

**MINUTES OF THE
OAK CREEK PLAN COMMISSION MEETING
TUESDAY, July 13, 2020**

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

Planner Papelbon read the following into the record:

The City of Oak Creek is authorized to hold this public meeting remotely during the COVID-19 public health emergency under the March 16 and March 20 advisories from the Office of Open Government in the Wisconsin Department of Justice and subsequent Common Council approvals. Per the advisories and approvals, this meeting being conducted via Zoom video conference with telephone conferencing capabilities was duly noticed per the City of Oak Creek Municipal Code and Statutory notice requirements more than 24 hours in advance of the meeting. Members of the public have been advised of the options for participation via direct mailing to property owners within 300 feet of a proposal, via the COVID-19 information page on the City's website, via social media, and via the information contained on the meeting agenda. This meeting may also be viewed at the City's YouTube page, the link for which was contained in all aforementioned notice methods. The meeting recording will also be accessible on the City's YouTube page within 48 hours.

Plan Commissioners and participants are initially muted upon joining the meeting. Plan Commissioners and staff have the ability to mute and unmute their microphones throughout the meeting. Please mute at all times except for roll call, motions, voting, and when recognized by the Chair. Roll call and voting will occur per the usual and customary procedure, starting from Plan Commissioner seating positions south to north in the Common Council Chambers (e.g., Hanna, Sullivan, Carrillo, Loreck, Bukiewicz, Guzikowski, Oldani, Siepert, Chandler). The Chair will facilitate questions and comments by calling on each Plan Commissioner, or by requesting the use of the "raise hand" function in the Zoom webinar control panel. Only speak once you have been recognized by the Chair or moderator.

Applicants, their representatives, and all other participants who wish to speak will be unmuted

- When there is a direct request for information from the Plan Commission or staff;
- When the participant utilizes the "raise hand" function within the Zoom webinar control panel, and the moderator verbally indicates that they are unmuted;
- When a phone participant dials *9 to indicate they wish to speak, and the moderator verbally indicates that their line is open.

When unmuted, all participants must state their name and address for the record, then proceed with comments or questions.

Questions and comments may also be entered into the Q&A function within the Zoom webinar control panel. Staff and/or the moderator will monitor this function during the meeting, and provide the information requested. There shall be no private messages or side conversations during the meeting utilizing the chat or Q&A functions. Chat and Q&A messages are part of the public

record.

Minutes of the June 23, 2020 meeting

Alderman Loreck moved to approve the minutes of the June 23, 2020 meeting. Commissioner Chandler seconded. On roll call: all voted aye, except Alderman Guzikowski who abstained. Motion carried.

CONDITIONS AND RESTRICTIONS BRENTWOOD ANIMAL HOSPITAL 318 W. RYAN RD. TAX KEY NO. 875-9994-001

Planner Papelbon provided an overview of the draft Conditions and Restrictions for a Conditional Use Permit for an expanded animal hospital with kennel and boarding facilities on the property at 318 W. Ryan Rd (see staff report for details).

Alderman Guzikowski stated that he has no questions, but is excited for what Brentwood is doing.

Mayor Bukiewicz asked Assistant Fire Chief Havey if there are any concerns for the Fire Department.

Assistant Fire Chief Havey stated Fire has no concerns.

Mayor Bukiewicz asked Planner Papelbon if the Conditional Use would have an expiration date like other Conditional Use Permits do.

Planner Papelbon explained this is a unique situation that was discussed at a staff level. The reason there is no expiration is because this is an existing facility and has been an existing facility as a Conforming Conditional Use since at least the 1960s. Staff felt it was inappropriate to suddenly put an expiration date on something that has been in existence for so long. Plan Commission can recommend that there be an expiration date, after which point the Applicant would need to come back to renew the Conditional Use Permit.

Mayor Bukiewicz agreed that was very logical and prudent thinking.

Planner Papelbon explained that sunset expiration dates are proposed mainly for extensive expansions or new businesses that are for uses that have potential for impact to the City's services, infrastructure, or on the surrounding neighbors.

