

#### Subsequent Information:

The Planning Department has received two additional pieces of communication on this matter. One is an email from an individual opposed to the Meijer project. The other is a letter from the Southeastern Wisconsin Regional Planning Commission (SEWRPC) indicating concurrence with the wetland and Secondary Environmental Corridor delineations for the subject property. Copies of this information are included.

#### CONCLUSION

Based upon this information, staff's recommendation of denial of the Meijer project (rezoning/creation of PDD No. 36, Comprehensive Master Plan amendment, and NRSE), but approval of the CSM, PDD No. 31 amendment, and UDO Text Amendment, remains the same as expressed in the July 5, 2012 staff report. In addition, and as expressed in the previous staff report, should the Plan Commission wish to recommend approval of the Meijer project, pertinent recommendations and suggestions have been identified. As usual, the recommendations are already included within the appropriate ordinances and resolutions.


**CITY OF FRANKLIN**

**REPORT TO THE PLAN COMMISSION**

Meeting of August 9, 2012

**Comprehensive Master Plan Amendment, Planned Development District  
No. 36, Certified Survey Map, and Natural Resource Special Exception**

**RECOMMENDATION:** Planning Department staff does not recommend approval of Planned Development District No. 36, the Comprehensive Master Plan amendment, or of the Natural Resource Special Exception for the proposed Meijer grocery and department store development at the eastern corner of West Loomis Road and West St. Martins Road.

However, staff does recommend approval of the Certified Survey Map, subject to the conditions set forth in the draft resolution.

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<b>Project Name:</b>	Meijer grocery and department store development
<b>Project Address:</b>	Approximately the eastern corner of West Loomis Road and West St. Martins Road (STH 100)
<b>Applicant:</b>	David Behrens, GreenbergFarrow
<b>Property Owner:</b>	Paul Bouraxis, Legend Creek LLC
<b>Current Zoning:</b>	B-3 Community Business District, Planned Development District No. 31 and FW Floodway District
<b>2025 Comprehensive Plan</b>	Mixed Use
<b>Use of Surrounding Properties:</b>	Commercial to the north and west, residential to the south and east
<b>Applicant Action Requested:</b>	Recommendation of approval for the creation of PDD No. 36 and associated applications to support the proposed Meijer store development

---

**Please bring the materials that were distributed at the July 5<sup>th</sup> meeting. Other than the staff report itself, they are not included in this packet. If you need an additional copy of any of those materials, please contact the Planning Department.**

**INTRODUCTION**

Since preparation of the staff report for the Plan Commission's July 19, 2012, meeting the following has occurred.

**Plan Commission meeting of July 19, 2012:**

The four public hearings (a rezoning to create Planned Development District (PDD) No. 36, an amendment of Planned Development District (PDD) No. 31, a Unified Development Ordinance Text Amendment, and a Natural Resource Special Exception) were continued from the July 5, 2012 Plan Commission meeting.

During the public hearings, 19 persons spoke on this matter. In general, 10 persons indicated support of the project and 7 persons indicated opposition to the project. Jon McMurtrie, President of United Financial Group Inc. and owner of the property immediately east of the proposed development, spoke in favor of the project if their concerns could be addressed. Mr. McMurtrie indicated concerns with the location and orientation of the loading dock, truck traffic, noise and landscaping and wished to work with the applicant to address these issues. One additional person spoke and asked staff to repeat their recommendation, but did not indicate reasons for support or opposition to the project.

In general, reasons for support and reasons for concerns or opposition are the same as described in the July 19, 2012 staff report.

Following the public hearing and Plan Commission discussion, the Plan Commission approved a motion to table the Planned Development District Ordinance, Natural Resource Special Exception, Comprehensive Master Plan Amendment and 1 Lot Certified Survey Map applications to the next regularly scheduled meeting of the Plan Commission on August 9, 2012. These items were primarily tabled to allow the applicant additional time to receive decisions from the Wisconsin Department of Natural Resources and Army Corps of Engineers regarding the wetland encroachments and the Wisconsin Department of Transportation regarding access to State Highway 100 and State Highway 36.

The Plan Commission also approved motions to recommend approval of an ordinance to amend §15-3.0436 of the Unified Development Ordinance Planned Development District No. 31 (Foresthill Highlands/United Financial Group, Inc.) to allow for removal of a parcel of land for its potential use in adjoining property development and to recommend approval of an ordinance to amend the Unified Development Ordinance text at §15-3.0505A.2., to remove "PDD District" from the retail building size limit provisions.

Common Council meeting of July 24, 2012:

The Common Council approved an ordinance to amend §15-3.0436 of the Unified Development Ordinance Planned Development District No. 31 (Foresthill Highlands/United Financial Group, Inc.) to allow for removal of a parcel of land for its potential use in adjoining property development as well as an ordinance to amend the Unified Development Ordinance text at §15-3.0505A.2., to remove "PDD District" from the retail building size limit provisions.

Subsequent Information:

The Planning Department received one additional correspondence since the July 19, 2012 Plan Commission meeting from Alderman Olson, which is attached.

Based on discussion at the July 19, 2012 Plan Commission meeting, staff modified the draft Planned Development District No. 36 Ordinance to allow for one truck delivery per night between the hours of 10:00 p.m. and 7:00 a.m.

## **CONCLUSION**

Based upon this information, staff's recommendation of denial of the Meijer project (rezoning/creation of PDD No. 36, Comprehensive Master Plan amendment, and NRSE), but approval of the CSM remains the same as expressed in the July 5 and July 19, 2012 staff reports. In addition, and as expressed in the previous staff reports, should the Plan Commission wish to recommend approval of the Meijer project, pertinent recommendations and suggestions have been identified. As usual, the recommendations are already included within the appropriate ordinances and resolutions.

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<p style="text-align: center;">APPROVAL</p> <p style="text-align: center;"><i>Slw</i></p>	<p style="text-align: center;">REQUEST FOR COUNCIL ACTION</p>	<p style="text-align: center;">MEETING DATE</p> <p style="text-align: center;">8/21/12</p>
<p style="text-align: center;">REPORTS &amp; RECOMMENDATIONS</p>	<p style="text-align: center;">STANDARDS, FINDINGS AND DECISION OF THE CITY OF FRANKLIN COMMON COUNCIL UPON THE APPLICATION OF DAVID W. BEHRENS, PRINCIPLE OF GREENBERGFARROW ARCHITECTURE, INC., FOR A SPECIAL EXCEPTION TO CERTAIN NATURAL RESOURCE PROVISIONS OF THE CITY OF FRANKLIN UNIFIED DEVELOPMENT ORDINANCE</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;"><i>G.3.</i></p>

At their meeting on June 20, 2012, the Environmental Commission recommended approval of a Special Exception to certain natural resource provisions of the Unified Development Ordinance, with conditions. The Environmental Commission's Special Exception Application Review and Recommendation findings form, dated June 20, 2012, is attached.

At their meeting on July 19, 2012, the Plan Commission recommended approval of a Special Exception to certain natural resource provisions of the City of Franklin Unified Development Ordinance, with conditions, and accepted the findings from the Environmental Commission that are presented in the attached document titled "Standards, Findings, and Decision of the City of Franklin Common Council upon the application of United Financial Group, Inc., for a special exception to certain natural resource provisions of the City of Franklin Unified Development Ordinance". The subject property is generally located at the eastern corner of West Loomis Road and West St. Martins Road (STH 100)

**COUNCIL ACTION REQUESTED**

Adopt the standards, findings and decision of the City of Franklin Common Council upon the application of David W. Behrens, Principle of GreenbergFarrow Architecture, Inc., for a special exception to certain natural resource provisions of the City of Franklin Unified Development Ordinance. (Approximately the eastern corner of West Loomis Road and West St. Martins Road [STH 100]).



Standards, Findings and Decision  
of the City of Franklin Common Council upon the  
Application of David W. Behrens, Principal of GreenbergFarrow Architecture Inc. for  
a Special Exception to Certain Natural Resource Provisions  
of the City of Franklin Unified Development Ordinance

Whereas, David W. Behrens, Principal of GreenbergFarrow Architecture Inc., having filed an application dated May 25, 2012, for a Special Exception pursuant to Section 15-9.0110 of the City of Franklin Unified Development Ordinance pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature; a copy of said application being annexed hereto and incorporated herein as Exhibit A; and

Whereas, the application having been reviewed by the City of Franklin Environmental Commission and the Commission having made its recommendation upon the application, a copy of said recommendation dated June 27, 2012, being annexed hereto and incorporated herein as Exhibit B; and

Whereas, following a public hearing before the City of Franklin Plan Commission, the Plan Commission having reviewed the application and having made its recommendation thereon as set forth upon the report of the City of Franklin Planning Department, a copy of said report dated July 5, 2012, being annexed hereto and incorporated herein as Exhibit C; and

Whereas, the property which is the subject of the application for a Special Exception is located at the eastern corner of West Loomis Road and West St. Martins Road (STH 100), zoned B-3 Community Business District, Planned Development District No. 31 (Foresthill Highlands/United Financial Group, Inc.) and FW Floodway District, and such property is more particularly described upon Exhibit D annexed hereto and incorporated herein; and

Whereas, Section 15-10.0208B. of the City of Franklin Unified Development Ordinance, as amended by Ordinance No. 2003-1747, pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature, provides in part: "The decision of the Common Council upon any decision under this Section shall be in writing, state the grounds of such determination, be filed in the office of the City Planning Manager and be mailed to the applicant."

Now, Therefore, the Common Council makes the following findings pursuant to Section 15-10.0208B.2.a., b. and c. of the Unified Development Ordinance upon the application for a Special Exception dated May 25, 2012 by David W. Behrens, Principal of GreenbergFarrow Architecture Inc., pursuant to the City of Franklin Unified Development Ordinance, the proceedings heretofore had and the recitals and matters incorporated as set forth above, recognizing the applicant as having the burden of proof to present evidence sufficient to support the following findings and that such findings be made by not less than four members of the Common Council in order to grant such Special Exception.

1. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature): *The City's Crossroads Trade Area Plan identifies encroachment into the natural resource features on the subject property.*

2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:

a. be unreasonably burdensome to the applicant and that there are no reasonable practicable alternatives: ; *or*

b. unreasonably and negatively impact upon the applicant's use of the property and that there are no reasonable practicable alternatives: *Applicant has adjusted the site plan since the first submittal to lessen impacts on the protected natural resources.*

3. The Special Exception, including any conditions imposed under this Section will:

a. be consistent with the existing character of the neighborhood: *The Special Exception will not adversely affect the existing character of the neighborhood; and*

b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: *The Special Exception will not undermine the neighboring properties.; and*

c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: *The applicant has provided a mitigation plan to address mitigation requirements; and*

d. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development: *(this finding only applying to an application to improve or enhance a natural resource feature): The applicant is proposing to remove buckthorn along the banks of Legend Creek.*

The Common Council considered the following factors in making its determinations pursuant to Section 15-10.0208B.2.d. of the Unified Development Ordinance.

