

**MINUTES OF THE
OAK CREEK PLAN COMMISSION MEETING
TUESDAY, JUNE 22, 2021**

Mayor Bukiewicz called the meeting to order at 6:01 p.m. The following Commissioners were present at roll call: Commissioner Sullivan, Commissioner Carrillo, Alderman Loreck, Mayor Bukiewicz, Alderman Guzikowski, Commissioner Oldani, and Commissioner Siefert. Commissioner Chandler participated via Zoom. Commissioner Hanna arrived at 6:02 p.m. Also present: Kari Papelbon, Planner; Laurie Miller, Zoning Administrator; Doug Seymour, Community Development Director; and Mike Havey, Assistant Fire Chief.

Minutes of the June 8, 2021 meeting

Commissioner Siefert moved to approve the minutes of the June 8, 2021 meeting. Alderman Guzikowski seconded. On roll call: all voted aye. Motion carried.

**PUBLIC HEARING
SIGN APPEAL
FARM & FLEET
501 W RAWSON AVE.
TAX KEY NO. 765-9046-000**

Zoning Administrator Miller read the public notice into the record.

Mayor Bukiewicz made three calls for public comment. Seeing none, the hearing was closed.

**SIGN APPEAL
FARM & FLEET
501 W RAWSON AVE.
TAX KEY NO. 765-9046-000**

Zoning Administrator Miller provided an overview of the request for variances allowing the applicant to install two (2) illuminated channel letter wall signs (28' 8 1/4" x 1' 4" and 18' 10" x 10") on the west elevation of the building at 501 W. Rawson Avenue (see staff report for details).

Alderman Loreck stated that the signs and placement seem appropriate for the building type.

Commissioner Chandler asked the applicant what the reason is for two signs instead of one.

Zoning Administrator Miller explained one sign is to indicate where the customers can enter the building, and the second sign is to indicate where the garage doors are.

Commissioner Siefert moved that the Plan Commission approves sign variances allowing the installation of two illuminated channel letter wall signs (28' 8 1/4" x 1' 4" and 18' 10" x 10") on the west elevation of the building located at 501 W. Rawson Avenue. Alderman Guzikowski seconded. On roll call: all voted aye. Motion carried.

**TEMPORARY USE PERMIT
JIM DANDY'S
8900 S 27TH ST
TAX KEY NO. 856-9992-000**

Zoning Administrator Miller provided an overview of a request for a proposed outdoor event series and temporary outdoor event space containing an 8.5' x 40' shipping container converted into a bar, an elevated patio space above the shipping container bar, extended ground-level patio space, a concert stage, and temporary parking space on the properties at 8868 and 8900 S. 27th Street (see staff report for details).

Charlie DeWitt, 2147 S 67th St, West Allis, WI, stated he reached out to the City three or four times in 2020 and was told seven or eight times that he did not need a special event permit to hold these events. Mr. DeWitt said he understood that the shipping container did need a special use permit and he sent it in. Mr. DeWitt stated that staff said it never arrived. Mr. DeWitt continued by stating he tries to be respectful and shuts down by 9:55 p.m. Mr. DeWitt stated he thought he was at Plan Commission to get use of the shipping container.

Mayor Bukiewicz explained that is what the Plan Commission is focused on, however they are just getting the background of everything. Mayor Bukiewicz also stated that 2020 was different due to COVID and the City was encouraging businesses to do things to stay afloat. The City did not endorse large gatherings because of CDC guidelines. Mayor Bukiewicz said that we are now in a different time and we must respect City Ordinances and processes.

Mr. DeWitt explained that he took over the bar in December of 2019, so all he has known is special event permits were not required and has continued to hold events. He continued by stating Zoning Administrator Miller stopped by to take photos of the patio. Mr. DeWitt explained that he took the walls down and did not realize that tables are considered an outdoor patio. Mr. DeWitt stated that he asked for an explanation of what is considered an outdoor patio, but was not provided with one. Mr. DeWitt also stated that he asked for it in writing that tables are considered an outdoor patio, but was also not provided with that either.