Alderman Guzikowski moved that the Plan Commission recommends that the Common Council adopts the Conditions and Restrictions as part of the Conditional Use Permit for an animal hospital with kennel and boarding facilities on the property at 318 W. Ryan Rd., after a public hearing. Commissioner Hanna seconded. On roll call: all voted aye. Motion carried.

CONDITIONS AND RESTRICTIONS OAK CREEK INDUSTRIAL, LLC 102 W. OAKVIEW PARKWAY TAX KEY NO. 955-1040-000

Planner Papelbon provided an overview of the draft Conditions and Restrictions for a Conditional

Use Permit for freight yard/freight terminal/trans-shipment depot facilities for the property at 102 W. Oakview Parkway (see staff report for details).

Mayor Bukiewicz stated it would be hard to enforce the “exit only” to Howell Avenue, and inquired if the Plan Commission can assume, given the location, the business will use Howell Avenue.

Planner Papelbon stated that a version of that language was included as part of the requirements for the FedEx freight facility when that was reviewed and approved. It is not dissimilar to any kind of restrictions that are already in the area for these truck terminal facilities.

Mayor Bukiewicz asked Assistant Fire Chief Havey if there were any concerns from the Fire Department.

Assistant Fire Chief Havey commented in the chat window of the meeting. Mayor Bukiewicz read Assistant Fire Chief Havey’s comment, “there are no issues or concerns.”

Alderman Guzikowski moved that the Plan Commission recommends that the Common Council adopts the Conditions and Restrictions as part of the Conditional Use Permit for freight yard/freight terminal/trans-shipment depot facilities on the property at 102 W. Oakview Parkway, after a public hearing. Commissioner Hanna seconded. On roll call: Motion carried.

**TEMPORARY USE PERMIT
MEGA MARTS, LLC, DBA PICK N’ SAVE #387
2320 W RYAN ROAD
TAX KEY NO. 878-9037-001**

Zoning Administrator Miller provided an overview of the request for a temporary use permit for the sale of remaining spring and summer merchandise inventory on the store’s sidewalk at 2320 W Ryan Road (see staff report for details).

Commissioner Carrillo referenced all three agenda items regarding Mega Marts and asked if the display is more dangerous at one store more than the others.

Zoning Administrator Miller stated they are essentially all the same, however two of the stores have propane tanks year-round and one store has a Redbox kiosk in addition to the displays. Zoning Administrator Miller continued by stating generally the City asks that the Redbox kiosks remain inside the building.

Commissioner Carrillo asked to confirm that the stores have violated more than one for the extended period.

Zoning Administrator Miller confirmed and stated that since she started this position about a year ago, the City recognizes that this is happening continuously and it seems to be getting worse. At the Howell Avenue location, the store was blocking the entrance with swimming pools and different display fixtures.

Commissioner Carrillo stated that she has experienced someone sitting outside at a table taking money for these items and expressed concern over safety.

Zoning Administrator Miller agreed the City has heard that as well and detailed that the stores told the City they would not be doing outside sales. This is another concern of the City.

Alderman Loreck referenced the propane tanks in number four of the motion and inquired if that is normally recommended to have propane indoors.

Zoning Administrator Miller believes that is a safety issue to have the tanks indoors, however, the way the City's Code is written the City does not allow it at all. The stores have two options: to not have the propane at all or have it indoors.

Alderman Guzikowski stated he was contacted by the manager at the Ryan Road location. The store was surprised because they have been doing this year after year and now there is this big push back and feel the City is coming down especially hard. Alderman Guzikowski went to the stores to experience the displays. Alderman Guzikowski is looking for there to be a balance for the City and the stores, but agrees the Plan Commission needs to look at tweaking something.

Zoning Administrator Miller explained there have been various Code Enforcement issues and feels through this process they have arrived to being on the same page. Zoning Administrator Miller explained in the past the City has recognized the displays and the Pick n' Save stores have not been addressed specifically, but other stores similar to them have been addressed and turned down. Staff had a discussion with the Vice President of Roundy's and he understands the situation. Staff also discussed signage issues which go beyond the scope of the proposal.

Commissioner Chandler asked if the applicant agrees to move the items out of areas that cause safety concerns.

