

**MINUTES OF THE
OAK CREEK PLAN COMMISSION MEETING
TUESDAY, January 14, 2020**

Mayor Bukiewicz called the meeting to order at 6:00 p.m. The following Commissioners were present at roll call: Commissioner Sullivan, Commissioner Carrillo, Alderman Loreck, Mayor Bukiewicz, Alderman Guzikowski, Commissioner Oldani, Commissioner Siepert and Commissioner Chandler. Commissioner Hanna was excused. Alderman Guzikowski left during presentation of item 6e. Also present: Kari Papelbon, Planner; Laurie Miller, Zoning Administrator, and Doug Seymour, Director of Community Development.

Minutes of the December 10, 2019 meeting

Commissioner Siepert moved to approve the minutes of the December 10, 2019 meeting. Commissioner Chandler seconded. On roll call: all voted aye, except Commissioner Sullivan, who abstained.

**COMPREHENSIVE PLAN AMENDMENT
CITY OF OAK CREEK
UPDATE COMPREHENSIVE PLAN**

Planner Papelbon provided updates based on comments received.

Commissioner Siepert asked why the bluffs along Lake Michigan in District Four are labeled as agricultural instead of parks and open spaces. Planner Papelbon stated that is something that has been changed.

Commissioner Chandler asked what the three types of single-family residences are.

Planner Papelbon explained the Land Use Plan calls for Single-Family Detached, Single-Family Attached, and Multifamily. In the Neighborhoods Map there are a couple of other housing typologies, but the land use categories are Single-Family Detached, Single-Family Attached, and Multifamily. Commissioner Chandler stated there was another term that was used. Director Seymour inquired if Commissioner Chandler was referring to accessory dwelling units. Commissioner Chandler confirmed that she was referring to accessory dwelling units. Planner Papelbon explained it is not a category itself, but would be a type of additional use on a single-family parcel. Commissioner Chandler asked if it needed to be noted somewhere that those three options are acceptable. Planner Papelbon stated accessory dwelling units would be addressed by the Zoning Code.

Alderman Guzikowski asked if there were any targeted areas identified as affordable senior housing.

Planner Papelbon explained there are categories that can accommodate those areas. Most likely those would be multifamily dwellings. In the Housing and Neighborhoods Framework Map, in the Comprehensive Plan it is on Page 35. It identifies some areas of Targeted Reinvestment Residential, some senior housing may be able to be accommodated in that area. As far as other types of residential senior living, there is medium density and high density, it depends on the type that would be proposed.

Alderman Loreck explained the Northwestern Mutual land between 27th Street and Ikea Way is

going from a mix of Residential and Planned Mixed Use to Mixed Use. Alderman Loreck inquired if the Mixed Use with the Flex Overlay would still allow a single-family development.

Planner Papelbon explained the Mixed-Use category is the most flexible category that allows for a mix of typologies, which would allow for different housing. It could allow a development similar to Drexel Town Square in which apartments are incorporated with retail on the first floor.

Mayor Bukiewicz referenced land in District 2 that is around Forest Ridge just west of Ikea, and asked for an example of Public/Semi-Public land use.

Planner Papelbon explained the Public/Semi-Public that has been identified is the school. The Parks and Open Spaces in that area would be Falk Park.

Mayor Bukiewicz asked Planner Papelbon to clarify what the Flex Overlay allows.

Planner Papelbon explained the Flex Overlay allows a specific development proposal to be brought to the City that may not exactly fit into the underlying Land Use category identified in the Plan, but is similar in its application and makes sense within the context of the neighborhood and is appropriate for the subject property. Clarifying language will be added to the text.

Mayor Bukiewicz stated the City has dealt with Flex Overlay districts before, and this allows much more flexibility.

Planner Papelbon stated this is actually a Land Use category, so the Flex Overlay is a little bit of a misnomer because it is not overlay in the zoning context. This allows just for land use planning purposes.

Mayor Bukiewicz referenced the staff report in District 1, "remove the Air Transportation extending from College Avenue west of Howell." Mayor Bukiewicz asked if this gives the City developable land.

Director Seymour confirmed the Airport Master Plan that is underway will show the runway being de-mapped. It will allow for new development in those areas and as well increase density development with new height requirements.

Planner Papelbon explained staff is recommending that the Plan Commission holds action on this item until the January 28, 2020 meeting to allow for a more final draft to be presented and allow commissioners to ask representatives from Houseal Lavigne Associates any final questions.

Commissioner Siepert moves to put the recommendations on hold until the next Plan Commission meeting on January 28, 2020. Commissioner Chandler seconded. On roll call: all voted aye.

CONDITIONS AND RESTRICTIONS

WALDEN OC, LLC

**1920, 1900, 1850, 1848, 1816, 1800, 1750, & 1700 W. DREXEL AVE. AND 7700 S. IKEA WAY
TAX KEY NOS. 784-9012-000, 784-9013-000, 784-9014-000, 784-9016-000, 784-9994-0001,
784-9008-000, 784-9009-001, 784-9010-001, AND 784-9024-000**

Planner Papelbon provided an overview of the draft Conditions and Restrictions for a mixed use Planned Unit Development (PUD) on the properties at 1920, 1900, 1850, 1848, 1816, 1800, 1750, and 1700 W. Drexel Ave. and 7700 S. Ikea Way (see staff report for details).

Commissioner Siefert inquired what the difference is between compact vehicles and standard cars.

Planner Papelbon explained that it allows the parking stall to be shortened from 9' x 18' to 9' x 15.'

Alderman Loreck asked if the "no direct vehicular access" to Ikea Way and Drexel Avenue would exclude the roads that are being put in or just put in.

Planner Papelbon confirmed those two access points have already been approved.

Alderman Loreck asked if the entrance from Drexel Avenue is one-way.

Planner Papelbon confirmed.

Alderman Loreck asked to confirm that if the Traffic Impact Analysis has already been done.

Staff nodded in agreement.

Commissioner Chandler inquired if there would be any restrictions on shops or items for sale that need to be identified, given this developments proximity to Drexel Town Square.

Planner Papelbon clarified there has not been any restrictions identified in the conditions and restrictions.

Mayor Bukiewicz asked if the Plan Commission is at the point to start putting conditions and restrictions in for charging stations for cars.

Planner Papelbon stated the City allowed it as part of the site plan review for Ikea, but it is not part of the Conditional Use Permit requirement.

Mayor Bukiewicz asked Planner Papelbon to talk about the Creekside Crossing PUD.

Planner Papelbon explained the areas are highlighted to identify where there were some slight deviations in the Conditions and Restrictions from that in the submitted text. Staff has been working with the applicants to incorporate those. After the Conditions and Restrictions are proposed and approved by the Common Council, staff will ask that the document be updated so the documents match.

Commissioner Oldani moved that the Plan Commission recommends that the Common Council adopts the Conditions and Restrictions as part of the Planned Unit Development submitted by Walden OC, LLC, for the properties at 1920, 1900, 1850, 1848, 1816, 1800, 1750, and 1700 W. Drexel Ave. and 7700 S. Ikea Way after a public hearing. Commissioner Siefert seconded. On roll call: all voted aye. Commissioner Carrillo's vote was inaudible.

**TEMPORARY USE PERMIT
BOYLAND PROPERTIES OAK CREEK, LLC
6912 S. 27TH STREET
TAX KEY NO. 737-9026-000**

Zoning Administrator Miller provided an overview of the request to allow temporary storage of inventory vehicles on the property at 6912 S. 27th Street (see staff report for details).

Commissioner Chandler inquired if application has been completed.

Zoning Administrator Miller explained in the staff report there is a copy of the only email staff has received, it contains four lines of information.

Commissioner Chandler asked the applicant to provide more details about the storage of vehicles including, how many cars, number of stalls, and impact to regular operation.

Jason VanderPal, Executive Pastor, The Ridge Community Church, explained the building has a total of 450 stalls. The church utilized about 220 or 230 stalls. The storage area would be in the back of the building and would not be visible from 27th Street. The agreement is not to exceed 150 cars. There is no through access or fire lane access in the back.