Mayor Bukiewicz asked Mr. DeWitt if he was aware that the patio is in the flood fringe. Mr. DeWitt confirmed that he did and that is why he took down the wall. Mayor Bukiewicz stated the patio itself appears to be in flood fringe on the drawings which means it would need to be removed within 48 hours of use.

Mayor Bukiewicz explained that he is a fan of shipping containers when they are done and permitted correctly, but that does not excuse starting construction early and not taking out the proper permits. Mayor Bukiewicz continued by stating that the City needs to look at the use of the shipping containers as they become more popular. Mayor Bukiewicz said there are also some parking issues and lack of protective barriers. Also, to have overflow parking on the neighboring parcel the City will also need written permission from the property owner. Mayor Bukiewicz explained the difficult part is the 15 proposed concerts and contending with the neighborhoods surrounding the establishment. Residents want to enjoy their backyards as well.

Mr. DeWitt stated that he has a security crew of seven people that come every Saturday to block all the entry points. Mayor Bukiewicz stated the City appreciates his efforts, however the City relies on the Fire and Police Departments to determine what is safe. Mr. DeWitt stated that he has had two meetings with the police

Mayor Bukiewicz continued by stated the parking lane is not wide enough at 18 feet, it should be 20 feet. Mayor Bukiewicz also stated the City wants to be business friendly and learn to coexist, but the proper steps must be taken.

Director Seymour explained that in 2020 the City made every effort for businesses to make appropriate provisions to serve customers and stay afloat. Director Seymour stated he had a conversation with Mr. DeWitt regarding the patio and explained that from the City's perspective if a restaurant has tables and chairs outside and customers are consuming food or beverage purchased from the establishment, that is considered a patio.

Director Seymour asked Mr. DeWitt who he met with at the Police Department and when.

Mr. DeWitt recalled it was a shift commander, but he does not recall his name. Mr. DeWitt stated the meeting was three weeks prior to the events starting off because he was concerned about safety. Mr. DeWitt continued by stating the following week the same shift commander happened to be in the parking lot on a Monday when Jim Dandy's is closed and they talked for 45 minutes. Mr. DeWitt recollected that the shift commander stated to make sure they are only parking on one side of Grays Lane to make sure there is enough room for emergency vehicles to get through. Mr. DeWitt said during the first concert the police drove down Grays Lane to make sure there was enough room and stated there was enough room. Mr. DeWitt stated he had a conversation with residents on Grays Lane and residents of Franklin to find out what their concerns were and address them.

Director Seymour inquired what takes place on the parcel to the north during the event. Mr. DeWitt stated just parking.

Director Seymour asked Mr. DeWitt if the stage was on his property. Mr. DeWitt confirmed that it was.

Director Seymour asked if liquor sales and consumption occurs on his property. Mr. DeWitt confirmed liquor sales take place on his property.

Director Seymour referenced the provided site plan and asked Mr. DeWitt where his property line is. Mr. DeWitt stated the property line is where the Jim Dandy's electric sign is located.

Director Seymour again referenced the provided site plan and asked if the black square represented the stage. Mr. DeWitt explained that the stage location is being changed. Director Seymour asked about the red rectangle that says bar. Mr. DeWitt clarified that it represents the shipping container that is not up yet.

Director Seymour asked to confirm that Mr. DeWitt is serving alcohol at these events. Mr. DeWitt confirmed he does.

Director Seymour asked if the patrons know where the property line is. Mr. DeWitt stated they do because it is barricaded off right now.

Director Seymour asked where the barriers are located. Mr. DeWitt stated the barriers can be seen in one of the photos presented.

