

MINUTES OF THE
OAK CREEK PLAN COMMISSION MEETING
TUESDAY, JANUARY 10, 2012

Mayor Foeckler called the meeting to order at 7:00 p.m. The following Commissioners were present at roll call: Commissioner Dickmann, Commissioner Johnston, Commissioner Carrillo, Commissioner Bukiewicz, Mayor Foeckler, Commissioner Michalski, Commissioner Nowak and Commissioner Chandler. Commissioner Correll was excused. Also present were Doug Seymour Director of Community Development and Jeff Fortin Planner.

Commissioner Dickmann moved to approve the minutes of the November 22, 2011 regular Plan Commission meeting. Commissioner Bukiewicz seconds. Roll call, all voted aye with the exception of Commissioner Johnston and Mayor Foeckler who abstained. The minutes were approved as submitted.

Significant Common Council Actions

There were no additional comments or concerns from the Commission.

Sign Appeal Hearing – Tanglewood Apartments

9170 S. 20th Street

Tax Key No.: 877-9014

Mr. Fortin explained the applicant was requesting a variance from Oak Creek Municipal Code Section 17.0705(a), which states that multi-family residential developments are permitted a development sign not to exceed 6 feet in height and forty-eight (48) square feet in area on one side and ninety-six (96) square feet in area on all sides placed at the entrance to a subdivision or development.

If granted the variance would allow Tanglewood Apartments to increase the overall height of their existing freeway sign from twenty-five (25) feet to forty feet (40) feet. The sign is currently visible from Interstate 94; however the Wisconsin Department of Transportation will be installing noise barriers as part of the reconstruction project. As a result the sign will no longer be visible from passing traffic. The applicant would like to increase the overall sign height by fifteen feet so that it is above the sound barrier after construction.

Mayor Foeckler opened the public hearing and made the first call for comments from the floor.

Mr. Steve Shimmons, 1001 Thorn Ridge Drive, Grand Blank, MI, explained they have been operating in the City of Oak Creek for twenty years. The noise from the freeway is incredible and when they were made aware of the noise barrier they explored their options and when it is expanded it will put it much closer to the units. The sign will not be visible to the freeway at its current height with the noise barriers installed. They

receive 17.8% of their traffic from billboards and drive-bys. The only signage they have for their business is the signage from I-94.

Mayor Foeckler made a second call for public comments.

Ms. Ellen Schuh, 1900 W. Virginia Place, expressed concern for the aesthetics if the variance were to be approved. She questioned why the sign would need to be so high that it would tower over all of the other trees and buildings.

Mr. Shimmons explained the sign would not be visible from I-94 with the noise barrier installed and that was the reason for needing to raise the height of the sign.

Mr. Derrick Swart, real estate agent for the Department of Transportation, 141 NW Barstow Street, Waukesha, explained the sign would need to be raised to a height of 30 feet and with the 10 foot sign the sign would end up at 40 feet high. Without the additional height he would just be advertising to the tenants.

Mayor Foeckler made a third call and closed the public hearing to the floor.

Sign Appeal – Tanglewood Apartments
9170 S. 20th Street
Tax Key No.: 877-9014

Commissioner Bukiewicz questioned the standard height of a billboard on a freeway. Mr. Fortin stated it would be over forty feet but the Code does not allow billboards. Commissioner Bukiewicz stated the sign sits on the Tanglewood property so neighbors would not be able to see the sign but would see the complex. He considers this a hardship for Tanglewood.

Commissioner Chandler questioned if there were other options besides increasing the height such as other locations for the sign. Mr. Fortin explained the site was unique because it was grandfathered in as part of the original approval. The sign barrier is going right on the property line and they can't go on the other side of the barrier because it would be on DOT right-of-way. Commissioner Chandler questioned if they could relocate the sign off-site along the freeway. Mr. Fortin explained that would not be an option for this sign.

Commissioner Johnston questioned if there was going to be a new sign. Mr. Shimmons stated it would be the same sign just raised up.

Commissioner Dickmann pointed out the City could not even get a city identification sign along the freeway. He also asked how high the existing sign was at this time. Mr. Shimmons stated it was 15 feet from ground to bottom and they would like to raise it up 15 feet.

Commissioner Michalski commented the City went to bat with the DOT to get the sound

barriers so he feels somewhat responsible for the barrier that might block this sign. He does not want to see a new sign going up 100 feet but he could live with a total height of 40 feet.

Commissioner Michalski moved that the Plan Commission approve the sign variance as requested for Tanglewood Apartments located at 9170 S. 20th Street to allow for a sign that would be no higher than 40 feet.