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks: *The project will meet all B-3 Community Business District setbacks from property lines.*
2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district: *None.*
3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: *The subject property is mostly vacant.*
4. Aesthetics: *The site currently contains wetlands, wetland buffers, wetland setbacks, floodplain shore buffer areas and a Secondary Environmental Corridor.*
5. Degree of noncompliance with the requirement allowed by the Special Exception: *The degree of noncompliance varies. The property contains 7.10 acres of wetlands, 4.417 acres of wetland buffers, 2.87 acres of wetland setbacks, 0.17-acres of floodplain, 0.36 acres of navigable stream (Legend Creek) and 0.256-acres of shore buffer. The applicant is proposing to fill/develop 0.940 acres of wetland (13.2%), 2.546 acres of wetland buffer (57.6%), 2.222 acres of wetland setback (77.4%), 0.100 acres of floodplain (58.8%); and 0.139 acre of shore buffer (54.3%).*
6. Proximity to and character of surrounding property: *Foresthill Highlands PDD to the east; single-family residences to the south; Walgreens and professional office to the west; and a Citgo Fueling Station, single-family residence and office complex to the north.*
7. Zoning of the area in which property is located and neighboring area: *B-3 Community Business District, PDD No. 31 and FW Floodway District.*
8. Any negative affect upon adjoining property: *No negative effect upon adjoining property is perceived.*
9. Natural features of the property: *The property contains 7.10 acres of wetlands, 4.417 acres of wetland buffers, 2.87 acres of wetland setbacks, 0.17-acres of floodplain, 0.36 acres of navigable stream (Legend Creek) and 0.256-acres of shore buffer.*

10. Environmental impacts: *The applicant is proposing to fill/develop 0.940 acres of wetland, 2.546 acres of wetland buffer, 2.222 acres of wetland setback, 0.100 acres of floodplain; and 0.139 acre of shore buffer.*

11. A recommendation from the Environmental Commission as well as a review and recommendation prepared by an Environmental Commission-selected person knowledgeable in natural systems: *The Environmental Commission recommendation and its reference to the report of June 20, 2012 is incorporated herein.*

12. The practicable alternatives analysis required by Section 15-9.0110C.4. of the Unified Development Ordinance and the overall impact of the entire proposed use or structure, performance standards and analysis with regard to the impacts of the proposal, proposed design solutions for any concerns under the Ordinance, executory actions which would maintain the general intent of the Ordinance in question, and other factors relating to the purpose and intent of the Ordinance section imposing the requirement: *The Plan Commission recommendation and the Environmental Commission recommendation address these factors and are incorporated herein.*

#### Decision

*Upon the above findings and all of the files and proceedings heretofore had upon the subject application, the Common Council hereby grants a Special Exception for such relief as is described within Exhibit C, upon the conditions: 1) that the natural resource features upon the property to be developed be protected by a perpetual conservation easement to be approved by the Common Council prior to any development within the areas for which the Special Exception is granted; 2) that the applicant obtain all other necessary approval(s) from all other applicable governmental agencies prior to any development within the areas for which the Special Exception is granted; 3) that all development within the areas for which the Special Exception is granted shall proceed pursuant to and be governed by the approved Natural Resource Protection Plan and all other applicable plans for David W. Behrens, Principal of GreenbergFarrow Architecture Inc. and all other applicable provisions of the Unified Development Ordinance. The duration of this grant of Special Exception is permanent.*

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

APPROVED:

\_\_\_\_\_  
Thomas M. Taylor, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_

# Exhibit A

**Planning Department**  
 9229 West Loomis Road  
 Franklin, Wisconsin 53132  
 Email: [generalplanning@franklinwi.gov](mailto:generalplanning@franklinwi.gov)



**City of Franklin**

Phone: (414) 425-4024  
 Fax: (414) 427-7691  
 Web Site: [www.franklinwi.gov](http://www.franklinwi.gov)

## NATURAL RESOURCE SPECIAL EXCEPTION APPLICATION

(Complete, accurate and specific information must be entered, including full legal names. Please Print.)

Date: _____	
Property Owner(s)/Legal Entity: <u>BOURAVIS INVESTMENTS</u> <u>PAUL BOURAVIS</u>	Applicant (Legal Business Owner Name): _____ <u>GREENBERG FARDOW</u>
Address: <u>4035 SO. 108TH STREET</u>	Address: <u>21 S EVERGREEN AVE. STE. 200</u>
City: <u>GREENFIELD</u> State: <u>WI</u> Zip: <u>53228</u>	City: <u>ARLINGTON HTS</u> State: <u>IL</u> Zip: <u>60005</u>
Phone: <u>(414) 525-4179</u> Fax: _____	Phone: <u>847-788-9200</u> Fax: <u>847-788-9536</u>
Email Address: _____	Email Address: <u>clbehrens@greenbergfardow.com</u>

Project/Development Name: MEIER  
 Project Description: PROPOSED 191,352 SF GROCERY/RETAIL FACILITY AND ASSOCIATED PARKING FIELD  
 Project Property Address: PROJECT IMPACTS MULTIPLE PARCELS ADDRESSES Project Tax Key No(s): \* SEE ATTACHED  
 Existing Zoning: B-3/PD3 Proposed Zoning: B-3 Existing Use: VACANT Proposed Use: GROCERY STORE  
 2025 CMP Land Use Identification\*: MIXED USE  
 \* The 2025 CMP Future Land Use Map is available at:  
[http://www.franklinwi.gov/DefaultFile/Planner/Planning/2025CMP/2025\\_CMP\\_Ch5\\_2025Future\\_Land\\_Use\\_Map5.7.pdf](http://www.franklinwi.gov/DefaultFile/Planner/Planning/2025CMP/2025_CMP_Ch5_2025Future_Land_Use_Map5.7.pdf)

Franklin

All Natural Resource Special Exception submittals must include and be accompanied by the following:

- This Application form accurately completed and with original signatures (facsimiles and copies will not be accepted).
- Application Filing Fee: \$500, payable to the City of Franklin.
- Ten copies of a Project Narrative describing the project.
- Names and Addresses of all abutting and opposite property owners of records, as required by Section 15-9.0110(A) of the UDO\*.
- An electronic copy of the Legal Description for the subject property.
- Ten 24x36 inch copies of the Plat of Survey, as required by Section 15-9.0110(B) of the UDO, collated and folded into 9 x 12 inch sets.
- Ten 24 x 36 inch colored copies of the Natural Resource Protection Plan (NRPP), collated and folded into 9 x 12 inch sets, and three copies of the NRPP report, if applicable. See Sections 15-4.0102 and 15-7.0201 of the UDO for information that must be denoted on or included with the NRPP.
- Ten copies of the completed Special Exception Question and Answer Form (from Section 15-9.0110C. of the UDO).
- One copy of all necessary governmental agency permits for the project or a written statement as to the status of any application for each such permit.

\* The City's Unified Development Ordinance (UDO) is available at [www.franklinwi.gov](http://www.franklinwi.gov).

MAY 25 2012  
 City Development

- A meeting must be scheduled with the Planning Department prior to Application submittal.
- Upon receipt of a complete submittal, staff review will be conducted within ten business days.
- All Natural Resource Special Exception requests require Environmental Commission and Plan Commission review, a public hearing at a Plan Commission meeting, and Common Council approval.
- See Section 15-10.0208 of the UDO for Natural Resource Special Exception review and approval procedures.

The applicant and property owner(s) hereby certify that: (1) all statements and other information submitted as part of this application are true and correct to the best of applicant's and property owner(s)' knowledge; (2) the applicant and property owner(s) has/have read and understand all information in this application; and (3) the applicant and property owner(s) agree that any approvals based on representations made by them in this Application and its submittal, and any subsequently issued building permits or other type of permits, may be revoked without notice if there is a breach of such representation(s) or any condition(s) of approval. By execution of this application, the property owner(s) authorize the City of Franklin and/or its agents to enter upon the subject property(ies) between the hours of 7:00 a.m. and 7:00 p.m. daily for the purpose of inspection while the application is under review. The property owner(s) grant this authorization even if the property has been posted against trespassing pursuant to Wis. Stat. §943.13.

(The applicant's signature must be from a Managing Member if the business is an LLC, or from the President or Vice President if the business is a corporation. A signed applicant's authorization letter may be provided in lieu of the applicant's signature below, and a signed property owner's authorization letter may be provided in lieu of the property owner's signature(s) below. If more than one, all of the owners of the property must sign this Application).

Signature of Applicant: <u>Paul Bouravis</u> Name and Title: <u>Paul Bouravis</u> Date: <u>5-3-12</u>	Signature of Property Owner: <u>Clara Behrens</u> Name and Title: <u>Clara Behrens Principal</u> Date: <u>5/25/12</u>
Signature of Property Owner: _____ Name and Title: _____	

pd. - Check No. 037880, \$500  
 5-25-12

## Exhibit B

### City of Franklin Environmental Commission

TO: Common Council  
DATE: Wednesday, June 27, 2012  
RE: Special Exception application review and recommendation  
APPLICATION: David W. Behrens, Principal of GreenbergFarrow Architecture Inc., Applicant, dated: May 25, 2012

#### **I. §15-9.0110 of the Unified Development Ordinance Special Exception to Natural Resource Feature Provisions Application information:**

1. Unified Development Ordinance Section(s) from which Special Exception is requested: Section 15-4.0102
2. Nature of the Special Exception requested (description of resources, encroachment, distances and dimensions):

For the purpose of allowing for the filling of 1 shore buffer with 0.139 total affected acreage, 1 floodplain with 0.100 total affected acreage, 5 wetland buffers with 2.546 total affected acreage, 5 wetland setbacks with 2.222 total affected acreage, and 5 wetlands with 0.940 total affected acreage, to allow for the grading and construction of a 191,352 square foot grocery and department store and garden center development at the eastern corner of West Loomis Road and West St. Martins Road (STH 100).

3. Applicant's reason for request:

The proposed Meijer project is a redevelopment of the area designated for commercial development within the City-adopted Crossroads Trade Area Plan dated November 2004.