Zoning Administrator Miller explained that the applicant understands that they cannot have items in those locations and the City is extending them a courtesy to allow the stores a little extra time to sell through the merchandise. Zoning Administrator Miller continued by stating the applicant's proposal is very specific as to what the items for sale will be. The items are listed in the staff report. Zoning Administrator Miller is concerned that new merchandise has been added in the last week.

Commissioner Chandler asked to confirm that the propane tanks should be removed because they are not on the list of the proposed merchandise.

Zoning Administrator Miller confirmed the propane tanks and the Redbox kiosk are non-seasonal merchandise.

Commissioner Chandler asked if this location is the one with a Redbox kiosk outside.

Zoning Administrator Miller stated it was only the 27th Street location that had the Redbox.

Commissioner Chandler asked Zoning Administrator Miller to provide more information as to why this is being extended beyond the 14 days that were already provided.

Zoning Administrator Miller stated staff was trying to work with the applicant and provide the 14 days, however the applicant was requesting a longer time and was suggesting to allow themselves to have seasonal merchandise year-round. Zoning Administrator Miller explained the history of those proposals to the applicant and stated they were welcome to proceed with that. An opportunity to sell through the merchandise would be a gesture of good faith by the City.

Commissioner Chandler inquired what the next step would be if the items continue to remain there

in violation.

Zoning Administrator Miller stated in these circumstances she would contact them one more time and then if it is not corrected they would be issued a citation.

Mayor Bukiewicz stated he agrees with the comments being made and some controls need to be put to this. Mayor Bukiewicz explained as long as Zoning Administrator Miller is comfortable with the conditions she drew up, it will give her some means to go out and enforce.

Director Seymour explained that when the City has situations like this the staff always tries to work with property owners to come up with a reasonable solution. Staff is not opposed to having outdoor displays of merchandise, the concern is when the displays are unregulated and presents safety issues and blocks fire lanes. In cases of outdoor merchandise staff would prefer to have a plan that designates where those items are and more decisive rules for how and what can be displayed outside. If Roundy's would like to pursue outdoor displays, staff would be happy to work with them.

Mayor Bukiewicz suggested Zoning Administrator Miller review previous Plan Commission records because the Redbox kiosks may have been addressed in the past, however, he is not sure about the propane.

Zoning Administrator Miller stated the City does see propane tanks regularly at the gas stations along with the Redbox. Zoning Administrator Miller apologized as she did not see anywhere that it has been approved in the past so that is why it was noted.

Mayor Bukiewicz stated she was right to do so as it might have been awhile back, but he does remember talking about that. Mayor Bukiewicz believes it should be cleaned up and see what the stores are approved for.

Planner Papelbon explained the Redbox kiosks were discussed, but were never approved. The propane tanks are considered Conditional Uses in certain districts. For example, if it is in a B-4 district it will appear as a Conditional Use for gas stations, and it would be appropriate in other B-4 District properties for grocery stores to do the same, per the existing Code.

Commissioner Carrillo referenced number five of the suggested motion, and proposed that the verbiage be changed from, "the parking lot" to "anywhere outdoors."

Mayor Bukiewicz inquired if the people selling were actually selling on behalf of Pick n' Save.

Commissioner Carrillo confirmed they were selling the plants.

Assistant Fire Chief Havey explained items in a fire lane that are noted as a violation on a normal fire protection inspection maybe removed within the required timeline, however the items might be moved back after the reinspect and the Fire Department would have no knowledge unless there is a complaint made.

Commissioner Oldani referred to number four of the suggested motion in the Power Point presentation and inquired if the City is telling the business that it is okay to store propane on the inside of the building.

Zoning Administrator Miller corrected the verbiage on the Power Point slide. It should read,

“removed from the exterior of the building.”

Commissioner Oldani expressed concern over telling the applicant to store propane on the inside.

Zoning Administrator Miller agreed that she does not believe it is safe to have it on the inside. The staff discussion was that the stores probably should not be selling it until there is a solution.

Assistant Fire Chief Havey stated it is not a common practice and is probably not adopted through most of Code or State Code.

Commissioner Oldani is concerned about giving the stores the impression that they can move the propane tanks inside.