Commissioner Chandler asked how long the storage would be there.

Pastor VanderPal stated the plan was for six months. Pastor VanderPal is guessing Boyland Properties are thinking the storage would be used to get through the winter and their construction project.

Alderman Loreck stated it seems like an ideal location to store the cars, however, Boyland has missed many different deadlines, not completed the necessary paperwork, and did not show up to the meeting, so at this time he cannot support this proposal.

Alderman Guzikowski recalled that staff told Boyland when they were parking cars on the grass, that does not provide a good example of what a good neighbor is. Alderman Guzikowski continued by stating it does not appear now or then that Boyland is that worried about the neighbors or taking care of items that need to be taken care of.

Commissioner Oldani agreed Boyland's follow-up is not their strong suit and stated he cannot support this proposal either.

Commissioner Siepert agreed, stating they were parking cars on the grass before any sort of consideration was given for approval. The cars remained for three weeks before they were removed. Commissioner Siepert stated they got off on the wrong foot with the City.

Director Seymour agreed some of the follow-up has not been as robust as the City would have heard or hoped, however this is a more superior site than the dealership property, which only allows parking on grass and is closer to a residential neighborhood. This site accomplishes the applicant's goals, helps the new Oak Creek business while they construct their permanent home, and helps the church make use of property that is not productive. Director Seymour hoped for a much cleaner process, but does not want that to taint the value that is present in this alternate accommodation for the temporary storage of those vehicles.

Mayor Bukiewicz stated he supported the dealership coming in to Oak Creek. However, Boyland parked the cars on the grass which is completely against the zoning code. They were asked multiple times to move the cars and they did nothing. They have been bad partners from the beginning. Mayor Bukiewicz has received multiple complaints from the neighbors. Mayor Bukiewicz spoke to Pastor Forest when they were working on a project and suggested this option.

He believes it is a good option. Boyland explained they were over inventory. Mayor Bukiewicz explained Boyland went to the Church to cut a deal, however now they are not showing up. He continued by stating he wouldn't consider allowing them to use the land without putting up a fence because they are not following through on their word. Mayor Bukiewicz agreed with Director Seymour that this is a win-win situation, however, Boyland has to do their part and follow the rules.

Commissioner Oldani referenced the end date of March 31, 2020 that is listed in number nine of the suggested motion and inquired if that has changed.

Zoning Administrator Miller confirmed staff does not know for sure if that date has changed.

Commissioner Oldani stated this is another reason Plan Commission needs to hear from the applicant.

Zoning Administrator Miller explained there was an email to the applicant requesting that and other clarification on their request on November 21, 2019.

Alderman Guzikowski asked if the item can be put on hold.

Commissioner Oldani asked for staff's recommendation regarding a hold verses denial.

Staff recommended a hold.

Commissioner Siefert asked if there would be a time limit on the hold.

Zoning Administrator Miller stated January 28, 2020, the next Plan Commission meeting.

Alderman Guzikowski made a motion the Plan Commission hold the Temporary Use Permit until the next Plan Commission meeting of January 28, 2020. Commissioner Siefert seconded. On roll call: all voted aye.

PLAN REVIEW
OAK CREEK-FRANKLIN JOINT SCHOOL DISTRICT
8965 S. CAROLLTON DR
TAX KEY NO. 864-9000-000

Planner Papelbon provided an overview of the site, building, landscaping, and related plan review for a proposed addition to the existing building, a parking lot addition, and modifications to the existing access drive (see staff report for details).

Commissioner Chandler asked the applicant for the reasoning or details of the expansion.

Jason Christensen, Nielsen, Madsen, and Barber, 1458 Horizon Boulevard, Racine, civil consultant for the School District, stated they are adding a gymnasium and a secured entrance.

Commissioner Chandler inquired if the school has a gymnasium currently.

Steve Rhode, Director of Buildings and Grounds for the School District, 7283 South 35th Street, Franklin, explained right now it is a combination of a gymnasium and cafeteria. Mr. Rhode

continued by explaining they are separating the gymnasium and cafeteria so they can have lunch and gym class at the same time. The office is being moved to make it a more secure office space.

Commissioner Oldani asked if the new entrance is going to be in the front right off the drive-through.

Mayor Bukiewicz confirmed it is off the circle on the north end of the building.

Commissioner Oldani explained when his children went to this school most people would enter through the parking and he was hoping the main entrance would be moved to where all the parking is.

Commissioner Carrillo asked if the main entrance driveway is one-way or two-way.

Confirmation was given from the audience that it is a one-way drive.

Commissioner Carrillo inquired if there was a concern regarding people crossing from the parking spaces to the front entrance.

Mayor Bukiewicz agreed it was good point, however, he is not sure if those spaces are used as a pickup location. Mayor Bukiewicz asked Commissioner Oldani if children are allowed to exit using the front entrance.

Commissioner Oldani explained they changed pickups over the years. Buses do pickup there, however when parents needed to come during school hours they would park along the curb and go in. The parking spaces are new so it is a legitimate question. Commissioner Oldani was hopeful that the main entrance would be by the main parking in the park to prevent people from having to enter through a back entrance for events. Commissioner Oldani would personally like to see more parking spaces in the front and designed in a way that would go directly from parking to the building without walking on the road. Commissioner Oldani asked if a sidewalk is being added on the parking side. Commissioner Oldani asked for confirmation that you would have to park cross over to the sidewalk and then to the entrance.

Mr. Christensen, confirmed the nine parking stalls are on the interior of the drive loop and stated there is no sidewalk in front of those parking stalls. They would turn around and walk on the sidewalk that is on the school side of the entrance drive. There will be two handicapped stalls with a new ramp to get up to the sidewalk.

Alderman Guzikowski asked to confirm if the purpose of those parking stalls is for daytime drop-offs and pickups.

Mr. Christensen confirmed visitors need to park there during the day to access the main secure entrance.

Commissioner Oldani stated he would encourage having a crossing marked on the road.

Commissioner Chandler asked to confirm if the safety concerns for the parking and crossing had been addressed and if everything is okay if we put the crossing paint on the ground.

Mayor Bukiewicz reiterated Commissioner Oldani's suggestion of having the crossing clearly marked to the doorway.

Mr. Christensen confirmed and stated the spots would primarily be used during the day when there is not a lot of traffic on the entrance drive during the day.

Mayor Bukiewicz asked the Plan Commission to discuss the metal panels and the veneer. Mayor Bukiewicz asked Planner Papelbon to confirm they are not meeting requirements at this time. Mayor Bukiewicz also asked if it will be a pre-cast tip up.

Planner Papelbon explained what she remembers from the submission is there is only one area of the building that does not meet the maximum 25% Code requirement: however, the materials are not specified in Code as allowed primary building materials. This is another situation where the materials do not meet the Code. To approve the use of alternate material, the Plan Commission would need a 3/4 majority vote. As long as the brick meets that minimum standard for the dimensions, staff does not have an issue with the proposed materials.

Mayor Bukiewicz asked to confirm the gymnasium is pre-casted tip up. Mayor Bukiewicz also asked if the main entrance will be pre-casted, as well.

Devin Kack, architect, Plunkett, Raysich Architects, 209 South Water Street, Milwaukee, confirmed the main entrance will be face brick, a little under four inches deep and the glazed block is a decorative CMU. The gymnasium will be pre-casted, created off site and brought on site.

Mayor Bukiewicz asked if the brick used is four inches.

Mr. Kack stated the Code is nominal four inches, standard masonry.

Planner Papelbon nodded in agreement.

Alderman Loreck moved that the Plan Commission approves the site plans submitted by Andrew Chromy, Oak Creek-Franklin Joint School District, for the property at 8965 S. Carrollton Dr. with the following conditions:

1. That all relevant Code requirements remain in effect.
2. That all green infrastructure and stormwater management requirements are submitted for review and approval to the Engineering Department prior to submission of permit applications.
3. That the landscape plan is updated to incorporate the height of plants at installation and maturity.
4. That all detailed, revised plans are submitted in digital format to the Department of Community Development prior to submission of permit applications.