Commissioner Bukiewicz seconds. Roll call, all voted aye. The motion to approve carries.

Sign Appeal Hearing – McDonald’s
8800 S. Howell Avenue
Tax Key No.: 860-9018

Mr. Fortin explained the applicant would like to add two more wall signs, which will require a variance from Section 17.0706(i)(1) which limits single tenant buildings a maximum of one wall sign per street frontage. McDonald’s would like to add one “Golden Arch” logo sign on the east elevation, facing the drive-through lane and a “Welcome” sign over the main entrance on the south elevation. Should the variance be approved there would be a total of five wall signs; three “Golden Arches” logo signs, one “Play Place” sign, and a “Welcome” sign.

Mayor Foeckler opened the public hearing for comments and made the first call to the floor.

Mr. Steve Jeske, Haag Muller Inc., stated they were asking for two additional wall signs; a fourteen square foot “McDonald’s Arch” and a 2.6 square foot “Welcome” sign. Even though they are requesting additional signs on the building they would be reducing the overall sign square footage by 16%. They are going from 90 square feet of existing square footage now down to 76 square feet.

Mayor Foeckler called two more times for public comment and hearing none closed the public hearing to the floor.

Sign Appeal – McDonald’s
8800 S. Howell Avenue
Tax Key No.: 860-9018

Commissioner Chandler questioned if the additional signs were not approved how that would affect the business. Mr. Jeske explained the “Welcome” sign was purely a way finding sign just to help the patrons identify the entry and he wasn’t sure that would affect the business. The arch that was being requested that would face the complex behind the building would help with visibility for the restaurant. The building has been redesigned and it doesn’t look like a typical McDonald’s so the sign will help.

Commissioner Michalski questioned if a “welcome” sign qualified as a sign. Mr. Fortin explained any sign counts as a sign unless it is a directional sign or an address sign. Commissioner Michalski commented the arch on the back of the building does not cause any aesthetics problems on Howell Avenue but the concern is the amount of signs not the total square footage. Mr. Fortin pointed out they are already above what the Code allows but they have been grandfathered in because the signs were existing.

Commissioner Bukiewicz questioned if this was a franchise requirement to have these signs. Mr. Jeske explained McDonald’s was in the process of a nationwide remodel of all of their buildings and this is a match of what they are building brand new. Commissioner Bukiewicz clarified they were replacing the two existing McDonald’s arch signs and the “Play Place” signs with smaller square footage signs. Mr. Jeske stated that was the case.

Commissioner Nowak questioned if there were any other businesses in the community that had this number of signs on a building. Mr. Fortin replied the Burger King approval brought them up to the same number of signs.

Commissioner Dickmann commented they struggle with the sign appeals because they have been seeing more and more of them and they are looking for a good rational as to why a business should be allowed more signs. In this case it is important that there is a 16% reduction of square footage of signs. It is better placement of signs and usage which will help the business.

Commissioner Michalski questioned if the other McDonald’s in the city was anticipating more changes to the signs. Mr. Jeske stated not at this point in time.

Commissioner Dickmann moved that the Plan Commission approve the sign variance as requested for McDonald’s located at 8800 S. Howell Avenue which will allow them a total of 2 additional wall signs on the building.

Commissioner Bukiewicz seconds. Roll call, all voted aye. The motion to approve carries.

**Sign Appeal Hearing – Lakeshore Veterinary Specialists
2400 W. Ryan Road
Tax Key No.: 878-9037**

Mayor Foeckler opened the public hearing and made the first call for public comments.

Mr. Eihab Atout 4630 S. 15th Street, Kenosha, explained Lakeshore Veterinary would like to open an animal hospital in the building and are taking up 6600 square feet of space and they would like their own monument sign.

Mr. Jacob Odders, Lakeshore Veterinary Specialists, explained they were interested in having a monument sign at the west entrance because the Pick n’ Save driveway was

very far down on a large complex. The street is very busy and has a lot of traffic. They treat critically ill patients 24 hours a day and if pet owners are in busy traffic trying to find where they are going they could become a hazard on the road. Having a monument sign next to the appropriate driveway makes it easier for them to turn in and find the facility. It is important for business and for the health of the animals.

Mayor Foeckler made a second and third call for public comments. Hearing none he closed the public hearing.