Director Seymour does not believe anyone has been approved for that and rather than making a condition of the motion, the propane tanks are not allowed unless a business has a Conditional Use Permit. The City will consider a separate application for a Conditional Use Permit that will allow them to have propane sales.

Mayor Bukiewicz asked what wording should be used for number four.

Director Seymour stated he would delete it because it is not allowed without a Conditional Use Permit.

Mayor Bukiewicz inquired if the City will be notifying them of that.

Zoning Administrator Miller stated she has a good connection with Tammy Koch, assistant to the VP of Roundy's, and will have a conversation with her.

Alderman Guzikowski moved that the Plan commission approves the Temporary Use permit for outdoor displays of merchandise at Pick n' Save #387 at 2320 W Ryan Rd with the following conditions:

1. The displays must be confined to the walkway and against the front façade of the building.
2. That no fire lanes or building entrances be blocked.
3. Displays of merchandise be limited to the items listed in the narrative.
4. No sales will occur in the parking lot or sidewalks or anywhere outside of the building or as stated above.
5. All signs shall comply with Section 17.0709 Temporary Banners and Construction Signs and be issued a temporary sign permit.
6. That sales shall occur between the hours of 6:00 AM and 11:00.
7. The Temporary Use Permit for the outdoor sale of merchandise shall expire July 31, 2020. No extensions of the Temporary Use Permit will be issued.

Commissioner Hanna seconded. On roll call: all voted aye. Motion carried.

**TEMPORARY USE PERMIT
MEGA MARTS, LLC, DBA PICK N' SAVE #348
6462 S. 27TH STREET
TAX KEY NO. 715-9019-000**

Zoning Administrator Miller stated this item for the Pick n' Save store #348 located at 6462 S. 27th Street is the same proposal as the previous item with the same enforcement issues (see staff report for details).

Alderman Guzikowski moved that the Plan commission approves the Temporary Use permit for outdoor displays of merchandise for Pick n' Save #348 at 6462 S. 27th Street with the following conditions:

1. The displays must be confined to the walkway and against the front façade of the building.
2. That no fire lanes or building entrances be blocked.
3. Displays of merchandise be limited to the items listed in the narrative.
4. No sales will occur in the parking lot or anywhere on the sidewalks or as noted above.
5. All signs shall comply with Section 17.0709 Temporary Banners and Construction Signs and be issued a temporary sign permit.
6. That sales shall occur between the hours of 6:00 AM and 11:00 PM.
7. The Temporary Use Permit for the outdoor sale of merchandise shall expire July 31, 2020. No extensions of the Temporary Use Permit will be issued.

Commissioner Siefert seconded. On roll call: all voted aye. Motion carried.

**TEMPORARY USE PERMIT
MEGA MARTS, LLC, DBA PICK N' SAVE #862
8770 S. HOWELL AVENUE
TAX KEY NO. 860-9041-000**

Zoning Administrator Miller stated this item for the Pick n' Save store # located at 8770 S. Howell Avenue is the same proposal as the previous two items with the same enforcement issues (see staff report for details).

Commissioner Oldani moved that the Plan commission approves the Temporary Use permit for outdoor displays of merchandise at Pick n' Save #862 at 8770 S. Howell Avenue with the following conditions:

1. The displays must be confined to the walkway and against the front façade of the building.
2. That no fire lanes or building entrances be blocked at any time by the outdoor display of merchandise.
3. Displays of merchandise be limited to the items listed in the narrative.
4. No sales will occur in the exterior of the building.
5. All signs shall comply with Section 17.0709 Temporary Banners and Construction Signs and be issued a temporary sign permit.
6. That sales shall occur between the hours of 6:00 AM and 11:00 PM.

7. The Temporary Use Permit for the outdoor sale of merchandise shall expire July 31, 2020. No extensions of the Temporary Use Permit will be issued.

Commissioner Hanna seconded. On roll call: all voted aye. Motion carried.

**PLAN REVIEW
NORTH SHORE BANK
200 W. DREXEL AVENUE
TAX KEY NO. 782-9040-000**

Planner Papelbon provided an overview of the proposed site, building, landscaping, and related review for a proposed financial institution with virtual teller and ATM facility (see staff report for details).