Commissioner Siepert seconded. On roll call: all voted aye.

**CONDITIONAL USE PERMIT AMENDMENT
CARVANA LLP
561 W. COLLEGE AVE
TAX KEY NO. 718-9002-000**

Planner Papelbon provided an overview of the Conditional Use Permit Amendment request to allow storage of inventory vehicles for sale on the property at 561 W. College Ave (see staff report for details).

Commissioner Siepert asked the applicant what is done with the cars that are traded in.

Christian Orr, 1930 West Rio Salado Parkway, Tempe, Arizona, explained the cars that are traded in are brought to the site, and when the car hauler comes the cars are sent back to their main location in Indianapolis. Typically, what will be seen through the gate at the location in Oak Creek are the new cars for delivery to customers.

Alderman Loreck asked to confirm if the rental operation will continue.

Planner Papelbon explained the original approval for the site had one large parking lot that envisioned two tenants. This proposal would allow for Enterprise to use the eastern side of the lot as they currently do, and the applicant to use the western side of the lot. The lot is already divided by fence.

Alderman Loreck asked if Carvana takes returns at the lot.

Mr. Off confirmed there is a seven-day or 400-mile return policy. If the customer is within that window and not satisfied the company will send a truck to pickup the return and bring it back to the lot.

Mayor Bukiewicz asked the current hours of Enterprise.

Planner Papelbon stated she does not recall if the original Conditional Use Permit limited the hours. There may have been some areas that had restrictions.

Mayor Bukiewicz believes there was some restrictions about taking deliveries.

Planner Papelbon stated it is possible, but it would also fall under the noise ordinance. If the hours of operation were not specific within the original Conditional Use Permit, they would still have to abide by Code requirements for the noise ordinances.

Mayor Bukiewicz believes early on there were noise complaints registered.

Planner Papelbon explained the hours of operation would have been included if they had separate hours of operation. She does not believe the original Conditional Use Permit Conditions and Restrictions had hours of operation.

Mr. Orr explained Carvana was seeking a separate suite number to have mail delivered. At that time, it was brought to Carvana's attention that there had been previous complaints regarding noise. While working with staff the applicant made sure they were working within the sound and operating hours.

Mayor Bukiewicz asked if the fences going towards the residents are screened.

Keane Kehoe, 513 W. College Ave.:

"I own 521 and 531, I'm their neighbors. It's been an ongoing business, Carvana for the last six to eight months. They've been transporting cars there, along with Enterprise. We have a lot of issues continuing since last time I was here, with late night transit, semi-trucks dropping off vehicles. All hours, 24/7 and now it's compounded with these guys too on top of it. I even got a list of times. Last time I was here you guys told me to notify the police department. I've called the police department numerous times, they come down

there's no conditions on the truck drivers' paperwork limiting when they can deliver cars. There's actually an Oak Creek Statue 11-26 B8 that limits them. So, they never get tickets and it never stops. They just continue to do this. It's been an ongoing nightmare for years now. It's gotten worse with these guys. So, I don't know what the solution is 'cause I've called, talked to everyone and nothings getting accomplished."

Mayor Bukiewicz explained it has been awhile, but knows there have been complaints in the past. Mayor Bukiewicz thought there was hours of delivery.

Keane Kehoe, 513 W. College Ave.: *"There is in that statue. That there not allowed to deliver."*

Mayor Bukiewicz explained it would have been put in the Conditions and Restrictions; however, Planner Papelbon says they are not there.

Planner Papelbon does not recall that they were. They would have been incorporated into what is included in the staff report. However, deliveries of vehicles for sale for the Carvana operation shall occur between the hours 7am and 8pm.

Keane Kehoe, 513 W. College Ave, stated, *"It's 24/7 right now."*

Mayor Bukiewicz inquired if the hours of operation can be set for the whole site for Carvana and Enterprise.

Keane Kehoe, 513 W. College Ave.:

"To compound the problem, they actually stop the semi-truck on College Avenue to unload cars and then they also do the same thing in front. I mean four o'clock in the morning, chains slamming against loading ramps. It wakes me up, it wakes my neighbor up. A lot of times by the time the police department gets there they're already gone and when they do get there, nothing gets accomplished. It's like I'm beating a dead horse, nothing is getting done."

Alderman Guzikowski stated the City will have to look into this a little bit more for Mr. Kehoe to figure out a solution.

Keane Kehoe, 513 W. College Ave: *"I would greatly appreciate it. Thank you."*

Mr. Orr explained he wants to make sure they are good neighbors and make sure all the needs are taken care of; however, he also requests that the Plan Commission consider that the application is coming from one of the two tenants and that those actions are not necessarily the actions of both tenants.

Mayor Bukiewicz conquered and both need to be taken separately, but again there is an ongoing issue. Mayor Bukiewicz made more comments that were not audible.

Planner Papelbon explained staff in the past have had multiple conversations about the issue with Enterprise. Unfortunately, it is a situation of he said/she said. Enterprise is stating that they are operating within the terms of the Code, and then we have a neighbor complaint, and as mentioned by the neighbor, by the time the police have arrived the complaints have already gone away. Planner Papelbon asked that Plan Commission would allow staff to contact Enterprise again to discuss the issue and perhaps there can be a solution for the Common Council meeting if this is recommended for approval.

Mayor Bukiewicz explained he would like to see conditions such as they cannot unload any time after eight o'clock and 1,000 feet of the property.

Alderman Guzikowski indicated he remembers it being a big deal when it was brought up last time. We need to dial in on this and maybe the hours of operations could help with deliveries.

Planner Papelbon reiterated that this Conditions and Restrictions request states, "Deliveries of vehicles for sale for the Carvana operation shall occur between the hours of 7:00 AM and 8:00 PM."

Keane Kehoe, 513 W. College Ave: *"Right now, the City Ordinance is 8-5 for car transport. They're doing it 24/7. It doesn't matter if it's Christmas day, holidays."*

Mr. Orr explained there are two separate time frames that are referred to in the City Ordinance. The applicant previously spoke to staff about it. There is the one, but there is also a second. In terms of the Conditional Use that is something that has been previously approved by the Plan Commission. The fact of the matter is that there is a concern on the table and Carvana, just like Enterprise or any other business, we have every intention of honoring and following those. We have set our stipulations straight forward and if there are concerns or problems with Enterprise then it would be my hope that be executed through due process just like it would if it was Carvana's. The topic at hand is Carvana's Conditional Use Permit Amendment and if you want to address Enterprise's, in my opinion that would be a separate matter.

Zoning Administrator Miller read Section 17.0810 of the Noise Ordinance. "At no point on the boundary of residences or business district shall the sound intensity level of any individual operation exceed 58 to 62 decibels respectively during normal operations." The struggle is to define what is normal operations.

Mayor Bukiewicz agreed it is hard with this type of service, but we have to be reasonable. Mayor Bukiewicz also made comments that were not audible. Mayor Bukiewicz continued by stating the operation needs to be better defined.

Rodney Carter, Husch Blackwell, 555 East Wells Street, Milwaukee, representing Carvana, explained they have worked with staff and understand the concerns about the hours of operation and noise. Staff indicated this would be the significant issue with the proposal. Carvana is accepting of the hours of operation as defined. Mr. Orr met with staff earlier and emphasized those hours of operation and needing to be cognizant of what is being proposed. From Carvana's perspective they will be adhering to those hours of operation.

Keane Kehoe, 513 W. College Ave: *"They've been running this for at least six months and not following the rules. They've been dropping cars off all the time. There's no regulations on it."*

Mayor Bukiewicz reiterated that the City has no knowledge of the incident unless it's been reported and documented with the zoning administrator or the police.

Keane Kehoe, 513 W. College Ave: *"Can I have someone's card that I can start communicating 'cause the police are actually getting kind of tired of me. Which I don't blame them 'cause nothing's ever getting done. They got more important things to do then to come by me."*

Mayor Bukiewicz stated he understands, however, if it's part of the public good, it's part of their

jobs and they will have to come out.