Sign Appeal – Lakeshore Veterinary Hospital

2400 W. Ryan Road

Tax Key No.: 878-9037

Commissioner Michalski commented he did not have a problem with the signs that would be going on the building itself but with the monument sign. He expressed concern for the monument sign and questioned why they could not utilize the existing monument sign for the Pick n' Save building. They would eventually need a monument sign for the TCF Bank which would need a sign at the same entrance as was being requested at this time. If patients were coming to the vet clinic from the west, even if the sign was located where they wanted it there is no left turn into the parking lot from that direction. If the sign was located where the Pick n' Save sign was located they could get in the parking lot and then be able to see the signs in the parking lot. If they happen to miss the entrance at Pick n' Save then they have another opportunity to get into the parking lot to get to the clinic.

Mr. Atout commented normally the Pick n' save likes to have their own sign. All of their intention when they built the shopping center was to put up another monument sign. They were going lease the front parcel to TCF and they exercised their option to buy the parcel. The Pick n' Save is low and far away from the sign so the driveway on the west side was always his intentions to have a monument sign for the expansion. They are 300 feet away from 27th Street in the corner, if there is an emergency situation you want to be able to see the hospital. He feels very strongly on the location of the monument sign on the west side.

Mayor Foeckler questioned how many potential tenants there could be in the rest of the building. Mr. Atout stated two maximum because the clinic takes up about four units. Mayor Foeckler questioned what would prevent him from coming back and asking for one or two more signs because the additional tenants request them. Mr. Atout explained they would be small tenants and it may be possible to expand the sign 18 inches and add the additional tenants. They would not ask for an additional monument sign just additional space on the sign. Mr. Fortin pointed out if they were requesting an addition to the top of the monument sign they should put two small tenant panels in this design right now so they would not need to come back for an additional variance for height. They are already at the height maximum. If they design it the right way they can be incorporated into this current sign. An add on later will not look as nice as if it was incorporated at this time. Mr. Atout explained the sign would be owned by

Lakeshore and they would not like empty boxes on the sign.

Mr. Odder stated they would prefer to have it as presented because they were paying for the box and having room for all of the things they wanted on the sign. They feel strongly that they want the monument sign at that location and that it is very important. If the Commission was to say the only way we can have the sign is to fashion it some way to have to additional future tenant spaces they will do what they have to if it allows them to get the sign. The next question would be if they could have that portion until the other tenant materializes. Mayor Foeckler stated that would be their call if they wanted to loose the signage when another tenant comes along.

Commissioner Dickmann expressed concern for patients trying to turn in at the wrong location because of the cuts in the road and the placement of the monument sign. He also expressed concern for the sign being only three feet off of the side lot line. Mr. Fortin explained they only have a small area of land to place the sign because of the TCF parcel.

Commissioner Michalski questioned if there were five or six tenants instead of the vet taking up three units would there be five monument signs. Mr. Fortin explained they are only allowed one monument sign and how it is divided up is up to the owner. If they had five tenants they could do something similar to the Ace Hardware monument sign with the major tenant on the top and then smaller panels for everyone else or in some cases the will just do the name of the shopping center such as Centennial Center.

Mr. Atout proposed adding an additional 12 inches on the bottom for the two future tenants. Mr. Fortin stated if they wanted to add an additional 12 inches they would need to come back with a different variance for the height. Mayor Foeckler suggested taking the proposed size and dividing it up however it needed to be for all tenants.

Commissioner Bukiewicz agreed with allowing the sign on the west entrance. He compared it to the Sherwin Williams sign. Mr. Fortin explained they were on a separate parcel from the Kohl's building. Commissioner Bukiewicz suggested making the "24/7" portion of the sign removable for use by additional tenants when they come.

Mayor Foeckler was fine with allowing the sign with the understanding that this was the absolute last sign variance that would be approved for this parcel.

Commissioner Johnston questioned the reason the "24/7 ER" sign was so large. Mr. Jim Schaefer, Signworks stated he worked with staff to fit the size criteria. Mr. Fortin explained if it was a separate tenant it would be fine for the tenant space but Lakeshore already has one sign and this would be an additional sign for the business. Also needing approval would the use of blue for the Lakeshore sign. There is an approved sign plan for the development restricting the color of walls signs to red. The Plan Commission would need to approve the use of blue.

Commissioner Michalski moved that the Plan Commission approve the variances for

Lakeshore Veterinary Specialists located at 2400 W. Ryan Road to allow for a ground sign to be located within three feet from the side lot line, to allow for one (1) additional ground sign that would allow for two additional tenants and one (1) additional wall sign and also permitting the color blue to be used on the wall sign.

Mayor Foeckler requested they not be allowed additional monument space for future tenants. First concurs.

Commissioner Nowak seconds. Roll call, all voted aye. The motion to approve carries.