4. Applicant's reason why request is appropriate for Special Exception:

The applicant has stated that the area of impact is less than that proposed in the described Crossroads Trade Area Plan, but full avoidance could not be achieved while maintaining life safety, operational and City required standards.

**II. Environmental Commission review of the §15-9.0110C.4.f. Natural Resource Feature impacts to functional values:**

1. Diversity of flora including State and/or Federal designated threatened and/or endangered species: No significant impact on the total amount of existing flora located on the property.
2. Storm and flood water storage: A floodplain compensatory storage area will be added to address the removal of floodplain.
3. Hydrologic functions: The applicant is proposing to fill wetlands of various sizes, all of which contain hydrology on a year-round and/or seasonal basis. In addition, the applicant is also proposing to fill/develop a portion of the Legend Creek shore buffer.
4. Water quality protection including filtration and storage of sediments, nutrients or toxic substances: Water quality protection is addressed in the stormwater management plan. The applicant also intends to treat stormwater using best management practices. This includes the use of rain gardens and bioswales.
5. Shoreline protection against erosion: The applicant will implement erosion sediment control to protect Legend Creek, a waterway that is located east of the project.
6. Habitat for aquatic organisms: No stated impact.
7. Habitat for wildlife: No stated impact.
8. Human use functional value: No impact.
9. Groundwater recharge/discharge protection: No stated impact.
10. Aesthetic appeal, recreation, education, and science value: The property is privately owned. A portion of the natural resources viewable from West Loomis Road and West Puetz Road will be filled/developed.
11. State or Federal designated threatened or endangered species or species of special concern: No stated impact.
12. Existence within a Shoreland: 0.256 acres of the 75-foot wide shore buffer will be impacted.
13. Existence within a Primary or Secondary Environmental Corridor or within an Isolated Natural Area, as those areas are defined and currently

mapped by the Southeastern Wisconsin Regional Planning Commission from time to time: The limits of disturbance are located near, but not within, a Secondary Environmental Corridor.

**III. Environmental Commission review of the §15-10.0208B.2.d. factors and recommendations as to findings thereon:**

1. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature): The City's Crossroads Trade Area Plan identifies encroachment into the natural resource features on the subject property.

2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:

a. be unreasonably burdensome to the applicants and that there are no reasonable practicable alternatives; *or*

b. unreasonably and negatively impact upon the applicants' use of the property and that there are no reasonable practicable alternatives: Applicant has adjusted the site plan since the first submittal to lessen impacts on the protected natural resources.

3. The Special Exception, including any conditions imposed under this Section will:

a. be consistent with the existing character of the neighborhood: The Special Exception will not adversely affect the existing character of the neighborhood; *and*

b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: The Special Exception will not undermine the neighboring properties. *and*

c. be in harmony with the general purpose and intent of the provisions of this Ordinance prescribing the requirement: The applicant must clarify mitigation plans at the Plan Commission meeting *and*

d. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development (*this finding only applying to an application to improve or enhance a natural resource feature*): The applicant is proposing to remove buckthorn along the banks of Legend Creek.

**IV. Environmental Commission review of the §15-10.0208B.2.a., b. and c. factors and recommendations as to findings thereon:**

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks: The project will meet all B-3 Community Business District setbacks from property lines.
2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district: None.
3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: The subject property is mostly vacant.
4. Aesthetics: The site currently contains wetlands, wetland buffers, wetland setbacks, floodplain shore buffer areas and a Secondary Environmental Corridor.
5. Degree of noncompliance with the requirement allowed by the Special Exception: The degree of noncompliance varies. The property contains 7.10 acres of wetlands, 4.417 acres of wetland buffers, 2.87 acres of wetland setbacks, 0.17-acres of floodplain, 0.36 acres of navigable stream (Legend Creek) and 0.256-acres of shore buffer. The applicant is proposing to fill/develop 0.940 acres of wetland (13.2%), 2.546 acres of wetland buffer (57.6%), 2.222 acres of wetland setback (77.4%), 0.100 acres of floodplain (58.8%); and 0.139 acre of shore buffer (54.3%).
6. Proximity to and character of surrounding property: Foresthill Highlands PDD to the east; single-family residences to the south; Walgreens and professional office to the west; and a Citgo Fueling Station, single-family residence and office complex to the north.
7. Zoning of the area in which property is located and neighboring area: B-3 Community Business District, PDD No. 31 and FW Floodway District.
8. Any negative affect upon adjoining property: The project will not negatively affect the adjoining property.
9. Natural features of the property: The property contains 7.10 acres of wetlands, 4.417 acres of wetland buffers, 2.87 acres of wetland setbacks, 0.17-acres of floodplain, 0.36 acres of navigable stream (Legend Creek) and 0.256-acres of shore buffer.
10. Environmental impacts: The applicant is proposing to fill/develop 0.940 acres of wetland, 2.546 acres of wetland buffer, 2.222 acres of wetland setback, 0.100 acres of floodplain; and 0.139 acre of shore buffer.

**V. Environmental Commission Recommendation:**

The Environmental Commission has reviewed the subject Application pursuant to §15-10.0208B. of the Unified Development Ordinance and makes the following recommendation:

1. The recommendations set forth in Sections III. and IV. Above are incorporated herein.
2. The Environmental Commission recommends approval of the Application upon the aforesaid recommendations for the reasons set forth therein.
3. The Environmental Commissions recommends that should the Common Council approve the Application, that such approval be subject to the following conditions:
  - a. contingent on the applicant obtaining the proper permits from the State of Wisconsin Department of Natural Resources and the Army Corp of Engineers, approval of a Conservation Easement Agreement with the City of Franklin, and referred the evaluation for mitigation to the Plan Commission for review and approval.
  - b.
  - c.

The above review and recommendation was passed and adopted at a regular meeting of the Environmental Commission of the City of Franklin on the   20   day of   June  , 2012.

Dated this   20   day of   June  , 2012.



Daniel Andres, Chairman

Attest:

Wesley D Cannon  
Wesley D Cannon, Vice-Chairman



## CITY OF FRANKLIN



## REPORT TO THE PLAN COMMISSION

Meeting of July 5, 2012

**Comprehensive Master Plan Amendment, Planned Development District  
No. 36, Planned Development District No. 31 Amendment, Certified  
Survey Map, Unified Development Ordinance Text Amendment, and  
Natural Resource Special Exception**

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**RECOMMENDATION:** Planning Department staff does not recommend approval of Planned Development District No. 36, the Comprehensive Master Plan amendment, or of the Natural Resource Special Exception for the proposed Meijer grocery and department store development at the eastern corner of West Loomis Road and West St. Martins Road.

However, staff would recommend approval of the amendment of Planned Development District No. 31, of the Certified Survey Map, and of the Unified Development Ordinance Text Amendment, subject to the conditions set forth in the draft ordinances and resolutions, should the subject property owner wish to proceed with those changes.

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<b>Project Name:</b>	Meijer grocery and department store development
<b>Project Address:</b>	Approximately the eastern corner of West Loomis Road and West St. Martins Road (STH 100)
<b>Applicant:</b>	David Behrens, GreenbergFarrow
<b>Property Owner:</b>	Paul Bouraxis, Legend Creek LLC
<b>Current Zoning:</b>	B-3 Community Business District, Planned Development District No. 31 and FW Floodway District
<b>2025 Comprehensive Plan</b>	Mixed Use
<b>Use of Surrounding Properties:</b>	Commercial to the north and west, residential to the south and east
<b>Applicant Action Requested:</b>	Recommendation of approval for the creation of PDD No. 36 and associated applications to support the proposed Meijer store development

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**Introduction**

Please note:

- Staff recommendations are underlined, in italics and are included in the draft ordinance.
- Staff suggestions are only underlined and are not included in the draft ordinance.

Should the Plan Commission recommend approval of the subject requests, staff would recommend including the conditions set forth in the attached draft ordinances and resolutions.

On May 25, 2012, the applicant submitted the following applications for the development of a Meijer grocery and department store at the eastern corner of West Loomis Road and West St. Martins Road:

- **Comprehensive Master Plan Amendment Application** to amend the 2025 Future Land Use Map from Mixed Use to Commercial and to allow deviations from the City of Franklin Crossroads Trade Area Regulating Plan
- **Planned Development District (PDD) Application** to create a new PDD for the Meijer store development
- **Major PDD Amendment Application** to modify the boundary of PDD No. 31
- **Unified Development Ordinance Text Amendment Application** to strike “PDD” from Section 15-3.0505A.2.
- **Certified Survey Map Application** to combine the eight parcels involved with this development
- **Natural Resource Special Exception Application** to allow encroachments into protected natural resource features

Meijer is a privately held company based in Grand Rapids, Michigan. Meijer currently operates approximately 200 supercenter stores throughout Michigan, Ohio, Indiana, Illinois and Kentucky, and is now entering the Wisconsin market. Additional company information can be found in the applicant’s project narrative.

The applicant’s project narrative states that the total project costs will be a minimum of \$15,000,000 and the store will be constructed consistent with Leadership in Energy and Environmental Design (LEED) standards. Meijer anticipates the store will create between 200 and 250 jobs. Meijer estimates approximately 25 percent of those jobs will be full-time positions and approximately 75 percent will be part-time employees.

### **Project Description/Analysis**

The subject project area encompasses eight separate parcels, which are proposed to be combined via Certified Survey Map. The eight parcels are currently zoned B-3 Community Business District, Planned Development District No. 31 and FW Floodway District.

Please note that throughout this report staff will utilize the B-3 Community Business District standards as well as all applicable standards of the Unified Development Ordinance for comparisons to the standards proposed by the applicant for the Meijer store development. Unless otherwise stated, these B-3 standards are intended to form the basis of proposed PDD No. 36.

### **Creation of Planned Development District No. 36:**

The proposed Meijer store development is generally in compliance with B-3 Community Business District standards and Part 5 Design Standards of the Unified Development Ordinance, unless otherwise set forth within the PDD No. 36 draft ordinance (attached).

However, due to its inconsistency with the Comprehensive Master Plan and Ordinance 2004-1803 (as discussed later in this staff report), staff does not recommend approval of this PDD.

The draft PDD No. 36 ordinance utilizes B-3 Community Business District setbacks and zoning requirements pursuant to Table 15-3.0303. However, PDD No. 36 contains a maximum building height of 3.0 stories/45 feet whereas the B-3 District limits retail buildings to 2.0 stories/35 feet and office buildings to 3.0 stories/45 feet. The multi-story entrance/exit features on the Meijer store would have a peak height of 42 feet. The draft PDD No. 36 ordinance also further restricts fencing, temporary structures and ancillary structures, which are prohibited without Plan Commission approval.