Keane Kehoe, 513 W. College Ave: *"So, who can I call when I do have problems 'cause I've got pictures of semi-trucks getting four or five in the morning."*

Mayor Bukiewicz reiterated he could contact the zoning administrator.

Keane Kehoe, 513 W. College Ave: *"Someone's card? Someone got, wanna give me their card?"*

Zoning Administrator Miller explained they have spoken in the past. Zoning Administrator Miller continued by stating another issue is needing to determine if it is an Enterprise or a Carvana delivery.

Keane Kehoe, 513 W. College Ave: *"I see where they unload the cars and where they drive the cars. I know which side is which."*

Mayor Bukiewicz explained the City would need plate numbers or something that is trackable.

Keane Kehoe, 513 W. College Ave.: *"It's just this has been going on for so many years. It's..."*

Mayor Bukiewicz stated the City should be taking care of it. Mayor Bukiewicz continued by stating Mr. Kehoe is following the proper channels which are the police and the zoning administrator.

Zoning Administrator Miller noted staff's hours are limited from approximately 7:30 AM to 4:00 PM, the police department is an excellent resource because they can come out at all hours to assist residents.

Keane Kehoe, 513 W. College Ave:

"I understand, but people have to start getting citations, I think for things to start changing. And some how the truck drivers' paperwork has to get that there's restrictions on their paperwork so when the police do look at their paperwork, 'cause they're looking at, the guy is just doing his job, delivering cars. They don't want to give him a ticket for doing his jobs. So where does the responsibility fall on?"

Mayor Bukiewicz agreed Mr. Kehoe is right. Mayor Bukiewicz continued by stating he is not sure where the cars are coming from or how the time is determined.

Keane Kehoe, 513 W. College Ave.: *"Without a sign being out front, their front sign has been down for how many months? Half the time they are parking in front of my place, calling my phone number saying I'm getting cars delivered because they don't know where they're going."*

Mayor Bukiewicz directed the Plan Commission back to Carvana and asked another member of the audience if would still like to speak.

Commissioner Chandler asked the applicant if they also have rentals and auctions at this location.

Mr. Orr confirmed they do not.

Mayor Bukiewicz asked commissioners to only focus on the agenda item and not take Enterprise into consideration. Staff feels that the hours of operation from 7 AM to 8 PM are acceptable.

Mayor Bukiewicz also asked staff if the Plan Commission can add a stipulation to disallow any unloading of vehicles on College Avenue.

Planner Papelbon stated there is a Code section that can be sited.

Mayor Bukiewicz asked Director Seymour if the Conditions and Restrictions can be amended if there are multiple violations.

Director Seymour explained if there were a violation of the Conditions and Restrictions there is a revocation clause and process to revoke the Conditional Use Permit. It sounds like there are violations of the City Ordinance. Typically, the Conditional Use Permits are not amended unless the applicant is in concurrence with that. Staff would need to take a look at what the original Conditional Use Permit states, if there are continued violations of the permit there is a process available to revoke the permit. Director Seymour continued by stating in more recent Conditional Use Permits there is a method of limiting the duration so they don't go on indeterminately. In this case it does not look like the permit had those requirements in it.

Mayor Bukiewicz is hopeful they can work with Enterprise to find a solution.

Director Seymour explained the Conditional Use Permit is with the property owner. Director Seymour hopes the property owner would want any complaints rectified with the City.

Mayor Bukiewicz asked if there was a time limit on these Conditions and Restrictions.

Planner Papelbon stated one was not included.

Mayor Bukiewicz asked if the Plan Commission wanted to add one.

Director Seymour explained that typically if staff has knowledge of the term of the lease the time limit will be run concurrently with that if approved by Plan Commission and Common Council. Mayor Bukiewicz made statements that were inaudible.

Planner Papelbon asked the applicants if they have a lease term.

Mr. Orr stated there is a lease term, but he is aware of the term.

Director Seymour stated staff can find that out as part of the research for the public hearing.

Mayor Bukiewicz stated he would include the time limit and the delivery on College Avenue restriction.

Alderman Guzikowski moved that the Plan Commission recommends that the Common Council approves a Conditional Use Permit Amendment to allow outdoor storage of vehicles for sale on the property at 561 W. College Ave., after a public hearing. Commissioner Siepert seconded. On roll call: all voted aye. Motion carried.

Keane Kehoe, 513 W. College Ave.: Began speaking off the mic, *"notices, and I'm still not getting these notices."*

Mayor Bukiewicz stated he should have gotten one if he is within 300 feet and asked staff if Mr. Kehoe should have gotten one for the current meeting, January 14, 2020.

Keane Kehoe, 513 W. College Ave.: *"I don't know if it's 'cause I have a business address there that they just"*

Mayor Bukiewicz stated any affected property within 300 feet should get notice.

Director Seymour explained staff used the county database for where the tax bill is sent.

Keane Kehoe, 513 W. College Ave.: *"When's the next meeting?"*

Planner Papelbon explained it would not be for another four weeks.

Keane Kehoe, 513 W. College Ave.: *"If I could get on a mailing list, that would be great."*

**CONDITIONAL USE PERMIT
PANERA, LLC
7902 S. MAIN ST
TAX KEY NO. 813-9049-000**

Planner Papelbon provided an overview of the request for a Conditional Use Permit for a proposed restaurant with drive-through facility on the property at 7902 S. Main St. (see staff report for details).

Mayor Bukiewicz asked Director Seymour if he had any comments to add.

Director Seymour explained there are some recent changes to the state statutes with respect to how municipalities regulate and review Conditional Use Permits. In the past there was more discretion involved on the part of the municipality. Through the recent amendments to the statutes the burden of proof has somewhat shifted from the applicant as to why the Conditional Use Permit should be granted to the municipality or the zoning board as to why it shouldn't be granted. In the Plan Commission and Common Council's deliberation with respect with this the commissioners must rely on, "facts and information as opposed to speculation and that conditions should they be approved and imposed upon the Conditional Use Permit have to meet certain conditions and they need to reasonable, measurable, and based on substantial evidence provided at the hearing. Such things can include for instance, duration, ability to transfer and renew that." Director Seymour continued by stating that the discussion should be limited to things that are reasonable, measurable, impacts directly on this. Opinions regarding a drive-through and its impacts on the development or the City should not be discussed as part of the Conditional Use Permit review.

Attorney Brian Randall, Davis Kuelthau, 111 East Kilbourn Avenue Suite 1400, Milwaukee, explained there was a project approved by Plan Commission in 2016 for this site. Attorney Randall brought a hard copy of the Drexel Town Square General Development Plan and Regulating Plan.

Attorney Randall introduced the team that is present on behalf of Panera. Blair Williams will speak on behalf of the current land ownership. He explained the history is important and it frames why the application is being presented today and why that building is not there today. Dan Rosenfeld is very experienced throughout the Drexel Town Square area. He is the listing broker for the property owners and from whom Panera is going to buy the site. Mr. Rosenfeld also has good perspective and may have some brief comments. On the project team specifically, Bob Polk is a civil engineer from Farnsworth Group. Mr. Polk and Attorney Randall met with Planner Papelbon,

Zoning Administrator Miller, and Director Seymour a number of months ago. Mr. Polk has been very hard at work with a number of the plans. Scott Marsh from Panera is the Senior Construction Manager, this is a project Mr. Marsh will be responsible for building once approved. So, he may be able to answer some Panera questions.