Commissioner Chandler asked Planner Papelbon what the neighboring businesses to the east and west are.

Planner Papelbon stated the property to the west is owned by the City, and it is mostly open due to wetlands and floodplains. The property to the immediate east is City-owned property for a drainage area, and immediately to the east of the drainage area is the Water and Sewer Utility. To the south is the start of Drexel Town Square.

Commissioner Chandler asked the Applicant to provide more information about the traffic flow at this location.

Andrea Hunley, MSI General, explained the traffic flow will be entering off Drexel Avenue on to the frontage road at the traffic light. It will be one way in and out. Customers can park next to the building. For customers using the ATM they will continue north into the site and turn left into one of the lanes for the ATM and loop back to exit the same way they entered.

Commissioner Chandler asked where the cars would be entering the property.

Ms. Hunley repeated the traffic pattern as the presenter drew the traffic pattern on the site map.

Commissioner Chandler asked where pedestrian traffic would go to enter the building.

As the presenter highlighted the sidewalk from Drexel Avenue to the building. Ms. Hunley stated the sidewalk to the building will connect to the sidewalk that is already there. Ms. Hunley continued to explain there is a controlled intersection at the frontage road where customers will enter the property.

Commissioner Chandler asked the applicant if the stop light she was referring to is where cars will enter and exit.

Ms. Hunley confirmed the stop light is right off Drexel Avenue.

Commissioner Chandler asked if cars can go east or west on Drexel Avenue or is it one way.

Ms. Hunley stated as customers leave the bank they will come up to a stop light and can go east or west on Drexel Avenue. Customers can also go straight into Drexel Town Square.

Commissioner Chandler asked if there will be signage to help the flow of traffic.

Ms. Hunley stated that North Shore Bank usually does some smaller directional parking lot signs. Ms. Hunley stated that she believes there would be one on the corner to direct people to the ATM.

Commissioner Siepert asked if there is any problem with the floodway on the north end of the property.

Planner Papelbon asked Commissioner Siepert to clarify what he is referring to as a problem.

Commissioner Siepert clarified he is inquiring if they are infringing on the floodway.

Planner Papelbon stated the floodway line was determined by FEMA to not be affected by this proposal, however the flood fringe does have impacts.

Commissioner Oldani asked if the City has talked about the plans for the sidewalk because it dead ends on both sides of the property.

Planner Papelbon stated that sidewalks are added incrementally as development happens. The City is in preliminary discussions about creating a Drexel Avenue corridor as part of study. There is no plan at this time; however, there are initial discussions that would look at certain things like that. Planner Papelbon deferred to Director Seymour and Commissioner Sullivan for further input.

Director Seymour stated that he believes in 2021 or 2022 there is some design work the City has been awarded some grant funding for to reconstruct or repave Drexel Avenue. As part of that, there is a commitment on behalf of the City staff and management to take a look at Drexel Avenue in its entirety from the Interstate to Howell Avenue as a corridor and see what type of street scape improvements can be made. There is a much larger discussion that will take place around sidewalks when the City talks about the entire corridor.

Mayor Bukiewicz referred back to Commissioner Oldani's question, and asked if North Shore will retain that sidewalk and improve it. Mayor Bukiewicz asked why the City would get rid of it.

Director Seymour stated he would not suggest getting rid of it - it is a matter of connecting the sidewalk with the remainder of the sidewalk on the north side of the street.

Commissioner Sullivan added that the City is in the process of approving a Municipal and State agreement with the Service Transportation Project to rehab Drexel Avenue. This includes some areas of improvements and adding sidewalks. The City is in conversations with the Department of Transportation at this time to determine limits the City can and cannot do.

Mayor Bukiewicz asked to confirm that the sidewalk will remain in front of the property at 200 West Drexel Avenue.

Commissioner Sullivan confirmed the sidewalk would remain.

Commissioner Sullivan said the applicant is impacting the flood fringe, and they are required to replace that at a 1.1 to 1 ratio. The applicant's plan at this time does replace that flood fringe on the west side of the property, and improves it beyond the City's requirements.