The Meijer store is planned to operate 24-hours per day, seven days a week; however, the applicant is proposing to limit the hours of operation for the garden center to 6:00 a.m. to 10:00 p.m. Should this project be approved, staff recommends that the hours of operations for the garden center and drive-thru pharmacy be limited to 7:00 a.m. to 10:00 p.m. to ensure adjacent residential properties are not adversely impacted by store operations.

The outdoor garden center has a communication system, which staff suggested be eliminated to reduce noise on the site. The applicant stated that the communication system would be turned off in the outdoor area between the hours of 6:00 p.m. and 7:00 a.m. The draft ordinance limits the hours of operation for the communication system as proposed by the applicant. The applicant has indicated they do not believe the loud speakers will be heard beyond the property, but will install a volume control in the event that the volume needs to be adjusted in the future to address relevant complaints.

Meijer will have approximately one to three semi-truck deliveries to the store daily. Deliveries will occur more frequently during holiday seasons, and additional daily deliveries will be made to the grocery store department of the Meijer store. The applicant has indicated that "No Trucks" signage will be posted at the drive behind the store and at the West Puetz Road ingress/egress. Should this project be approved, staff recommends prohibiting truck deliveries and refuse collection between the hours of 10:00 p.m. and 7:00 a.m. The applicant does not believe the noise from the delivery trucks will adversely affect the surrounding area. Staff also recommended, and the applicant agreed, to prohibit trucks from idling while unloading.

The applicant indicated to staff that other Meijer stores have included interior space for separate businesses. This remains under consideration for this location. The draft PDD ordinance allows B-3 Community Business District uses in addition to the Meijer store. These uses would be allowed within or outside the Meijer store in the future. Meijer also holds periodic sidewalk sales events. The draft PDD allows temporary uses and special events as permitted under the City of Franklin Unified Development Ordinance and Municipal Code; therefore, these types of uses may be subject to Temporary Use and/or Extraordinary and Special Event approvals. Staff suggests the applicant provide additional details regarding the anticipated sidewalk sales events and revise the draft PDD ordinance appropriately, doing so would eliminate separate review and approval each time a sidewalk sales event is held.

The draft PDD No. 36 does not include a provision for a Surety or Demolition Bond to cover the costs of razing and site maintenance if the store becomes vacant in the future. This is not an uncommon practice by municipalities for large retail buildings (often those buildings over 100,000 square feet in size). The bond is carried for the life of the building and is utilized if the building is vacant for more than a set amount of time (e.g. 12 months). A number of communities require Surety or Demolition Bonds to alleviate the risk of being left with a large vacant store that is difficult to reuse. Staff suggests the Plan Commission consider the necessity of a demolition bond or other type of surety.

Site plan and other project details relating to PDD No. 36 and the proposed Meijer store development plans are discussed later in this report.

Planned Development District No. 31 Major Amendment:

The 15.18 acre property located at 9530 West Puetz Road is currently zoned PDD No. 31. Section 15-3.0103A.3 of the UDO prohibits split zoning; therefore, the parcel must be rezoned to PDD No. 36 for the Meijer store development to proceed, prior to recording of the CSM, which is discussed below.

Staff would note that should creation of PDD No. 36 not be approved, amendment of PDD No. 31 would still be appropriate at this time as the subject 15 acre parcel is under ownership separate from the rest of PDD No. 31 and such amendment would help facilitate combination of the eight parcels into one larger more developable parcel.

Staff is recommending, with agreement from the applicant, that the Plan Commission and Common Council classify the proposed amendment to PDD No. 31 as a Major PDD Amendment. Section 15-9.0401A. Fee Schedule of the UDO lists "change in boundary" as an example of a Major Amendment. To expedite the process, the applicant has paid the Major PDD Amendment Application fee and a public hearing notice was published. Major PDD Amendments are typically reserved for changes to the exterior boundaries of a PDD, changes to uses and changes to street layouts. The amendment will remove approximately 15.18 acres of land from PDD No. 31.

The property owner and developer of Foresthill Highlands, a multiple building senior apartment development to the east, sold the subject PDD No. 31 zoned property to Legend Creek LLC. PDD No. 31 included two alternative site plans. One site plan and related standards were based on the inclusion of the 15.18-acre parcel and another alternative plan was included for development without the inclusion of the subject parcel. Consequently, the removal of the property from PDD No. 31 will not adversely impact the future development of the senior apartments as planned.

Unified Development Ordinance Text Amendment:

Section 15-3.0505A.1. of the Unified Development Ordinance (UDO) limits the maximum permitted floor area for a retail building to 125,000 square feet in the B-1, B-2, B-3 and B-5 zoning districts. Furthermore, Section 15-3.0505A.2. states, "Notwithstanding, any other

provision of this Ordinance, no special use permit, PDD District, special exception or variance may be approved or granted that would allow a retail building to exceed the size limits of this subparagraph (1) and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subparagraph (1).”

The applicant is proposing to strike “PDD District” from subparagraph 2. in order to construct the 191,352 square foot Meijer grocery and department store under Planned Development District zoning. Doing so would then allow the City to approve retail buildings larger than 125,000 square feet if it so desired during its review and consideration of a Planned Development District.

It is important to note that this building size limitation was adopted by the City of Franklin in Ordinance 2004-1803 during preparation of the *Crossroads Trade Area Regulating Plan* and is slightly larger than a similar building size limitation recommended within the Crossroads Plan.

Based upon the information provided by the applicant, and the information noted in this report, it is staff’s professional opinion that in general the proposed Text Amendment would be consistent with the City’s adopted plans, would facilitate sound planning, and would generally be in the public interest. In particular, staff would agree with the applicant that proper opportunity for review and consideration of such a change would be afforded by the PDD process.

However, staff would not recommend approval of such a PDD for the Crossroads area due to its inconsistency with a preponderance of the principles, goals, objectives, and policies set forth in the Comprehensive Master Plan as discussed later in this staff report.

Staff would suggest that should the proposed development be revised to come into greater compliance with the Comprehensive Master Plan’s principles, goals, objectives, and policies, and should the proposed development achieve a higher level of design and quality, that consideration of a building slightly larger than the 125,000 square foot limit may be appropriate.

Comprehensive Master Plan Consistency:

- *Consistent with, as defined by Wisconsin State Statute, means “furthers or does not contradict the objectives, goals, and policies contained in the comprehensive plan.”*

Comprehensive Master Plan. The City of Franklin 2025 Comprehensive Master Plan (CMP) identifies the majority of the subject property as Mixed Use, with Areas of Natural Resource Features within the eastern portion of the subject area. The surrounding future land uses are Mixed Use, Residential, and Areas of Natural Resource Features. The CMP anticipates that public sanitary sewer and water service will be provided to development within this area.

It can be noted that the Meijer proposal is not consistent with certain elements of the City’s Comprehensive Master Plan including but not limited to:

- The future land use map, which envisions that the subject area will be developed for mixed uses.
- The Development and Redevelopment Opportunities section found within the land use chapter, which states that for the subject area “Mixed use development is the main focus at the intersection of Loomis Road and STH 100. The Crossroads Plan should be followed for design development concepts for this area.”
- The Crossroads Trade Area Plan, which is incorporated into the CMP, and recommends:
  - “Maximum tenant space allowed is 100,000 square feet.”
  - “No 24-hour uses are permitted in the Crossroads Trade Area.”
  - “A mix of uses is recommended to create a ‘Village Center’ character.”
- The Franklin First Plan, which is incorporated into the CMP, and recommends for Area H (the Crossroads Area):
  - “The Crossroads area is expected to evolve into a convenience and neighborhood-oriented retail district serving the south central neighborhoods of the City.”
  - “The McComb Group’s Retail Development Potential report indicates that the Crossroads Center Area could support an additional 40,000 square feet (4 acres) of leasable retail space by year 2002 and an additional 100,000 square feet (10 acres) by year 2020.”
  - “The recommended use is Neighborhood Commercial.”

However, it can be noted that the Meijer proposal is consistent with certain elements of the City’s Comprehensive Master Plan primarily relating to the economic development chapter, including but not limited to:

- The following Economic Development Principles,
  - “Create jobs for a growing population.”
  - “Stabilize and expand a diverse tax base.”
- The 70/30 Goal, which states “that it remain the goal of the Common Council to obtain the 70/30 ratio of residential to commercial assessed valuation.”

Crossroads Plan. As previously noted, the Comprehensive Master Plan incorporated the *City of Franklin Crossroads Trade Area Regulating Plan* by reference, which encompasses the subject area. More specifically, the Crossroads Plan recommends that:

- the subject area be developed as part of a “Village Center that integrates high quality development with pedestrian amenities.”

[Staff would note that the Village Center character is to be founded upon a number of elements including: a mix of uses; limited building sizes and heights; four sided architecture; buildings located adjacent to the street with a majority of the parking in back; shared parking; a well developed road network including a well defined internal circulation system; streets with urban cross-sections and lined with landscaping and pedestrian amenities; and significant amounts of landscaping and public spaces integrated throughout the development, all to be located within each quadrant of the Crossroads area. However, while the Meijer project encompasses all of quadrant D, it proposes only one use comprised of one large building setback a significant distance from the street, with parking in front,

with a poorly connected pedestrian and public space system, and with limited amounts of landscaping to screen and break-up the large parking area.]

- “The buildings should be implemented approximately per their location on the approved plan.”

[Staff would note that 14 separate buildings (one large retail building, four probable two-story mixed use buildings, and nine small office buildings) were envisioned by the Crossroads Plan within quadrant D, however, the Meijer project proposes only one use contained within one large building.]

- “No 24-hour uses are permitted...”

[Staff would note that no other 24-hour uses exist within or adjacent to the Crossroads area. Staff would further note that other similar uses within or adjacent to the Crossroads area have hours of operation generally limited to 7:00 a.m. to 10:00 p.m. However, the applicant proposes a 24-hour principle use, with limited hours only for the garden center.]

- “Maximum tenant space allowed is 100,000 square feet. Liner shops can be added to the perimeter of the primary building.”

[Staff would note that no other larger than 100,000 square foot retail/commercial building exists within the Crossroads area. Staff would further note that the nearest such building is the Target store located at Hwy 100 and Drexel Avenue at approximately 125,000 square feet, that there are only 7 such buildings within the City, that all but the Target store are located in areas planned for community or regional scale development, and that only 2 buildings (located on 27<sup>th</sup> Street) are larger than the proposed Meijer store. Whereas the applicant proposes an approximately 192,000 square foot building within an area planned for neighborhood scale development.]