Blair Williams, 735 North Water Street Suite 1228, Milwaukee, President of Wired properties, explained he first had a conversation about Drexel Town Square in 2012. Mr. Williams received a phone call from Jerry Frankie. Mr. Frankie was embarking on this massive redevelopment with the City of Oak Creek. The very first site plan that Mr. Williams participated in reviewing was entirely different from this one. This was a hard development for the City of Oak Creek and Wispark to work through. It's remarkable was Wispark and that partnership were able to accomplish. We have been an investor here since the beginning. In fact, I remember sitting when this very plan was being crafted for the very first time and having influence particularly over the role of Main Street and how Main Street would be developed and also what the pedestrian environment would be here. Mr. Williams has a background in mixed-use, he was able to bring that experience to Drexel Town Square. Mr. Williams explained he likes to start with the pedestrian. The goal of Forge and Flare was to create ground floor retail with apartments above. The developers wanted to establish a built form that felt urban in character, but comfortable in scale. The developers also wanted to anchor it with local retail, that was accomplished with food and beverage users. The current tenants, Cubanitas, BelAir Cantina, PizzaMan, Chocolate Factory and all of those retailers that are currently in that location are contributing to what the experience of Drexel Town Square is supposed to be. Mr. Williams continued by stating there are currently four vacancies in the retail spaces on Main Street. Three of those have never been leased. Mr. Williams stated he has continued to market this property with the very best professionals in the retail brokerage community. Admin America doing that leasing for us just as they also acted as the brokers on behalf of the City and the disposition of the land. Mr. Williams explained the project is overwhelmingly successful, but there has been a struggle to fill that retail space. There are a variety of reasons, a number of them are about Drexel Town Square, Drexel Town Square is fundamentally two developments, in my mind. There is a development to the east that is anchored by Meijer, it's surrounded by suburban out lots. The development to the west is the heart of Drexel Town Square. On the west side there is Froedtert and on the other side is Meijer. As a result of the partnership that the City and Drexel Town Square made with each of those two entities, there are restrictions on the type of tenants that can rent the outlets or unbuilt land. Mr. Williams explained some of the business that can not rent in Drexel Town Square include, physical therapy offices, specialty butcher shops, and high-end wine stores. Mr. Williams continued by stating there's a longer list than that and those are due to the restrictions imposed by the relationship between Drexel Town Square and Meijer and Drexel Town Square and Froedtert. Mr. Williams explained that he and others went in to this process with eyes open. What it means is that the universe of potential renters is limited. Mr. Williams was part of the original design team responsible for designing the building that was proposed in 2016 (shown on the screen). That building at the time was something the designers believed was reasonable within the market because they thought that the market for small shop retail space would become quite deep as Drexel Town Square developed. The building holds that street edge, but the challenge with that retail space is those front doors wouldn't be on Main Street. Mr. Williams explained the front doors are on the parking lot side due to the challenging grades and quite frankly Main Street is a vehicular through fare at this point with complicated driving patterns, where drivers are paying deep attention to what they are doing on the road and they don't have to engage pedestrians often because that's not an active pedestrian crosswalk with any kind of volume. Mr. Williams believes the Panera plan will get more bodies on Main Street and make Main Street inherently more comfortable for pedestrians because the adjacency particularly as they approach what is our retail core on Main Street. They will feel pedestrians next to them in the form of patrons sitting

outside or they'll feel more human scaled elements that make Main Street a more inviting environment than it is today. Mr. Williams believes it is a more inviting environment than it would be as portrayed in that building. Mr. Williams explained to fill a 10,000 square foot building in today's market in Oak Creek, the tenants that would need to be considered are larger users like Dollar General and folks that he would never talk to about bringing in to become a partner here at Drexel Town Square. Mr. Williams' company owns Forge and Flare and expects to continue to own Forge and Flare into the long term. Mr. Williams is unwavering in his commitment to this community, and unwavering in his level of investment, but from his perspective the building as shown on the 2016 plan is not attainable in the current market circumstances. Mr. Williams also stated he can't reasonably project as to when it will be attainable because the number of retailers required simply to fill Main Street plus this is overwhelming the market's ability to deliver the types of users that can be put in here and that the community would all like to see in these buildings. Mr. Williams believes Panera is a wonderful corporate community citizen here in Oak Creek right now and that in this location with the truly unique building that they have designed for this location with appropriate modifications can actually reach a higher level of idealized outcome for Drexel Town Square than the proposed 2016 building that will be built at an uncertain date in the future would accomplish at that time. Mr. Williams stated he appreciates the opportunity to speak and is hopeful to move forward with a very successful development that improves Main Street and makes Drexel Town Square that much closer to completion.

Attorney Randall explained it is an important consideration as part of the Conditional Use really how the overall design can be implemented and the history of Drexel Town Square is and so we appreciate the opportunity for Mr. Williams to provide that perspective and also for the back and forth we had with staff. Attorney Randall stated the staff report only indicated or he only saw the one site plan graphic in the Plan Commission packet. There are a number of renderings that are somewhat premature at this stage because the applicants have not made our site plan or architectural or view application yet. That would be the subsequent steps, but none the less the applicants put a lot of effort into painting the picture literally for the Plan Commission of what this building will look like on that corner and what the site plan will be and specifically as Mr. Williams touched upon a number of the pedestrian engagement strategies that we have. The site is there and available. Panera looked at the site and began looking at the site and engaged with the City over the summer. Attorney Randall believes there was a meeting with Mayor Bukiewicz and staff, Panera came in and introduced their plans and had a very prototypical site plan with a drive through restaurant at this location. For the better part of the autumn and since that time Panera has been working to refine that plan and to really bring in the tenants of Drexel Town Square design guidelines and how it can coexist and reflect that plan. Director Seymour, Planner Papelbon, and Zoning Administrator Miller sat down with Bob Polk and Brian Randall. Attorney Randall thinks they had emailed them or maybe we just presented the updated site plan at that time and they gave us very helpful feedback particularly on parking, the connectivity, the shared parking elements, talked a lot about design, heights of buildings and really worked through all that and talked about all the issues that are still being discussed. Some of those items include the length of our building along Main Street, how the drive through might function or circulate. Attorney Randall explained the applicants will touch upon this a little bit going forward, the drive through it's one way or the other we're bring the building forward on the hard corner and that will have some pedestrian interaction points, but the flip side of that is the applicant can bring the building all the way back, surround it with a field of parking and protect the pedestrians and a couple of those walkways. Attorney Randall stated Bob Polk might be able to discuss a little bit more in detail of how the applicants are accommodating and managing the pedestrian conflicts and interactions. Attorney Randall provided an example of the Starbucks layout. There's parking to the west, the drive through exits and the pedestrians have to travel right across that drive

through lane to get into Starbucks. Attorney Randall explained it is a common thing that we consumers are used to, but the applicants are going to want to be smart about how we design it.

Attorney Randall stated the applicants submitted their application in November. Currently, the applicants are going through the approval process. Attorney Randall explained the next few slides show pages from the Drexel Town Square Plan. Attorney Randall explained the design guidelines have a couple of overarching important principles under the application of the master plan.

Attorney Randall asked the Plan Commission to review the second bullet point. That the Plan Commission is to, "Allow designers and developers reasonable flexibility in the creation of specific designs to meet current and future market and economic realities." Attorney Randall stated this is why they had Mr. Williams talk about what the current and market economic realities are. First generation proposals also on page one. Another very important subsection. First generation proposals, the City only has one shot to do it right the first time, so that's what the first-generation proposals and the importance is all about. The highlighted section, Given the circumstances of that importance, "the review of first-generation development should be granted far more flexibility in the approval process." The applicants are going to demonstrate that they have a good amount of what the plan requires, but to the extent they need some flexibility, the applicants hope the Plan Commission can be reasonable as they look at it and have allowed the applicant's proposal. The final sentence references non-binding first generation design concepts. Attorney Randall was also around in 2012, 2013 and represented Meijer as far as how that store was built. There was a careful thought as far as how on that page figure one in the lower left, how those potential store layouts locations could be, but it's also non-binding, no one could have predicted the future in 2013, no one did and there are deviations all throughout and that's okay the City reacted to what proposals were before it and it has now created what we all know and enjoy today, but it admittedly in the plan itself is a non-binding layout so to save the C-1 and C-2 have to be two separate buildings on our corner of Main and Drexel that's not reality, that's not what the plan required. It was the proposed layout.