Plan Commission Recommendation – Lakefront Redevelopment Action Plan

Mr. Fortin explained to the Commission over the last two years the City has been working closely with JJR on the creation of a redevelopment plan for the Lakefront. The plan is the end result of several months of work and many meetings with the public, technical advisory group and lakefront citizens group. It establishes a plan and roadmap for redevelopment of the lakefront area into a mixed use neighborhood with the focus on a lakefront park and public open spaces. It also allows for private development in appropriate areas.

Mr. Seymour explained to the Commission the 250 acres of properties along the lakefront had suffered from decades of misuse and neglect and really has served as a wall between Oak Creek proper and the lakefront. For some time it has always been a goal of the City and the Mayors and the Councils to do something about the lakefront. The resources and timing was never really right for the moving forward. At this point the resources are available with strong partners willing to clean up the properties and realize the vision the community has for the lakefront. The vision was a result of a fairly intensive public participation process beginning about a year ago.

Mr. Arden Degner, 8530 S. Pennsylvania Avenue, questioned if this plan addressed the big pile of dirt that we have to pay for. Mr. Seymour explained the dirt was provided at no charge to the project through the excavations as part of the I-94 project saving the City and its partners potentially millions of dollars. Mr. Degner questioned who would pay to level it out to a particular area. Mr. Seymour replied to a certain extent the responsible parties and the owners of those properties will level it out as part of a remedial action plan that has to be approved by the Department of Natural Resources. If the City wants to go above and beyond that there will be some costs associated with that but they would be minimal when you take into account the cost that it would have taken to bring in that amount of clean fill material absent the commitment from the State DOT and the project partners to make it happen at minimal cost to the City.

Mr. Degner expressed concern for the entire concept. How was the City going to handle the real estate? Do taxpayers have to purchase this? Is there going to be a bond issue? There is also the problem of putting utilities in. Mr. Seymour pointed out this was amending the plan. The Plan Commission is responsible for reviewing the plan and the Common Council was the body responsible for allocating the resources for making the

plan happen.

Mayor Foeckler questioned if Mr. Degner approved of the concept of trying to accomplish this plan. He understands concerns about money which are all part of the things that the Council is going to have to consider. The concept is what is being discussed at this time. He understands there are concerns but he has been watching from the sidelines and there are really exciting things happening in the City at this time. This is a real opportunity and is really exciting. Not many residents of Oak Creek consider Oak Creek a lakeshore community and they are and they can show case this not only on a broad sense but for the residents. This isn't a plan where they are putting big houses up against the lake so only a few wealthy people get to enjoy the views. This is done for the public and the people of Oak Creek. He understands there are issues with funding and how this is all going to happen but they have talked about it for a long time and they are actually about to grab an opportunity as opposed to just arguing about whether they should even consider it. Let's move the City forward. They are talking about investing into the community and investing into opening up a public resource that truly is priceless. He understands his concerns but he really feels this is the right thing to do for the community.

Commissioner Dickmann commented the key is when they put it into the Comprehensive Plan it doesn't mean that every little facet of that has to be followed through. It is a guiding tool to lead them forward. All of the things may not be accomplished because of money but at least it gives you the direction of which way to go. He thinks the plan is good and there has been a lot of input from the meetings.

Commissioner Bukiewicz moved that the Plan Commission recommends to the Common Council that the Lakefront Redevelopment Action Plan is adopted and incorporated into the 2008 Park and Open Space Plan and 2020 Vision: A Comprehensive Plan for the City of Oak Creek.

Commissioner Michalski seconds. Roll call, all voted aye. The motion to approve carries.

Plan Commission Discussion – Non-Conforming Duplexes in Carrollville

Mr. Fortin explained to the Plan Commission in 1995 the City did a citywide rezoning. At the time the City attempted to identify all non-conforming duplexes and rezone them to Rd-1, Two family Residential. However there are several duplexes, many of which are in the Carrollville neighborhood that are located on parcels zoned as single-family residential. This has posed problems for owners who wish to sell their properties. Since the duplexes are legal non-conforming uses they cannot be rebuilt as duplexes if they are substantially damaged or destroyed. They would only be able to reconstruct them as single-family homes. This has caused financing troubles for potential buyers of these properties since the City cannot issue rebuild letters.

Mr. Seymour commented they did a City wide rezoning in 1995 where they tried to

identify all of the non-conforming duplexes especially in the older areas of town. They sent out notices to every property owner in the City telling them their existing and proposed zoning. In the course of that they found a lot of things that needed to be changed as part of the zoning map. Unfortunately, for whatever reason, there were some properties that did not come forward and let the City know that they had a duplex.