However, it can also be noted that the Meijer project is consistent with a few elements of the Crossroads Plan including: parking ratios; screening of loading areas; drive-thru uses; four-sided architecture; and primary access points to the existing road network.

Franklin First/Tichnor Report. The Comprehensive Master Plan also incorporated the Franklin First plans (the Ticknor & Associates plan dated March 2000 and the R.A. Smith & Associates plan dated October 2001) by reference. The Ticknor report identified 12 areas which it believed must be reserved for their commercial, office, or industrial development potential in order to strive toward the City’s 70/30 goal, i.e. expanding the City’s nonresidential tax base to 30 percent in order to reduce the residential tax burden. The subject area is located within Area H which was recommended to “evolve into a convenience and neighborhood-oriented retail district serving the south central neighborhoods of the City.” The Tichnor report notes that the retail potential of this area is limited by low density housing to the south but that this area could evolve into a neighborhood shopping area if sewer service is extended southward from this area (which has recently occurred). It can be noted that this area was not selected in the follow-up R.A. Smith report as one of the five key development areas within the City.

Based upon the information provided by the applicant, and the information noted in this report, it is staff’s professional opinion that PDD No. 36 as currently

proposed would not be consistent with a preponderance of the principles, goals, objectives, and policies set forth in the Comprehensive Master Plan.

However, staff has provided the applicant with a number of suggestions over the course of its review which would increase the compatibility of this project with the CMP, and if such changes were made (a smaller building footprint and smaller parking lot which might in turn allow additional outlots and buildings, move the building closer to Hwy 36 and Hwy 100 and relocate some parking to the east side of the property, no 24-hour uses, and higher quality development including less natural resource impacts and/or better mitigation, and enhanced landscaping, pedestrian, and open space amenities), reconsideration of the proposed PDD would be warranted.

Staff would also note that the amendment of PDD No. 31, the UDO Text Amendment, and the CSM, are generally consistent with the Comprehensive Master Plan.

Certified Survey Map:

As previously stated, the project area consists of eight properties. To develop the Meijer store, the applicant is proposing to combine the eight properties into a single lot. The properties are listed below:

Tax Key No.	Address	Zoning	±Size
840 9969 000		B-3 Community Business District	0.14
840 999 7003	9661 W. Loomis Rd.	B-3 Community Business District	3.89
840 999 7002	9745 W. Loomis Rd.	B-3 Community Business District	3.92
840 9994 000	9821 W. Loomis Rd.	B-3 Community Business District	0.73
840 9998 000	9710 W. St. Martins Rd.	B-3 Community Business District	1.13
840 9997 001	9760 W. St. Martins Rd.	B-3 Community Business District	3.91
840 9993 000	9824 W. St. Martins Rd.	B-3 Community Business District	0.77
840 9999 001	9530 W. Puetz Rd.	PDD No. 31	15.17

The newly created lot, Lot 1, will have an area of 28.2609 acres or 1,231,043 square feet. As shown on the CSM, approximately 2.21 acres of the site will be dedicated to the Wisconsin Department of Transportation for right-of-way purposes. The CSM submitted for Plan Commission review contains a number of omissions and errors that will have to be corrected prior to recording. For example, the CSM shows only one storm water pond and storm water detention pond easement. The Conservation Easement is also not shown for the remaining protected natural resource features. These and any other technical omissions or errors must be corrected prior to recording with Milwaukee County per Condition No. 1 of the draft CSM resolution.

Staff would note that should creation of PDD No. 36 not be approved, approval of the subject CSM would still be appropriate at this time as combination of the eight parcels into one larger more developable parcel would likely help facilitate the eventual development of this property.

### Site Plan:

Should PDD No. 36 be approved, staff would request that the following recommendations and suggestions be incorporated into the subject site plan. However, due to the number of unanswered questions, possible concerns, and ongoing review by other regulatory agencies, many of which will likely lead to further site plan changes, staff would suggest that approval of the site plan be tabled until more information related to the Traffic Impact Analysis (ongoing DOT review, etc.), Stormwater Management Plan (verification of the appropriate water quality standards to be met, etc.), Natural Resource Special Exception (lack of mitigation details, intrusion into a Secondary Environmental Corridor, etc.), and the Landscaping Plan (questions about existing vegetation credits, etc.), is obtained.

Currently, there are four existing one-story commercial buildings abutting West Loomis Road and two 2-story single-family homes, a detached garage and a barn structure north of West Puetz Road within the project area. The applicant is proposing to raze all existing structures and construct a 191,352 square foot Meijer grocery and department store. In addition to the Meijer store building, a garden center is attached to the south side of the building and enclosed with a black steel ornamental fence. The site contains approximately 594,199 square feet of impervious surface with approximately 636,844 square feet of greenspace, resulting in a Landscape Surface Ratio (LSR) of approximately 52 percent. As a comparison, the B-3 Community Business District requires a minimum LSR of 40 percent.

Ingress and Egress. The site plan includes ingress and egress from West Loomis Road (Highway 36), West St. Martins Road (Highway 100) and West Puetz Road. A traffic signal is envisioned at the access to Hwy 36. Staff has encouraged the applicant to place a traffic signal at the intersection of West Puetz Road and Hwy 100. Additionally, citizen and Alderman comments requested a traffic signal at the intersection of Hwy 100 and West Puetz Road. The applicant has indicated that ultimately the Wisconsin Department of Transportation (WisDOT) will determine the need for a traffic signal at this intersection. The Traffic Impact Analysis submitted by the applicant determined that a traffic signal was not warranted. It is staff's understanding that the WisDOT has not yet made a final determination in regard to these access connection and signalized intersection proposals, and that their approval is required.

Engineering Department staff recommend that a deceleration lane be constructed on Puetz Road for entrance into the site from the east, and that the radii at all proposed drives be increased to 20 feet.

Pedestrian Amenities. The site plan includes two pedestrian seating areas. Four benches are provided within an area adjacent to the Hwy 36 and Hwy 100 intersection. Three benches are also located on the north side of the parking lot adjacent to the Hwy 36 access drive, storm water detention basin and an approximately 17-foot high retaining wall. The applicant is also providing two benches, three trash receptacles and a bike rack along the front of the store. Specification sheets for all pedestrian amenities are attached.

The applicant indicates that sidewalks will be eventually be developed along Hwy 36, Hwy 100, and along the south side of West Puetz Road, by the DOT. Walkways are also proposed

internally by the applicant. Staff recommends the applicant construct a sidewalk along the north side of West Puetz Road along the entire length of their property. In the future, this sidewalk will provide pedestrian access to the Foresthill Highlands multi-family residential development to the east.

Citizen and Alderman comment also requested a trail through the natural resource features on the site to connect to the Foresthill Highlands development to the east. Staff also suggested that the applicant consider a paved multi-purpose trail directly connecting the future Foresthill Highlands apartment development to the Meijer store. Staff suggested the trail extend approximately at the intersection of West Highland Park Avenue and Brenwood Park Drive to the northwest corner of the building. There is an existing culvert crossing, which should be utilized if the location is appropriate. The applicant has indicated they believe the best connection with the least amount of environmental impacts is construction of a sidewalk along West Puetz Road. It should be noted that a trail would increase encroachments into natural resource features and require changes to the Natural Resource Special Exception request.

Staff suggests that further changes or additions to the sidewalk system be made, such as extension of the internal sidewalk along the entire northern bio-swale, alignment of the internal sidewalks with the store entrances and/or additional pavement markings for the pedestrian crossings of the drive lanes, a sidewalk connection directly to Puetz Road, sidewalks along Hwy 36 and Hwy 100, etc. Any such sidewalks must be constructed to City or State standards as appropriate.

Parking Lot. The applicant has illustrated thirty-two, approximately 19-foot long cart corrals within the parking lot. Staff suggests that at least two cart corrals be relocated or added to the rear of the parking lot, closer to Hwy 36. If shoppers utilize these spaces and cart corrals are not located nearby, it may result in carts frequently being scattered throughout the rear of the parking lot. Staff also suggested decorative, covered style cart corrals be utilized for the site. The applicant has stated, "Given the quantity of cart corrals required to support a grocery store, we believe decorative structure styled corals will be distracting and a long term maintenance issue. Meijer's experience is that it is more appropriate to use standard corrals that recess into the area around them." Staff continues to suggest that more decorative cart corrals be utilized. These would not necessarily have to be covered.

Miscellaneous. The applicant has located the transformer and generator on the north side of the building near the truck docks. A chain-link fence is proposed to enclose the transformer, generator and the wheeled milk container racks that are stored until they are picked up by the vendor. As requested per citizen and staff comments, the applicant has added a 12-foot high wall for the length of the truck docks. A tiered retaining wall is also located on the opposite side of the rear drive from the loading docks. A dumpster enclosure is not proposed as the trash and cardboard compactors will be kept within the interior of the loading dock area. Engineering Department staff recommend that a fence be installed at all locations where retaining walls are greater than three feet in height, and suggest such fences for all retaining walls.

Staff would suggest that the garden center be removed. This would allow more room for: the pharmacy drive-thru, ingress and egress to Puetz Road, buffering along Puetz Road, relocation of

one of the site amenities, and/or possibly more parking. Staff would suggest that the building be moved further to the west. Depending upon the amount of change, fewer natural resources might be impacted and/or additional room may be created for parking or other uses on that side of the building.

Staff recommends that a Market Analysis, as required by the Unified Development Ordinance, be prepared prior to consideration of this matter by the Common Council. The applicant has indicated that they will not provide such an analysis as they consider such information proprietary and confidential.

Engineering Department staff suggest that the easternmost berm located along Puetz Road be further extended to the east to provide further screening of this area.

#### Mechanical Plan:

The majority of mechanical equipment will be located on the roof of the building. The applicant has submitted a rooftop mechanical plan as well as a site-line drawing. Staff believes the rooftop mechanicals are adequately screened by the parapet walls.

#### Cross-access:

Currently cross-access is not provided to the property to the north, 9609 West Loomis Road. The applicant has indicated that they do not wish to provide cross-access at this time as it would require additional environmental impacts; however, Meijer would consider cross-access in the future upon WisDOT, Army Corps of Engineers and Wisconsin DNR review. Staff included language within the draft PDD No. 36 ordinance requiring a cross-access easement be provided at the time the property to the north is redeveloped, subject to approval of a Natural Resource Special Exception (NRSE) and submittal of a recorded cross-access agreement providing for cross-access with the adjoining property to the north, 9609 West Loomis Road. If the City of Franklin determines at that time the cross-access is not appropriate or denies the NRSE, the applicant will not have to provide the cross-access.