Mayor Bukiewicz commented that this building is 2,500 square feet with no sprinkler system, and inquired if all commercial buildings had to be sprinkled.

Assistant Fire Chief Havey clarified that new construction over 10,000 square feet is required to be sprinkled.

Eric Neuman, MSI General, expressed appreciation for Planner Papelbon and staff. Mr. Neuman also stated that they will set up a meeting to work with staff on the landscaping because financial institutions have regulations about plant height for safety and security reasons.

Planner Papelbon stated that is understandable, and staff will meet the applicants.

Commissioner Siefert moved that the Plan Commission approves the site and building plans submitted by Dave Kane, North Shore Bank, for the property at 200 W. Drexel Ave., with the following conditions:

1. That all relevant Code requirements are in effect.
2. That all mechanical equipment, transformers, and utility boxes (ground and rooftop) are screened from view.
3. That all required floodplain and green infrastructure approvals are provided to the Engineering Department prior to the submission of building permit applications.
4. That all revised plans (site, building, landscaping, etc.) are submitted in digital format for review and approval by the Department of Community Development prior to the submission of building permit applications.

Planner Papelbon asked the Plan Commission to clarify if the Plan Commission or Department of Community Development would be responsible for approving revised plans.

Mayor Bukiewicz said he is in favor of allowing staff to approve the plans.

Commissioner Hanna agreed with Mayor Bukiewicz.

Commissioner Siefert and Commissioner Oldani agreed as well. There were no objections from the Plan Commission.

Alderman Guzikowski seconded. On roll call: all voted aye. Motion carried.

**REZONE
LAVERNE BOERS
3280 E. OAKWOOD ROAD
TAX KEY NO. 919-9991-006**

Planner Papelbon provided an overview of the request to rezone portions of the property at 3280 E. Oakwood Rd. from A-1, Limited Agricultural district to Rs-3, Single Family Residential (NO CHANGE to the FW, Floodway, FF, Flood Fringe, or C-1, Shoreland Wetland Conservancy Districts) as part of a related Certified Survey Map dividing the property (next agenda item)

Planner Papelbon read a resident's questions into record. The first resident question was, "Why did the Common Council hold this item in 2018?" Planner Papelbon explained they did not hold this particular item, it was separate request that was held to answer questions, and was approved. That was a CSM rezone variation request, a combination for one additional parcel. The second question was, "Are there potential houses and what would their minimum size be?" Planner

Papelbon stated at this time there are no proposed homes, as the lots are currently developed. Planner Papelbon received an inquiry from the person that is considering purchasing the proposed Lot 2 as to what size of home would be allowed on the property should they change that home. There are minimum size requires for the Rs-3 District depending on how many stories the house is. The last resident comment was, "The parcel does flood often." Planner Papelbon explained the Plan Commission will address the floodplains in the next agenda item.

Commissioner Sullivan stated the Engineering Department has no issues with the rezone.

Commissioner Chandler asked the applicant to provide a little more information as to why these properties have come to the Plan Commission for rezoning.

Dale DeWitt, 3380 E Oak Lane, representing his mother-in-law owner at 3280 E Oakwood Road, stated the two acres are being parceled off so the owner can sell to the current long-term tenants. On the land there are historic buildings: a house, garage, and barn. The request to expand the lots is to ensure owners have access to their backyards.

Monica Perkins, 3408 E O'Brien Road:

"I live at the end of the cul-de-sac and the field is there. It was noted that the buildings are historic. Are the buildings going to be left there? Are they on the historic registry? And, also when you take that two acre parcel out, is it going to be able to be subdivided into four single family homes with half acre lots? My concern is filling the field or raising it and then the water has no place to go, but in our basements and homes."

Mr. DeWitt stated they are not on a list, they are just very old buildings.

Mayor Bukiewicz reiterated Ms. Perkins question, and asked staff if Lot 2 would ever have the possibility of being divided into four half-acre lots to accommodate four new homes.

Planner Papelbon explained that if the proposed Lot 2 met all the requirements for the district, it is possible that they could be divided further. However, there is a lot that goes along with that. There are wetlands, floodplains, and existing buildings that affect the ability to further divide the property. There are other considerations besides the size of the property for redevelopment purposes. Should there be any redevelopment of the property that requires Plan Commission approval, there would be notice to landowners within 300 feet.