Attorney Randall continued by asking how can the applicants activate the streets, to have sustainability and walkability. Attorney Randall quoted page three of the plan, "Encourages placement of buildings to enclose and activate pedestrian-oriented streets." Attorney Randall also quoted, "The most critical requirement for active pedestrian streets is a sense of enclosure provided by buildings with ground floor activities," but he thinks that some what overlooks the bullet point that was above it that talks about enclose and activate and as Mr. Williams spoke to, there could be a corridor effect with just walling off Main Street with a building, back side of that building as the Plan Commission has already approved once or, and don't forget the directive in the bullet point is to activate the pedestrian-oriented streets. The applicants took that very seriously and tried to find ways to accomplish that. Attorney Randall also believes it is important to look at what the build-to-zone language actually says. Attorney Randall continued to quote the plan, "Conventional planning practice achieves this goal by creating Build-to Zones (BTZ)." Attorney Randall explained conventional planning is how everyone assumes it will be done, bring the buildings up and that's conventional, but there could be other ways to do it, particularly as activating the pedestrian realm. Attorney Randall pointed out that it says, "Conventional planning," it doesn't say it must be this way, it's just what makes a lot of sense and Build-to-Zones. The applicant is very proud of their 98-foot building in that Build-to-Zone and notes that there are some challenging grades, that's in the survey, and the site plan, and Mr. Williams spoke to that a little bit as well. Attorney Randall referenced page four and continued with the BTZ and these bullet points merited mention. Some of this is for the site plan review at the future stage, but it really sets the direction for all of us. The first one is in the BTZ it calls for architectural elements, Attorney Randall pointed out the pergolas on the third line there.

In the lower left corner is a view of our proposed building looking to the north. The graphic shows the building right on the corner with a pergola. There is also a planter wall with landscaping on

the top and some seating right along the sidewalk. Attorney Randall stated it's a structural element, but then the seating on the front face and then to activate the sidewalk café area. Attorney Randall read another line from page four, "One of the simplest ways to make a place active is by creating outdoor places for people to gather." He expressed his excitement about this proposal and opportunity. He hopes it will flip Main Street from a vehicular street and add elements of pedestrian connectivity. He pointed out the available bike rack in the proposal. Attorney Randall cited the plan, "Outdoor spaces, such as cafes and restaurants with outdoor seating areas are to be encouraged where economically feasible." He predicts that eight months out of the year it will be an exciting and dynamic place. Attorney Randall began to focus on the drive through. He referenced page three of the plan, "The buildings along the north side of Blocks B and C, as shown in Figure 1, may include drive-throughs." There is no drive-through depicted on building C1 in the figure, however the drive-through is not shown on building F, which is the Chick-Fil-A that has a drive-through. The staff report and Planner Papelbon stated the drive-throughs must be, "consistent with the site plan for the First-Generation Proposal and are consistent with the goals of active and walkable streets described in this document." Attorney Randall stated they do not have to be identical to First-Generation Proposals, as stated earlier they are non-binding, however there needs to be consistency. The Panera building will be on the hard corner and brought up to the C1 position. The drive-through will have the consistency of achieving those goals of active and walkable streets. Attorney Randall quoted page 7 of the plan, "Drive-throughs should be located at the rear or side of buildings and should not be placed between a public street/easement and the main building structure." Attorney Randall stated the Panera proposal meets all of those criteria. The original plan presented to staff and Mayor Bukiewicz in their first meeting did not show those criteria. Attorney Randall again cited page seven, "Clearly defined pedestrian crossings should be provided where walkways intersect drive-through access lanes." Attorney Randall explained he is aware there will be intersection points that are unavoidable with the building placement. He continued by stating the current site plan is very preliminary. The current entrances do not dump right into the drive-through lane. Attorney Randall referred back to page seven, "In all cases drive-through facilities should be designed to operate without endangering the public safety." Attorney Randall continued by stating their number one interest is to keep Panera customers safe and we expect our Panera customers will be able to traverse this parking lot safely. Attorney Randall presented additional Drive-through considerations from page seven of the plan. He continued by referring to what Director Seymour mentioned about the world post 2017 under Act 67, which is how does the City administer Conditional Use Permits. It is not based on speculation, it is based on substantial evidence and it really starts with the applicant. The applicant still has a burden of demonstrating substantial compliance and the substantial evidence that the Code requirements are met. Then it flips to the Municipality that if it's going to be denied or if conditions are going to be placed reasonable that those have substantial evidence, routed in the Code. Attorney Randall suggested to the Plan Commission that in the Conditional Use Permit review process they review the Additional Drive-Through Considerations from page seven of the plan, as they are requirements that have to be met. The applicants believe the proposed plans demonstrate that they've met all those in location, orientation, quantity and width, automobile stacking, pedestrian circulation, and menu board/microphone placement. All of the plans can be modified by the Plan Commission. Attorney Randall continued to describe the additional drive-through considerations, weather protection, signage, lighting, audible level of microphones, and drive-up windows and lanes. Attorney Randall explained in the staff report there is a concern listed regarding the amount of parking. Attorney Randall explained that they were not aware of the requirement to do a parking study or analysis that was mentioned by Planner Papelbon. That sounds like a site plan, an architectural review submittal requirement, which would be done next. The applicants are very confident parking at 56 on site with shared parking with all the other pedestrian connections will be enough.

Bob Polk, licensed professional engineer and principal with Farnsworth Group, Saint Louis office, addressed the concerns listed in the staff report. Mr. Polk explained that any time you park in a parking field and try to enter a building you are crossing a vehicular isle. Mr. Polk referenced the 2016 approved plan and pointed out that the 2016 plan has pedestrians crossing an uncontrolled vehicular isle in front of the building.

Mayor Bukiewicz corrected that the pedestrians are not crossing a drive-through.

Mr. Polk agreed, but considers crossing that vehicular isle more dangerous than crossing the drive-through because it is uncontrolled vehicular traffic. Mr. Polk explained the expectation of Panera at this location are that 70% of their transactions will occur inside their building and about 30% will occur in the drive-through. This is primarily be a sit-down restaurant not a fast food restaurant. The staff went through several different calculations to determine parking. The suggestions in the GDPRP are stated as approximations. Mr. Polk looked over the numbers in the GDPRP using his 40 years of experience and thinks the spaces for sit-down restaurants, 8-12 spaces per 1,000, are probably right on. In his experience the fast food numbers of 20 per 1,000 are high. Mr. Polk believes if the sit-down restaurant data is used, the restaurant will have adequate parking. Mr. Polk continued by stating the Panera restaurants that he has been associated with have 50 parking spaces and that has been adequate and most Panera restaurants being constructed today have patios.

Attorney Randall stated he explained the applicants understand there are multiple steps and the next step would be Conditions and Restrictions if that is part of the motion, a public hearing in front of Common Council, and a site plan and architectural review. Attorney Randall continued by stating this is the applicant putting their best foot forward including amenities for activating the street and to give the Plan Commission an equivalency in activating the pedestrian realm and activating the space and exceeding what the back of a building might.

Commissioner Chandler asked the applicant to give more details on the entrances and exits, starting with the vehicles.

Attorney Randall explained on the west there would be one access point from the private drive. The driver could turn left or right to access some parking or loop around and go into the drive-through. The drive-through will go through the landscaped area. The landscaped area will define the parking area to the north. There will be a new curb-cut further east. There will be a shared parking context with the current businesses to the east. There are cross-access easement obligations. Attorney Randall referenced the current aerial photo to show the sparseness of the current parking lot. Even though there will only be easement rights to that parking, there is capacity with the businesses over there. The driveway is wider to allow for service vehicles and vehicles making daily deliveries.

Commissioner Chandler asked if drivers can enter or exit from both driveways.

Attorney Randall confirmed both driveways are for two-way traffic. If signage needs to be added prohibiting something that could be addressed very easily.

Commissioner Chandler asked inaudible questions.

Attorney Randall explains he thinks it is a good question and concerns that can be addressed with way finding signage.