#### Parking:

The applicant is proposing to provide 684 parking spaces, including 28 ADA accessible spaces. Table 15-2.0203 of the UDO requires a parking ratio of six parking spaces per 1,000 square feet of gross floor area for grocery or foodstores and four parking spaces per 1,000 square feet of floor area for department stores. The applicant has indicated approximately 65 percent of the store is grocery and 35 percent general retail sales. Therefore, 747 parking spaces are required for the grocery portion of the store and 268 parking spaces required for the department store, which is a total of 1,015 parking spaces. Please note, the applicant has provided parking calculations on the Site Plan utilizing just the 6/1,000 parking ratio.

With 684 provided parking spaces, the applicant is proposing 331 less parking spaces than required by the UDO standard parking ratio, which is a reduction of approximately 33 percent. Please note the UDO does allow for parking reductions as approved by the Plan Commission.

In comparison, the Crossroads Trade Area Plan recommends parking at a ratio of four parking spaces per 1,000 square feet of floor area, which would require 765 parking spaces. Staff is in favor of the reduction in parking from UDO and Crossroad Trade Area Plan standards.

The 28 ADA accessible parking spaces provided complies with ADA standards and Table 15-5.0202(I)(1) of the UDO, which requires at least 2 percent of the total parking spaces provided install be ADA accessible spaces. In this case, 14 ADA spaces are required.

Landscaping:

The Landscape Plan includes 100 canopy/shade trees, 157 evergreen trees, 82 decorative trees and 287 shrubs. As a comparison, Table 15-5.0302 of the Unified Development Ordinance (UDO) requires one canopy/shade tree, one evergreen tree, one decorative tree and one shrub for every five provided parking spaces. A 20% increase is also required as the property abuts less intense residential uses. Since the applicant is providing 684 parking spaces on the property, 164 plantings of each type are required, which includes the 20% increase.

The Landscape Plan contains a note stating, "322 existing trees within natural area, to remain, to count toward over all tree totals on the site." Including the 322 existing trees and the proposed plantings, the site contains a total of 661 trees and 287 shrubs for a total of 948 plantings, opposed to 656 as required pursuant to UDO standards. Per Section 15-5.0302D. of the UDO, developments may get credit for preserving existing plant materials, depending on the size and type of the tree and whether it is located within a non-bufferyard or bufferyard. It also requires that plantings to be preserved shall be shown on the submitted landscape plan, including exact location, size and type. Due to the number of existing trees for which the applicant is requesting credit for, staff suggested the applicant provide quantities, types and general sizes of plant materials within the natural resource areas. The submitted Landscape Plan includes approximate location of existing trees and types of trees within the designated area, although size and location of individual trees is not included. Staff is not able to identify the size of every existing tree nor if it is located within a bufferyard or not, nor if noxious or subnoxious species are being counted; therefore, there is insufficient information to determine if an adequate number of trees are being preserved to comply with UDO landscape standards; however, staff believes a significant number of trees are being preserved and should be considered in review of the Landscape Plan. Staff recommends that the Landscape Plan be revised to provide additional information necessary to confirm the amount of existing vegetation eligible for credit, to meet the current UDO quantity standards, and to ensure that the additional plantings are focused within the required bufferyards.

The applicant has illustrated landscape plantings within the 60' x 60' vision triangle. Staff recommends that these plantings comply with Section 15-5.0201 of the UDO.

An underground irrigation system will be utilized for all landscape and grass areas. A detailed irrigation plan will be submitted once a landscape contractor is hired.

The applicant is proposing snow storage within the rear of the parking lot, which will not interfere with landscaping; however, will occupy parking spaces. It will be up to the applicant in the future to haul snow off-site if the parking spaces used for snow storage are needed.

#### Lighting:

The Lighting Plan provides 29 single fixture lights and 3 double-headed fixtures. The parking lot will consist of 20 MSV style fixtures (see cut sheet attached). MSV fixtures will be attached to a 30-foot light pole. 12 Sternberg 1750 Chateau Series decorative lights are located along the front of the store. These fixtures will be attached to 12-foot poles, for a total height of 14'-2 ½". There are also a total of 31 surface mounted canopy lights and wall mounted lights above the exit doors and within the garden center.

As shown on the Photometric Plan, light levels do not exceed zero footcandles at the property lines. The applicant indicated that lighting would be significantly reduced during off hours in the garden center area. Furthermore, the parking lot lighting will be designed to allow lighting to be reduced during a 24-hour period. The applicant has requested to continue to work with staff to address lighting concerns, while properly providing for the safety of those using the facility. Staff recommends the applicant submit to the Planning Department for review and approval, a 24-hour lighting management plan to set guidelines for lighting levels on the site throughout a 24-hour period.

#### Natural Resource Protection Plan and Conservation Easement:

RA Smith National (RASN), Inc. has provided a natural resource protection plan, a wetland delineation report and a floodplain compensatory storage report for the subject 29.48-acre property. RASN conducted field assessments in March, April and May 2012 in order to identify and delineate natural resource features on the property (see the table on NRPP Figure 2A). All of these natural resources contain a 100% protection standard. According to the field assessments, the subject property contains:

- 7.10 acres of wetlands;
- 4.417 acres of wetland buffers;
- 2.87 acres of wetland setbacks;
- 0.17 acres of floodplain;<sup>1</sup>
- 0.36 acres of a navigable stream (Legend Creek); and
- 0.256 acres of shore buffer.

The Southeastern Wisconsin Regional Planning Commission (SEWRPC) visited the property on June 14, 2012 and has confirmed the wetland delineations recorded by RASN. SEWRPC has also field delineated the Secondary Environmental Corridor (SEC), which the applicant has identified

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<sup>1</sup> It is important to note that the floodway/floodplain delineation shown in the attached materials is incorrect. Additional Zone A floodplain (pursuant to adopted FEMA mapping) is located along the creek immediately east of Loomis Road. As such, staff recommends that the applicant identify the correct floodway/floodplain boundaries on the Natural Resource Protection Plan, prior to Common Council review of the Natural Resource Special Exception request.

on the Natural Resource Protection Plan (NRPP). It should be noted that the proposed development does encroach into the SEC, and that such encroachment includes some wetland and floodland resources. Pursuant to Wisconsin Administrative Code, SEWRPC policy, and the recommendations contained within SEWRPC Community Assistance Planning Report No. 176 (2<sup>nd</sup> Edition), such encroachments are discouraged and often prohibited. Any such encroachments will likely need approval from the City, SEWRPC, and the Wisconsin Department of Natural Resources.

Natural Resource Special Exception:

The applicant is requesting approval of a Natural Resource Special Exception (NRSE) in order to develop a 191,352 square foot Meijer Store on the subject 29.48-acre property pursuant to the attached plans. Specifically, the applicant is requesting approval to:

- Completely fill and develop four small isolated wetlands and their respective 30-foot wide wetland buffers and 50-foot wide wetland setbacks;
- Partially fill and develop one large wetland complex and portions of its respective 30-foot wide wetland buffer and 50-foot wide wetland setback;
- Partially fill and develop a 100-year floodplain; and
- Partially fill a 75-foot wide shore buffer;

In total, about 0.940 acres of wetland, 2.546 acres of wetland buffer, 2.222 acres of wetland setback, 0.100 acres of floodplain and 0.139 acres of shore buffer would be filled/developed with the subject request. Each specific natural resource disturbance is described in detail in the attached Environmental Commission report. The UDO's mitigation standards and the applicant's mitigation proposals are detailed in the following sections. If the subject project should be approved, Staff recommends that the applicant obtain all required approvals and permits from the Army Corp of Engineers, the Wisconsin Department of Natural Resources and the Federal Emergency Management Agency (FEMA) prior to issuance of a building permit.

The applicant is proposing the following mitigation measures to offset disturbances to the protected natural resource standards:

**Wetlands:** The applicant is proposing to fill 0.940 acres of wetlands. Using the required 1.5:1 mitigation ratio prescribed in the UDO, a total of 1.410 acres of wetland would typically be mitigated. According to the applicant's response letter dated June 25, 2012, the applicant intends to purchase mitigation credits from the Wisconsin Department of Natural Resources so that all impacts to wetlands are mitigated at a ratio of 1.5:1. The mitigation would occur offsite, on a U.S. Army Corp of Engineers/Wisconsin Department of Natural Resources approved mitigation bank. For this project, the applicant is also proposing to provide rain gardens within two parking lot planter islands and two 20-foot wide bio swales with natural plantings within the parking lot area. (The square footage of these areas was not provided). In addition, the applicant is (1) specifying a storm sewer system that combines catch basins and oil-water debris separators and (2) specifying a wet bottom detention pond to filter the stormwater runoff, reduce soil erosion and provide total suspended solids (TSS) removal.

**Wetland Buffers/Wetland Setbacks:** The applicant is proposing to develop 2.546 acres of wetland buffer and 2.222 acres of wetland setback. Using the required 1.5:1 mitigation ratio prescribed in the UDO for wetland buffer, a total of 3.819 acres would typically be mitigated. The UDO does not discuss specific mitigation requirements for wetland setbacks that are disturbed and not restored to their current, natural state.

According to a letter from the applicant dated June 25, 2012, mitigation for the wetland buffers and setbacks is proposed through the removal of buckthorn in an approximately 0.45-acre swath of land along the east and west sides of Legend Creek. Removal would occur during the winter months when the buckthorn is dormant and the ground is frozen. Each stump would be cut at the base and treated with Glyphosate herbicide approved for woody shrubs. The cut shrubs would be burned or removed off-site to a landfill. A follow-up visit would occur the following spring/early summer to check for re-sprouts and treated as needed.

According to the applicant's response to staff's first review comment letter, mitigation for the buffers and setbacks is also proposed through floodplain compensatory storage. The applicant has indicated that a total of about 379 cubic feet of floodplain compensatory storage area will be provided (a ratio of about 1.8:1 to the amount of floodplain to be filled). The applicant has not indicated how much of the compensatory storage is for wetland buffer/setback impacts and how much is for floodplain impacts. The applicant will provide native seeding within the 0.44-acre floodplain compensatory storage area east of the building with a native seed mix designed to not interfere with floodplain storage function.

The applicant is also proposing to provide native seeding within the 0.02-acre back slope area of the wet detention pond using a native seed mix. Finally, the applicant wishes to obtain credit for preserving approximately 320 trees including a dozen specimen trees. If the project should be approved, Staff recommends that the applicant provide mitigation at a minimum ratio of 1.5:1 for the wetland buffers and wetland setbacks prior to issuance of a building permit. In addition, Staff recommends that the applicant submit a tree preservation plan, in accordance with Section 15-8.0204 of the UDO, prior to issuance of a building permit.