Mayor Bukiewicz asked Ms. Perkins if the explanation helped.

Ms. Perkins:

"It just seems like we went through this, like they said in 2018, giving them the one parcel and now they keep coming back for more and more. Which is their right, they own the property, however, it reflects a lot on the people that live close to it. The kids next door took canoes out there in the field, I'm not kidding, if you guys ever, driving around after a storm it floods at least four and five times a year. Where's the water going to go?"

Mayor Bukiewicz stated as of right now there is no proposed development, but that water would need to be managed before development can be approved.

Commissioner Sullivan stated stormwater management would probably fall under the green infrastructure requirements. It would probably not require a pond under Milwaukee Metropolitan

Sewage District (MMSD) or City requirements, but it would fall under green infrastructure, in which each parcel would manage their water in a smaller fashion. It would have to go through Engineering and be approved by Council.

Director Seymour explained it is the intent, but not the obligation, to work with the MMSD to preserve the bulk of the property for conservation. Director Seymour believes the owners are preparing this property for possible sale or transfer to MMSD.

Alderman Guzikowski moved that the Plan Commission recommends to the Common Council that portions of the property at 3280 E. Oakwood Rd. be rezoned from A-1, Limited Agricultural to Rs-3, Single Family Residential (NO CHANGE to the FW, Floodway, FF, Flood Fringe, or C-1, Shoreland Wetland Conservancy Districts), in conjunction with a Certified Survey Map dividing the property, after a public hearing. Commissioner Siepert seconded. On roll call: all voted aye. Motion carried.

CERTIFIED SURVEY MAP

LAVERNE BOERS, ET AL

3280 AND 3360 E. OAKWOOD RD., AND 3380 E. OAK LN.

TAX KEY NO. 919-9991-006, 919-9005-000, & 919-9010-000

Planner Papelbon provided an overview of the Certified Survey Map request to divide and reconfigure the properties at 3280 and 3360 E. Oakwood Rd. & 3380 E. Oak Ln. (see staff report for details).

Dale DeWitt, 3380 E Oak Lane, representing his mother-in-law at 3280 E Oakwood Road:

“The only remaining issue that the owner has at this time is in regard to the proposed new drainage easement. I’d like to level set what a drainage easement is in case there’s people on the call that don’t know, at least my understanding of what it is. It’s put in place to limit the property owner from negatively affecting the existing historical drainage. However, the drainage easement also gives the City the right to alter the land to maintain or improve drainage, if they so choose. Depending on the extent of that drainage alteration it may impact our ability to access the land to the east of the proposed easement to plant and harvest crops. I know the current intent of the City is it maintain the historic drainage the way it is, but our concern is what will the future bring and how will future administrators deal with this drainage. The property is currently under a perpetual lease for 25 acres of farmland to a farmer in Caledonia, if the City impacts his ability to farm the entire parcel, the owner could lose the lease and the future ability to lease the land. Money generated from this land lease is used by the owner to pay the taxes on the property. I believe there’s no need for a new drainage issue at this time. However, if the City insists on one we suggest it be a drainage easement with a restriction, stating that the City shall maintain a historic drainage, as is. This would ensure that the existing historical drainage be maintained without alteration and guarantee access for farming both now and into the future. It is my understanding that many easements have been created with restrictions, so this would not be an unusual thing it may be unusual in Oak Creek, I don’t know, but I think it’s common elsewhere. With that I turn it over to you Mr. Mayor and continue on with discussion.”

Mayor Bukiewicz deferred to staff and Commissioner Sullivan to give the technical terms of what the easement does, from the City’s perspective, what is expected of it, and why the City does not put the restrictions in place to an unforeseen date in the future.

Commissioner Sullivan agreed with Mr. DeWitt's terminology and definitions. The City's intent is not to prohibit the ability to farm under current agreements or reduce the amount of farming that is currently being done. It is more the ability to clean out the easement and maintain the flow of water. The City is willing to entertain the language that was suggested by Mr. DeWitt. The City can work with the owner, her surveyor, and the City's stormwater management group, and come to an agreement to make sure the interest of the City and the owners is protected along with neighbors. Commissioner Sullivan believes the City and owner can come to some sort of agreement in terminology as long as the City can maintain the ability to continue having that drainage and cleaning those areas out.