Director Seymour explained the applicant shows a 44-foot-wide drive with inbound and outbound butting up against each other. Director Seymour went off microphone to point something out on the screen. Director Seymour explained it will be a design element that can be and will be refined should this proposal move forward, but this points out the challenges in designing a site around a drive-through lane. We would want to get a lot more comfortable with how that impacts traffic and parking. This is a shared parking lot for C1, C2, and current businesses. All tenants and owners will want to be comfortable with the aspect that is shared among the development.

Commissioner Chandler asked how many vehicles can be in the drive-through lane.

Attorney Randall explains they show nine on the proposal and the minimum set by the guideline is four.

Commissioner Chandler asked if there is a requirement to have a pass-through lane.

Planner Papelbon stated there is not a requirement for an emergency exit lane. The requirement is for four vehicles that do not impede traffic, don't block any rights-of-way, but in the DTSMUPDD it also says they can not block entrances to the building.

Commissioner Chandler asked the applicant to go over where the pedestrian entrances are located.

Attorney Randall explained there is a main entrance on the hard corner of Drexel and Main Street. There is another primary entrance off the patio on the south side of the building. There is a staff entrance on the east side of the building that is not for the public. There will be stairs to bring people up from the sidewalks along Main Street and Drexel Avenue. There are two crosswalks through the drive-through lane. This plan is preliminary and will be refined with staff. Attorney Randall explained they are mindful that pedestrians will be crossing the drive-through, however it is not traveling traffic. Attorney Randall reiterated that the applicants are trying to follow the plan by bringing the building to the street edge and activating those spaces. By doing that it is creating interaction points.

Commissioner Chandler inquired if the expectation is for the patrons parked in the northeast corner to walk in between cars.

Attorney Randall confirmed if there are cars in drive-through and they go south they can walk along the sidewalk to the south, however if they don't like the car in the drive-through they can walk towards the north and walk around to the door that way.

Commissioner Oldani inquired if the applicants are now expecting their customers to walk all the way around the building if they don't like the car in drive-through blocking the crosswalk. Commissioner Oldani expressed his concerns that the south walkway will be blocked a lot of the time. Some care may stop further back realizing that it is a walkway.

Commissioner Chandler agreed and stated her concern is having pedestrians going in between potentially moving cars. If the crosswalk is covered there will still be pedestrians taking that path trying to zig-zag in between cars. Commissioner Chandler asked Planner Papelbon if it is more common to have a crossing at the end of a drive-through, similar to the north crossing.

Planner Papelbon stated she will not make any representations that is it more common or less common. Planner Papelbon continued by saying it is more visible. She continued and stated the

first parking stall would have to back straight up or back into the end of the drive-through lane. The north crossing is wider, more of an angle, connected to the pedestrian walkway that connects the parking field. It is possible that more people will gravitate towards the north crossing and going around the building, however they are looking for entrance. There is no entrance on the east side, parking side of the building, either way the patrons will have to go around cars or around the building to get in.

Commissioner Chandler asked the applicant why there is no entrance closer to the parking.

Attorney Randall pointed out an entrance he overlooked on the north east corner of the building.

Scott Marsh, Senior Construction Manager for Panera Bread, 3630 Geyer Road, Sunset Hills, Missouri, explained there is an entrance on the northeast corner, as well, that is not far from the angular crosswalk. Mr. Marsh continued by stating Panera has a number of crosswalks through the drive-through. They've used signs in the drive-through stating, "Please leave crosswalk open for pedestrians." Panera has not had any complaints or issues with it at any existing cafes that have that setup. Mr. Marsh agrees that it looks like a problem the way it was drawn with a car in the crosswalk, and that can be adjusted. As a brand, Panera doesn't feel it is an impediment to our customers to get to our building when they have to cross the drive-through.

Commissioner Chandler stated she doesn't believe the concern is impeding, but rather the safety of the pedestrian walking through cars.

Mr. Marsh explained that Panera understands that, to his knowledge there has never been anyone injured at a Panera by being hit by a car in drive-through. The drivers are going slow and queued for the car in front of them.

Commissioner Chandler inquired the pedestrians' pathway from the southern parking stalls to the building entrance on the south side of the building and if the pedestrians will have to walk through the patio to get to the entrance.

Mr. Marsh explained it will be a concrete patio that will be easy to navigate.

Commissioner Chandler asked how the patrons parked in the southeast parking stalls would get to the entrance.

Mr. Marsh reiterated they are still in the planning phase and can add a sidewalk if needed.

Commissioner Siepert asked what the queuing time is from the time an order is placed to the time it is picked up. Commissioner Siepert also asked what is done with customers that have big orders that will take a long time to prepare. Commissioner Siepert is concerned about the time frame from 4:30 PM to 7:00 PM.

Mr. Marsh explained it would be addressed on a final site plan where there would be a minimum of two pull forward spots for customers with long orders.

Commissioner Siepert asked again for the time frame from when an order is placed to when it is received by the customer.

Mr. Marsh stated he is not sure of the average time, however there is a separately kitchen line for the drive-through.

Attorney Randall explained that one set of plans does show one pull ahead stall and that can be adjusted.

Mr. Marsh stated they will have more than one.

Commissioner Siepert sees a potential problem with entering the drive-through and is concerned when more cars will be waiting to place their orders.

Mr. Marsh stated as they are finalizing plans the menu board can be moved, however it takes longer after the order is placed to have less stack at the menu board makes more sense than to have less stack at the drive-through window.

Commissioner Carrillo stated she is really disappointed that the original design of Drexel Town Square is not being met and that Plan Commission is looking at this building going on the corner. Commissioner Carrillo continued by stating they were expecting something different. She explained the streets are not quiet streets. She is concerned that the private drive is not going to be large enough for a retailer to use as an entrance and exit. Parking is no longer allowed on that street due to fire lanes. Commissioner Carrillo explained restaurants in the area have long lines in their drive-throughs and is concerned that the drive-through line will back up on to Main Street. She is also concerned about the time it would take cars to get through the drive-through line, she used the existing Panera in Oak Creek as an example stating food wait times can be up to 15 minutes.

Mr. Marsh explained with the new building and design they can increase the efficiency of the kitchen and have two prep lines. One prep line for inside the restaurant and one prep line for the drive-through. Adding a drive-through is a key reason for moving.

Blair Williams, 735 North Water Street Suite 1228, Milwaukee, President of Wired properties, explained the plan for Drexel Town Square contemplating a 10,000 square foot building here with 100% of its access off the private drive. The access to this parcel has always been contemplated to be off that private drive, including 100% of the truck traffic to serve that building for deliveries and trash removal.

Commissioner Carrillo stated there used to be parking on that road, but it is said to be too dangerous so the parking was removed. With snow removal and coming around the corners it's dangerous. If the drive-through is backed up on to the private drive residents will not be able to get into their parking garage.

Mr. Williams reiterated he is not on the Panera side of this transaction; however, his experience suggests that having nine cars to queue in a drive-through is more than he has ever driven through. He feels with an appropriate menu board location at the front end of that line, there is with nine cars a whole lot of queueing. Mr. Williams continued by reiterating that whatever this site gets developed into they will actually lose the ability for an outdoor patio with the original design. The building was never contemplated to have food service in it. There was not going to be any outdoor space. However, all the deliveries and everything is happening off the private drive.

Commissioner Carrillo agreed deliveries, but not traffic.

Mr. Williams corrected that it would be all of the traffic, all parking, and everything goes through the private drive.

Commissioner Carrillo stated the original plan had a building similar to the Forge and Flare buildings.

Mr. Williams disagreed and said it would have been four retail tenants. The biggest difference is the grading challenge. The finished floor of the building that will go there will be feet above the sidewalk on Main Street. At the north end of development, the building will be four full feet over the sidewalk. It is a challenging environment; the applicants continue to believe that bringing the pedestrian activity to Main Street is the way to create the appropriate pedestrian buffer. To really get the vision of Drexel Town Square realized people need to be drawn farther north. Creating more green space and more pedestrian friendly space in order to make that a more welcoming next step.