**Floodplain:** The UDO requires mitigation for all floodplain disturbances; however, the UDO does not require a specific floodplain mitigation ratio. According to the submitted NRPP, a total of 0.100 acres of floodplain will be impacted. According to the applicant's response to staff's first review comment letter, mitigation for the floodplain is proposed through floodplain compensatory storage. The applicant has indicated that a total of about 379 cubic feet of floodplain compensatory storage area will be provided (a ratio of about 1.8:1 to the amount of floodplain to be filled). However, the applicant has not indicated how much of this compensatory storage is for wetland buffer/setback impacts and how much is for floodplain impacts.

According to a letter from the applicant dated June 25, 2012, the applicant will provide native seeding within the 0.44-acre floodplain compensatory storage area east of the building with a native seed mix designed to not interfere with floodplain storage function. The applicant is requesting that the native seeding be applied as a credit towards the wetland buffer/setback

encroachments. If the project should be approved, staff recommends that the floodplain delineation be corrected, the floodplain changes reviewed and approved by SEWRPC, and the NRSE and mitigation plan revised accordingly, prior to issuance of a building permit.

**Shore Buffer:** The applicant is proposing to develop a total of 0.139 acres of shore buffer. According to Table 15-4.0100 of the UDO, mitigation is only allowed for shore buffers in cases of crossings (street, bicycle or pedestrian) which are determined to be in the best interest of the City and which crossings are at or near a 90-degree angle. Using the typical 1.5:1 mitigation ratio prescribed in the UDO, a total of 0.209 acres of shore buffer would be mitigated. However, the NRSE Application submittal does not provide any details about proposed mitigation measures for shore buffer disturbances. Staff recommends that the applicant provide shore buffer mitigation at a ratio of 1.5:1, prior to issuance of a building permit.

Per Section 15-10.0208 of the Unified Development Ordinance (UDO), the applicant shall have the burden of proof to present evidence sufficient to support a Natural Resource Special Exception (NRSE) request. The applicant has presented evidence for the request by answering the questions and addressing the statements that are part of the Natural Resource Special Exception (NRSE) application. The applicant's responses to the application's questions and statements are attached for your review. Also attached is a document titled "City of Franklin Environmental Commission" that the Environmental Commission has completed for Common Council review. The questions and statements on this document correspond with the Natural Resource Special Exception (NRSE) application questions and statements that the applicant has answered and addressed.

If the project should be approved, Staff recommends that the applicant clearly describe each mitigation method and demonstrate how each mitigation method meets the requirements set forth in the UDO. In addition, staff recommends that the applicant hire a consultant to provide an annual monitoring report that addresses all mitigation activities, per the approved Natural Resource Protection Plan, for a period of three years. Staff suggests that the warranty on all mitigation plantings be no less than 3 to 5 years.

The Environmental Commission reviewed the applicant's Natural Resource Special Exception (NRSE) request at their regular meeting on June 20, 2012, pursuant to Section 15-10.0208 of the UDO. Approximately 12 residents attended the meeting, all of whom were likely there for the Meijer NRSE item. At the meeting, the Environmental Commission recommended approval of the applicant's request, contingent on the applicant obtaining the proper permits from the State of Wisconsin Department of Natural Resources and the Army Corp of Engineers, approval of a Conservation Easement Agreement with the City of Franklin, and referred the evaluation for mitigation to the Plan Commission for their review and approval.

Based upon the information provided by the applicant, and the information noted in this report, it is staff's professional opinion that the Natural Resource Special Exception as currently proposed is not consistent with a preponderance of the standards set forth in Section 15-10.0208 of the Unified Development Ordinance.

In particular, while staff believes sufficient information and appropriate mitigation has been proposed for the filling of the four small isolated wetlands and associated natural resource features, sufficient information, justification, and mitigation has not been proposed for the impacts upon the larger wetland/floodland/shoreland complex. In addition, appropriate information about the extent of temporary disturbances, the relationship of the proposed mitigation measures to the specific resources impacted and to other required standards such as stormwater management and landscaping, and a long-term management plan, do not enable a full and complete analysis of the proposed impacts and mitigation measures.

#### Architecture:

The primary building materials and features specified for the proposed building include brick and stone. The building includes two entrance/exit features, which consist of a multi-story glass element, multiple brick and stone parapets at different heights and blue metal awnings. The building contains additional parapets and corner features, stone pilasters and metal almond colored awnings. The applicant has noted that additional windows beyond the entrance features are “not possible due to the merchandise fixturing that occurs on the perimeter walls.”

#### Signage:

The applicant has shown signage on the building elevations and two monument signs on the Site Plan. These signs are shown for reference only. Staff is recommending in the draft PDD ordinance that all signs must be in accordance with the Municipal Code, as amended, approved by the Architectural Review Board and subject to issuance of a Sign Permit through the Inspection Department. On-site directional signage may be allowed in any area needed to control traffic or parking provided such signage has received approval from the Architectural Review Board.

#### Stormwater Management:

The applicant has provided preliminary storm water management plans, which includes underground storage and two detention ponds to the east and west of the access drive extending from West Loomis Road. The applicant is proposing a fountain within the pond east of the entrance drive. The applicant has indicated they are evaluating the size, depth and water volume of the pond west of the drive to determine if a fountain is feasible in this pond as well.

Bio-swales and three rain gardens are also proposed within the main parking area. The applicant has indicated that best management practices will be utilized for the operation of the storm water management system and a management plan will be included within the Stormwater Report provided by GreenbergFarrow.

The Engineering Department has reviewed the site drainage and preliminary storm water management pond and is working with the applicant to provide a final plan for review and approval. Staff recommends the applicant submit, to the Engineering Department for review and approval, a final storm water management plan, prior to Building Permit. Preliminary

comments from the Engineering Department include: provide connections and spillways for both stormwater ponds, provide larger storm sewer inlets at select locations, detailed calculations are required for the underground storage, the water main should be 12" rather than 10" and must be located within 20' easements, the water main will need to be relocated due to its proximity to the stormwater management pond and retaining wall.

### **Staff Recommendation**

Planning Department staff does not recommend approval of the Comprehensive Master Plan Amendment, the Planned Development District No. 36, or the Natural Resource Special Exception.

Staff does recommend approval of the Planned Development District Amendment to PDD No. 31, the Certified Survey Map, and the Unified Development Ordinance Text Amendment, subject to the conditions set forth in the draft ordinances and resolutions.

To summarize, staff recommendations and suggestions are listed below.

Recommendations:

1. Staff recommends that the hours of operations for the garden center and drive-thru pharmacy be limited to 7:00 a.m. to 10:00 p.m.
2. Staff recommends prohibiting truck deliveries and refuse collection between the hours of 10:00 p.m. and 7:00 a.m. and to prohibit trucks from idling while unloading.
3. Engineering Department staff recommend that a deceleration lane be constructed on Puetz Road for entrance into the site from the east, and that the radii at all proposed drives be increased to 20 feet, prior to a certificate of occupancy for the Meijer grocery and department store.
4. Staff recommends the applicant construct a sidewalk along the north side of West Puetz Road along the entire length of their property, prior to a certificate of occupancy for the Meijer grocery and department store.
5. Engineering Department staff recommends that a fence be installed at all locations where retaining walls are greater than three feet in height, prior to a certificate of occupancy for the Meijer grocery and department store.
6. Staff recommends that a Market Analysis, as required by the Unified Development Ordinance, be prepared and submitted to planning staff prior to consideration of this matter by the Common Council.

7. Staff included language within the draft PDD No. 36 ordinance requiring a cross-access easement be provided at the time the property to the north is redeveloped, subject to approval of a Natural Resource Special Exception (NRSE) and submittal of a recorded cross-access agreement providing for cross-access with the adjoining property to the north, 9609 West Loomis Road.
8. Staff recommends that the Landscape Plan be revised to provide additional information necessary to confirm the amount of existing vegetation eligible for credit, to meet the current UDO quantity standards, and to ensure that the additional plantings are focused within the required bufferyards, prior to issuance of a building permit.
9. Staff recommends that the plantings within the vision triangles comply with Section 15-5.0201 of the UDO.
10. Staff recommends the applicant submit, to the Planning Department for review and approval, a 24-hour lighting management plan that sets guidelines for lighting levels on the site throughout a 24-hour period.
11. Staff recommends that the applicant obtain all required approvals and permits from the Army Corp of Engineers, the Wisconsin Department of Natural Resources and the Federal Emergency Management Agency (FEMA) prior to issuance of a building permit.
12. Staff recommends that the applicant provide mitigation at a minimum ratio of 1.5:1 for the wetland buffers and wetland setbacks prior to issuance of a building permit. In addition, staff recommends that the applicant submit a tree preservation plan, in accordance with Section 15-8.0204 of the UDO, prior to issuance of a building permit.
13. Staff recommends that the floodplain delineation be corrected, the floodplain changes reviewed and approved by SEWRPC, and the NRSE and mitigation plan revised accordingly, prior to issuance of a building permit.
14. Staff recommends that the applicant provide shore buffer mitigation at a ratio of 1.5:1, prior to issuance of a building permit.
15. Staff recommends that the applicant clearly describe each mitigation method and demonstrate how each mitigation method meets the requirements set forth in the UDO, prior to consideration of this matter by the Common Council.
16. Staff recommends that the applicant hire a consultant to provide an annual monitoring report that addresses all mitigation activities, per the approved Natural Resource Protection Plan, for a period of three years.

17. Staff is recommending in the draft PDD ordinance that all signs must be in accordance with the Municipal Code, as amended, approved by the Architectural Review Board and subject to issuance of a Sign Permit through the Inspection Department. On-site directional signage may be allowed in any area needed to control traffic or parking provided such signage has received approval from the Architectural Review Board.
18. Staff recommends that the applicant submit a final storm water management plan to the Engineering Department, for their review and approval, prior to issuance of a building permit.