Mr. DeWitt agrees the drainage needs to be maintained, but is concerned about losing land depending on what the future holds.

Commissioner Sullivan believes there is some wording that can be added to maintain the elevations, shape, and format. The City can come up with some type of language that has been used in neighboring cities or municipalities to prevent future administrations from coming in and doing that. Commissioner Sullivan stated that in his 15-year career with the City he has not seen the City go out and just dig ditches deeper. Commissioner Sullivan stated that he does not believe digging a ditch deeper in that area would be helpful as it is pretty flooded most of the time. This easement is to provide water flow.

Mr. Dewitt agreed with Commissioner Sullivan.

Mayor Bukiewicz asked staff how the Plan Commission would cite the negotiation of language concerning the condition the easement stays in.

Commissioner Sullivan deferred to Planner Papelbon on the language. Commissioner Sullivan suggested language similar to, "language that is agreed upon between staff and property owners."

Planner Papelbon stated that she is not sure the conditions would need to be updated from the draft because the easement will need to be recorded and signed off on.

Commissioner Sullivan stated the minutes can be used as a document of the discussion.

Director Seymour suggested adding intent to the minutes stating, "the easement shall provide access for continued agricultural use." This might help dissuade some of the concerns of the property owners.

Commissioner Sullivan stated the language like that, and maintaining the historical elevation through the swale, may help satisfy Mr. DeWitt in not making a deeper ditch. Commissioner Sullivan stated Engineering would probably be satisfied with that because it gives them that tool and ability to keep water moving safely.

Commissioner Chandler inquired if the drainage easement addresses the flooding issue the resident mentioned.

Mayor Bukiewicz believes the water will still gather there - this will help - but it is a lot of flood area. This land is holding a lot of the water. If MMSD took control of the land it would probably stay there forever.

Planner Papelbon reworded a proposed condition for the motion, "A 25-foot drainage easement centered on the swale between Oak Lane and Oakwood Road, maintaining access for agricultural purposes and drainage elevations, shall be included on the CSM prior to recording. A written easement coordinated with the Engineering Department shall be recorded prior to or concurrent with the CSM."

Commissioner Sullivan agreed this sounded favorable.

Mr. DeWitt agreed.

Alderman Guzikowski moved that the Plan Commission recommends to the Common Council that the Certified Survey Map submitted by LaVerne Boers, et al, for the properties at 3280 and 3360 E. Oakwood Rd., & 3380 E. Oak Ln. be approved with the following conditions:

1. That all relevant Code requirements are in effect.
2. All floodplain areas shall be included on the CSM prior to recording.
3. That a note stating that wetland and floodplain delineations appear on subsequent pages of the CSM shall be included on Sheet 1 of the CSM prior to recording.
4. That public rights-of-way around the cul-de-sacs at the west ends of E. Oak Ln. and E. O'Brien Rd. shall be dedicated to the City as part of the CSM. The Common Council signature block on the last page shall be updated to include the dedication and acceptance of the rights-of-way.
5. The existing 60-foot sanitary and watermain easement shall be included on the CSM prior to recording.
6. As read by Planner Papelbon, "A 25-foot drainage easement centered on the swale between Oak Lane and Oakwood Road, maintaining access for agricultural purposes and drainage elevations, shall be included on the CSM prior to recording. A written easement coordinated with the Engineering Department shall be recorded prior to or concurrent with the CSM."
7. That all technical corrections, including, but not limited to spelling errors, minor coordinate geometry corrections, and corrections required for compliance with the Municipal Code and Wisconsin Statutes, are made prior to recording.

Commissioner Siefert seconded. On roll call: all voted aye. Motion carried.

Commissioner Carrillo moved to adjourn the meeting. Commissioner Hanna seconded. On roll call: all voted aye. Motion carried. The meeting was adjourned at 8:05 p.m.

ATTEST:



Douglas Seymour, Plan Commission Secretary

7-28-20

Date