The City's interest at this time is to try and be equitable in how they treat these types of lots and structures not only in this neighborhood but ultimately citywide. They have sent a few options to the city attorney for his review and one of the options was to just rezone them to Rd-1, which is the duplex zoning. That zoning really was developed and reflective of the standards for if someone were to come in and do a subdivision plat for a new duplex subdivision and was not geared toward the existing non-conforming duplexes in the City and in this area.

Of the twenty or so duplexes that are present in this area and are zoned properly he would guess that only one or two of them meet all of the standards for that zoning district. So, even though they are conforming uses the structures themselves are non-conforming and those face a set of issues should they be damaged beyond 50% but at least the use is conforming.

He believes as they move forward in this process and bring back an ordinance it would be their intent to try and treat all of the properties in similar circumstances in an equitable manner. That may mean just rezoning those to Rd-1 but recognizing that the structures don't necessarily meet the requirements of that zoning district.

Commissioner Chandler questioned how some of the area was handled in the past if they didn't meet the requirements. Mr. Seymour explained the use as a duplex is conforming although the structure may not be and that is not unusual. One of things that stands out is Rd-1 zoning requires an attached garage. Very few of the duplexes in this area have an attached garage. There are setback standards, minimum unit sizes and things like that. To varying degrees most of the structures in this area do not meet those requirements.

Commissioner Chandler questioned how the other duplexes were handled if they didn't meet those requirements. Mr. Seymour explained at that point and time upon advice from the City Attorney, the use would be conforming although if they were to be damaged beyond the 50% they would rebuild in accordance with the structural requirements, the setback requirements and thankfully that has not been an issue. It may be if someone needs to rebuild in accordance with those standards it could be a situation where they are coming before the Board of Appeals looking for a variance.

Commissioner Dickmann questioned if Planning felt comfortable with the first option of rezoning the properties. He expressed concern for them getting denied from the Board of Appeals. Mr. Seymour explained it would be easier to get financing if the use itself was conforming. It would not be a magic bullet or solve all of their problems but it would get them over the first hurdle of having a use that was conforming.

Alderman Mike Toman, 3579 E. American Avenue, stated the issue came forward because of a family trying to sell a duplex in the Carrollville area that could not receive financing because it was not a conforming use and could not be rebuilt if it was damaged.

Mr. Henry Nitecki, 9300 S. 8th Avenue, explained the trouble they are having trying to sell their duplex because it is not zoned properly.

Commissioner Johnston questioned if the single family residents in the area meet the Rs-4 zoning that they are currently zoned. Mr. Seymour stated in many cases, given the age and uniqueness of the neighborhood, a lot of the structures and the lots in the area do not meet the current zoning characteristics. Commissioner Johnston stated it would then make sense to make them conforming uses but non-conforming structures.

Alderman Toman expressed concern for the option of rezoning and would prefer the option that would create a new zoning district that would allow for rebuilding if conditions are met. They are dealing with duplexes that have been there for years. Mr. Fortin explained if the building was less than 50% damaged they could rebuild using the existing setbacks but if it was more than 50% damaged they would have to rebuild and meet the setbacks of the current zoning district or petition the Board of Appeals. That is the way every non-conforming structure in the City is handled.

Mr. Seymour explained if you try to go forward with the new zoning a problem you would have is you will not find one zoning standard that would be able to address all of the unique circumstances of these lots. The first option would solve the issue of the use and get them over the first hurdle but it would not get them over the hurdle of having to conform to the setbacks of the zoning district should the structure be destroyed beyond 50%.

Alderman Toman sees it as a hardship to conform. Mr. Seymour explained it would allow for the individual at that time to go to the Board of Appeals and demonstrate that it would be a hardship; which is a prerequisite for the granting of a variance.

Commissioner Michalski referenced a similar situation on Grays Lane where the house was damaged beyond 50% and because of non-conforming issues had to go before the Board of Appeals with a hardship in order to rebuild. There are examples where the process does work.

Mayor Foeckler has not heard any objection from the Commission taking into consideration the salability of the property is a consideration that the Commission wants to help solve. He trusts the City Attorney's office to say that this should provide a means. He doesn't think they should get into the business of guaranteeing loans. From the perspective of good policy and that this should encourage the sale of properties or allow the financing that is a directive that he has heard the Commission is okay with.

Commissioner Carrillo moved to adjourn. Commissioner Bukiewicz seconds. Roll call, all voted aye. The meeting was adjourned at 8:25 p.m.