Suggestions:

1. Staff suggested that the garden center's outdoor sound system be eliminated to reduce noise on the site.
2. Staff suggests the applicant provide additional details regarding the anticipated sidewalk sales events and revise the draft PDD ordinance appropriately,
3. Staff suggests the Plan Commission consider the necessity of a demolition bond or other type of surety.
4. Due to the number of unanswered questions, possible concerns, and ongoing review by other regulatory agencies, many of which will likely lead to further site plan changes, staff would suggest that approval of the site plan be tabled until more information related to the Traffic Impact Analysis (ongoing DOT review, etc.), Stormwater Management Plan (verification of the appropriate water quality standards to be met, etc.), Natural Resource Special Exception (lack of mitigation details, intrusion into a Secondary Environmental Corridor, etc.), and the Landscaping Plan (questions about existing vegetation credits, etc.), is obtained.
5. Staff also suggested that the applicant consider a paved multi-purpose trail directly connecting the future Foresthill Highlands apartment development to the Meijer store.
6. Staff suggests that further changes or additions to the sidewalk system be made, such as extension of the internal sidewalk along the entire northern bio-swale, alignment of the internal sidewalks with the store entrances and/or additional pavement markings for the pedestrian crossings of the drive lanes, a sidewalk connection directly to Puetz Road, sidewalks along Hwy 36 and Hwy 100, etc.
7. Staff suggests that at least two cart corrals be relocated or added to the rear of the parking lot, closer to Hwy 36.
8. Staff also suggested decorative, covered style cart corrals be utilized for the site.

9. Staff continues to suggest that more decorative cart corrals be utilized.
10. Staff would suggest that the building be moved further to the west.
11. Engineering Department staff suggest that the easternmost berm located along Puetz Road be further extended to the east to provide further screening of this area.
12. Staff also suggests that the warranty on all mitigation plantings be no less than 3 to 5 years.
13. Staff would suggest that the garden center be removed.
14. Engineering staff suggests fences for all retaining walls.

## Exhibit D

### Legal Description

PARCEL 1 (VACANT): THAT PART OF THE SOUTHEAST 1/4 OF SECTION 17, IN TOWNSHIP 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID 1/4 SECTION; THENCE EAST ALONG THE SOUTH LINE OF SAID 1/4 SECTION 954.26 FEET TO A POINT, SAID POINT LYING ON THE CENTERLINE OF STH 100 (ST. MARTINS ROAD); THENCE NORTH  $36^{\circ}37'$  WEST ALONG THE CENTERLINE OF SAID STH 100, 668.50 FEET; THENCE NORTH  $54^{\circ}57'$  EAST 60.00 FEET; THENCE NORTH  $36^{\circ}37'$  WEST 160.58 FEET TO A POINT LYING ON THE SOUTHERLY RIGHT OF WAY LINE OF WEST LOOMIS ROAD (SAID POINT BEING 100 FEET SOUTHERLY OF THE CENTERLINE OF WEST LOOMIS ROAD); THENCE NORTH  $54^{\circ}58'55''$  EAST ALONG SAID RIGHT OF WAY LINE 10.00 FEET TO THE POINT OF BEGINNING OF THE LAND TO BE CONVEYED; THENCE CONTINUING NORTH  $55^{\circ}58'55''$  EAST ALONG SAID RIGHT OF WAY LINE 120.01 FEET; THENCE SOUTH  $12^{\circ}15'45''$  WEST 159.24 FEET TO A POINT LYING ON THE EASTERLY RIGHT OF WAY LINE OF STH 100 AND 70.00 FEET EASTERLY OF THE CENTERLINE OF SAID STH 100; THENCE NORTH  $36^{\circ}37'$  WEST ALONG SAID RIGHT OF WAY LINE OF STH 100, 108.08 FEET TO THE POINT OF BEGINNING.

PARCEL 2 (9821 W. LOOMIS ROAD): THAT PART OF THE SOUTHEAST 1/4 OF SECTION 17, IN TOWNSHIP 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID 1/4 SECTION; THENCE EAST ALONG THE SOUTH LINE OF SAID 1/4 SECTION 954.26 FEET TO THE CENTERLINE OF THE ST. MARTINS ROAD (HIGHWAY 100); THENCE NORTH  $36^{\circ}37'$  WEST ALONG THE CENTERLINE OF SAID ROAD, 668.50 FEET TO A POINT; THENCE NORTH  $54^{\circ}57'$  EAST 60 FEET TO THE POINT OF BEGINNING OF THE LAND ABOUT TO BE DESCRIBED; THENCE NORTH  $54^{\circ}57'$  EAST 248.94 FEET TO A POINT; THENCE NORTH  $36^{\circ}37'$  WEST 199.5 FEET TO A POINT IN THE WEST LOOMIS ROAD (60 FEET FROM THE CENTERLINE); THENCE SOUTH  $54^{\circ}57'$  WEST ALONG THE SOUTH LINE OF WEST LOOMIS ROAD, 75.6 FEET TO A POINT; THENCE SOUTH  $12^{\circ}15'45''$  WEST 229.94 FEET TO A POINT IN THE EASTERLY LINE OF ST. MARTINS ROAD; THENCE SOUTH  $36^{\circ}37'$  EAST ALONG SAID ROAD 43.52 FEET TO THE POINT OF BEGINNING, EXCEPTING THEREFROM THAT PART TAKEN BY AWARD OF DAMAGES RECORDED ON NOVEMBER 14, 1967 IN REEL 390, IMAGE 2066, AS DOCUMENT NO. 4357556.

PARCEL 3 (9824 W. ST. MARTINS ROAD): THAT PART OF THE SOUTHEAST 1/4 OF SECTION 17, IN TOWNSHIP 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN, BOUNDED AND

DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE SOUTHWEST CORNER OF THE SAID 1/4 SECTION; RUNNING THENCE EAST ALONG THE SOUTH LINE OF SAID 1/4 SECTION 954.26 FEET TO THE CENTERLINE OF THE ST. MARTINS ROAD; THENCE NORTH 36°37' WEST ALONG THE CENTER LINE OF SAID ROAD 527.50 FEET TO THE PLACE OF BEGINNING OF THE LAND ABOUT TO BE DESCRIBED; CONTINUING THENCE NORTH 36°37' WEST ALONG THE CENTER LINE OF THE ST. MARTINS ROAD 141 FEET TO A POINT; THENCE NORTH 54°57' EAST 308.94 FEET TO A POINT; THENCE SOUTH 36°37' EAST 141 FEET; THENCE SOUTH 54°57' WEST 308.94 FEET TO THE PLACE OF BEGINNING.

PARCEL 4 (9745 W. LOOMIS ROAD): THAT PART OF THE SOUTHEAST 1/4 OF SECTION 17, TOWNSHIP 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION 17; THENCE NORTH 89°57'44" EAST 1321.62 FEET; THENCE NORTH 01°20'04" EAST 475.107 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 80°01'08" WEST 311.842 FEET TO A POINT; THENCE NORTH 36°39'00" WEST 524.937 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF STH 36; THENCE NORTH 54°57'00" EAST ALONG SAID RIGHT OF WAY LINE 251.367 FEET TO A POINT OF CURVE; THENCE ALONG THIS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A RADIUS OF 2391.831 FEET WITH A LONG CHORD BEARING NORTH 54°24'06.9" EAST 45.759 FEET, 45.760 FEET; THENCE SOUTH 35°03'00" EAST 657.30 FEET TO THE POINT OF BEGINNING. EXCEPT THAT PART DESCRIBED IN WARRANTY DEED NO. 2905120 AND AGAIN IN QUIT CLAIM DEED NO. 3200027.

PARCEL 5 (9760 W. ST. MARTINS ROAD): THAT PART OF THE SOUTHEAST 1/4 OF SECTION 17, TOWN 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, COUNTY OF MILWAUKEE, STATE OF WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION 17; THENCE NORTH 89°57'44" EAST 954.002 FEET; THENCE NORTH 36°39'00" WEST ALONG THE CENTERLINE OF STH 100, 205.500 FEET; THENCE NORTH 89°57'44" EAST 87.207 FEET TO THE EASTERLY LINE OF STH 100, BEING THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH 36°39'00" WEST 372.845 FEET TO A POINT IN THE SOUTHERLY LINE OF PROPERTY DESCRIBED IN WARRANTY DEED RECORDED AS DOCUMENT NO. 4954582; THENCE NORTH 54°57'00" EAST 238.913 FEET TO A POINT; THENCE SOUTH 36°39'00" EAST 224.476 FEET TO A POINT; THENCE NORTH 80°01'08" EAST 311.842 FEET; THENCE SOUTH 01°20'04" WEST 310.107 FEET TO A POINT; THENCE SOUTH 9°57'44" WEST 406.921 FEET TO THE POINT OF BEGINNING.

PARCEL 6 (9710 W. ST. MARTIN ROAD): THAT PART OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 17, IN TOWNSHIP 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN, COMMENCING AT A POINT ON THE SOUTH LINE OF SAID 1/4 SECTION 954

FEET EAST OF THE SOUTHWEST CORNER OF SAID 1/4 SECTION, SAID POINT BEING THE CENTER LINE OF STH 100; THENCE NORTH 37°04' WEST ALONG THE CENTER LINE OF STH 100, 205.28 FEET TO A POINT; THENCE EAST AND PARALLEL TO THE SOUTH LINE OF SAID 1/4 SECTION 493.78 FEET TO A POINT IN THE 1/8 SECTION LINE; THENCE SOUTH ALONG THE 1/8 SECTION LINE 165 FEET IN THE SOUTH LINE OF SAID 1/4 SECTION; AND THENCE WEST ALONG THE SOUTH LINE OF SAID 1/4 SECTION 367.50 FEET TO THE PLACE OF BEGINNING.

PARCEL 7 (9661 W. LOOMIS ROAD): THAT PART OF THE SOUTHEAST 1/4 OF SECTION 17, TOWN 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, COUNTY OF MILWAUKEE, STATE OF WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION 17; THENCE NORTH 89°57'44" EAST 1321.62 FEET; THENCE NORTH 01°20'04" EAST 475.107 FEET TO THE POINT OF BEGINNING; THENCE NORTH 35°03'00" WEST 657.30 FEET TO A POINT OF CURVE ON THE SOUTHERLY RIGHT OF WAY LINE OF STH 36; THENCE ALONG THIS CURVE BEING THE SOUTHERLY RIGHT OF WAY LINE, CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A RADIUS OF 2391.831 FEET WITH A LONG CHORD BEARING NORTH 47°20'57.4 FEET EAST 541.904 FEET, 543.070 FEET; THENCE SOUTH 01°20'04" WEST 905.50 FEET TO THE POINT OF BEGINNING.

PARCEL 8 (9530 W. PUETZ ROAD): LOT ONE (1), CERTIFIED SURVEY MAP NO. 7785 RECORDED JULY 12, 2006 IN THE OFFICE OF THE REGISTER OF DEEDS FOR MILWAUKEE COUNTY, WISCONSIN, AS DOCUMENT NUMBER 9267685; BEING ALL THAT PART OF THE SOUTH 1/2 OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 17, TOWNSHIP 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

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