Commissioner Oldani agreed with Mr. Williams that the applicant wants to push the pedestrians over there. However, he said to Mr. Williams, "it's a bit of contradiction because if you were truly 100% worried about getting pedestrians up there you certainly wouldn't have a drive-through. You're encouraging people to just zip through and maybe people who are there for something else and instead of maybe, to get a haircut or whatever they're there for instead of taking that walk to find and go sit down something, 'let's just jump in the car and we'll zip through the drive-through on the way home.'"

Mr. Williams reiterated Panera's projection that 30% of their business will be in the drive-through.

Commissioner Oldani stated he understands.

Mr. Williams continued by stating given the volumes that Panera does, they're adding a significant number of folks spending disposable income on food and beverage. People are more likely to go get something else and walk down Main Street and potentially walk into a retailer's store and engagement with something. The drive-through is part of the model. Mr. Williams explained they haven't demonstrated we can do anything with the site because they can not find a tenant to take one of the retail spaces in that building. The way you make someone feel like they've arrived at a community is to see people sooner. A building holding the edge is less important than people holding the edge. This building will be will be transparent with people sitting, dining, and having fun and laughing and a courtyard that's activated. The second someone turns in here they're going to see something that suggests that people are welcome. The underlying intent of the Master Plan is to bring in more people to create moments of engagement.

Alderman Loreck did not want to repeat previous statements about the drive-through issue or the design itself, however, the First-Generation development plan doesn't prohibit drive-throughs, but the statement does say, "a drive-through may be included if it's consistent with the First-Generation Site Plan." Alderman Loreck continued by stating he was not here when it was developed or the proposed site plan itself, but disagrees that it is not consistent with the Frist Generation site plan, which had two buildings. Alderman Loreck stated a restaurant itself there would not draw pedestrian traffic. A corner that is welcoming people into the development should focus more on a retail base. Alderman Loreck gave his opinion that he likes the design of the restaurant and being able to eat outside.

Mr. Williams pointed out intent, buildings F5 and B5 are shown as single buildings no drive-through, both of them the plan was amended to allow drive-through. There was a building that

was identified to be for a sit-down restaurant only that became a mixed type of building. Each of the buildings on this plan have adapted over time to become what the market can support. Mr. Williams stated that Alderman Loreck's point supports his own thesis that unless we get more people here we can't even support the retail we have. There is still another parcel to develop with no perspective tenants.

Director Seymour explained that the general consensus is that a restaurant with outdoor seating area is a good thing and something that is permitted in Drexel Town Square. The challenge for staff, Plan Commission, and Common Council is to determine if a drive-through is consistent with that vision. A lot of the discussion was oriented around the challenges that the drive-through presents for the parking field, circulation, and pedestrians. A restaurant with an outdoor seating area of that design caliber would be encouraged by the Drexel Town Square.

Commissioner Chandler asked where the bike racks are located on the site.

Mr. Marsh stated they are right up against the sidewalk on Main Street, in front of the patio.

Attorney Randall stated it is right below the patio/egress door on the site plan.

Commissioner Chandler asked how someone on bicycle would get to that point.

Attorney Randall explained they would either be on the private road or Main Street. They would walk their bike on the side walk and park it right there.

Commissioner Chandler inquired what is in place, as it stands today, to keep pedestrians safe.

Mr. Marsh explained there will definitely be a crosswalk and more signage can be added in the drive-through lane to inform vehicles to stop before the crosswalk.

Attorney Randall added that it is very common in this area and all of the retail there are many pedestrian pathways through parking lots and to those front doors. The applicant will mark those pathways with better crosswalks and signage. It may not be optimal or ideal, but it is not by definition unsafe.

Mr. Marsh added that most fast food restaurants are setup in a donut style and customers are walking across the drive-through after people already have their food and are cutting out of the parking lot. This Panera drive-through has curves so it will slow drivers down and provide a much safer layout.

Commissioner Chandler asked the applicant what the backup plan is if this part of the plan is not agreed upon.

Mr. Marsh explained their plan would be to modify the presented plan to fit the needs of the Plan Commission and the planning board. In order to have all the elements met, this is the basis layout that will be fine tuned and improve as necessary.

Commissioner Siefert asked the applicant why the didn't put any of the handicapped stalls on the south end of the parking lot, which appears to be a lot closer to the building than the stalls on the north end of the lot.

Attorney Randall explained he believes the handicapped stalls will be moved to the south end of the parking lot in their next submittal.

Commissioner Siefert stated the spaces seem to be really far.

Mr. Marsh stated they will orientate them as close as possible and federal law requires they are as close as physically possible.

Commissioner Carrillo inquired where deliveries will take place and where trucks will come in and out.

Mr. Marsh stated he has not seen the truck plan yet, but his guess would be that the trucks would use the two south entrances by coming in one and exiting through the other. The dough is delivered between 12 AM and 2 AM. Other deliveries are scheduled based on the needs of the café.

Commissioner Carrillo explained there are restrictions in Drexel Town Square regarding deliveries.

Planner Papelbon stated there is a noise ordinance that has to be complied with.

Mr. Marsh explained in the kitchen there is a separate dough cooler that allows for longer storage of the dough, so they can accommodate a delivery schedule mandated by the City if they need to.

Mayor Bukiewicz gave his opinion that 30% of business being conducted through the drive-through is a high percentage and shoots a whole in the walkability if 30% of the customer base is going to walk in to Town Square. Drexel Town Square would get more walkability with a similar setup of apartments on top with retail stores. Public safety has been hit pretty hard and it has been established that it is not good. Mayor Bukiewicz continued by saying his is not a fan of drive-throughs. In the Drexel Town Square PUD, it states that drive-throughs may be there, at the Plan Commission's discretion. The building looks spectacular with the grade. Mayor Bukiewicz agreed that flexibility has been built into the plan. That does not mean that every plan going forward has to be agreed upon. Mayor Bukiewicz believes the site could accommodate a 10,000 square foot building or maybe breaking it up into two buildings. Mayor Bukiewicz agreed that the City gets one shot to get this right and the Plan Commission has to do what's right. Mayor Bukiewicz is not saying this proposal can't be reworked to make it work in the future, but the current proposal takes away any chance for another 4,000 or 5,000 square foot building. Mayor Bukiewicz made additional inaudible statements. Mayor Bukiewicz referenced an earlier speaker that said the walkability is required to make Drexel Town Square a success. Mayor Bukiewicz disagreed and said that Drexel Town Square is a success. Mayor Bukiewicz made additional comments that were inaudible. Mayor Bukiewicz stated it is a nice design and he likes it, but thinks it needs a lot of work.

Commissioner Oldani asked the staff if this is not an affirmative motion.

Planner Papelbon stated the recommendation that is being proposed in that motion is for a specific council action, so it is still an affirmative. Meaning a vote cast for the motion is for the recommendation as stated.

Commissioner Oldani moved that the Plan Commission recommends that the Common Council does not approve a Conditional Use Permit for a restaurant with drive-through facility on the property at 7902 S. Main St. due to the following:

1. Is not consistent with the First-Generation Development Proposal within the approved General Development Plan and Regulating plan for the DTSMUPDD, Sec. 17.0334;
2. Does not fully meet the goals of the approved General Development Plan and Regulating Plan for the DTSMUPDD, Sec. 17.0334, particularly for active and walkable streets due to pedestrian safety and vehicle conflict concerns; and
3. Would require substantial redesign to meet the goals and requirements of both the approved Drexel Town Square General Development Plan and Regulating Plan for the DTSMUPDD, Sec. 17.0334, and Chapter 17.

Alderman Loreck seconded. On roll call: all voted aye. Alderman Guzikowski left before the votes were cast for this item. Motion carried.

Mayor Bukiewicz thanked the applicant for their time.

Commissioner Carrillo moved to adjourn the meeting. Commissioner Siepert seconded. On roll call: all voted aye. Alderman Guzikowski left before votes were cast for adjournment. Motion carried. The meeting was adjourned at 9:12p.m.

ATTEST:



Douglas Seymour, Plan Commission Secretary

2-11-20

Date