Director Seymour cautioned Mr. DeWitt to know what his liquor license allows him to do. Director Seymour explained that the parking layout on the property to the north does not meet the

requirements for emergency access. If the parking is going to be considered an Accessory Use to Mr. DeWitt's use of the property as a restaurant the Plan Commission needs to have a conversation about whether the use is appropriate or not. Director Seymour stated in his mind there is a difference between a restaurant that has entertainment and an entertainment venue, such as this. Director Seymour explained that City staff requested that Mr. DeWitt come to the Plan Commission for approval of a Temporary Use Permit to allow for the proposed events. Director Seymour clarified that this item started as just the shipping container, but staff quickly identified that this is no longer a use that is merely accessory to the operation of the restaurant. This became a use that requires a Temporary Use Permit.

Kirk Lemberger, 2230 W Hilltop Lane:

"I applaud these men because they're trying to make their business go. I don't think anybody has an issue with that. My concern is of course stopping at 10 o'clock. If we know beyond a shadow of a doubt that they can stop at 10 o'clock, I think that's acceptable. It's not like this venue is going through Monday, Tuesday, Wednesday, Thursday, Friday, Saturday it's just on the weekend, but I know and I'm sure a number of these people here are in the same boat that I am, 10 o'clock let's be done."

Mayor Bukiewicz thanked Mr. Lemberger and stated that 10 o'clock is the City's noise ordinance.

Jim Batchelder, 8931 S 26th Street:

"My main issue is, this is every single Saturday from now until the end of September. We all know what we went through in 2020 with COVID and we want to enjoy our backyards with our friends and family. Last weekend was Father's Day I wanted to have my family up on Saturday, I was unable to because I had to listen to country music in my backyard. I don't want to listen to music every single Saturday. If I want to listen to music I want it to be on my accord in my backyard. I want your business to succeed, but you cannot consume the entire neighborhoods' weekends, Saturdays with your music from 6 until 10. You have been very good about stopping at 10 o'clock and I applaud that because we've had issues in the past with other businesses in our area that we all know about that we don't need to go into. My second issue, I had to call the police at 7:30 in the morning on the day of your car show because you had cars ripping up and down 27th Street like it's Great Lakes Dragway. It's unacceptable, we cannot allow this to continue, his use of the building and the failure to follow the rules need to be enforcement and we need to have something that stops this. I'm fine with some concerts, but every single Saturday is just unacceptable in my opinion, I don't think any one of you would want this in your backyards every single Saturday. Thank you."

Jonathan Kanter, 2520 W Grays Lane:

"I have lived on this street for 40 years, I'm 46 years old. I've lived in the house I'm at now for 25 years. I love what Charlie and they've all done for the community. They've done so much for the school, donate money, we just raised money at a car show for veterans, for the Honor Flight. As far as the concerts go, I had birthday party for my granddaughter, who is 4 years old on Saturday and we carried on a normal conversation, just like this, while the band was going on. My mother who's 70 years old, who lives in the second house on the street was over and there was not a noise issue. I understand some people have complaints and things, but it's just frustrating to me because I see these guys trying to make a go of the business in maybe one of the worst times to open a restaurant in the history, of at least our lifetime and I think they're doing a great job. As someone whose lived on that street literally forever, I can go back to the Country Castle days. Live music, seeing people out enjoying themselves. I don't like all the bands either, I'm not a fan of

every type of music, but you know what, I sincerely enjoy the fact that they're doing something for the community, a lot of people gathering, having a good time, it's great to see again and I hope it continues."

Michelle Kanczewski, 8385 S Golden Fields Dr:

"I do not live near that area, but I can say that I've been a patron of Jim Dandy's prior to this owner and now with Charlie and the reason that we frequent it as often as we do is because I want to just share with everybody the amount of effort he puts into the community. He has provided during COVID, when it was awful for every business and for him, yet he still donated food to Ascension Hospital to first responders every single Friday night he donates 50 meals to the homeless, during his busy fish fry night he is still putting out of that small kitchen food to feed other people. So, I hope that you can take into consideration that he has done a lot for the community. We've been there for a couple of the bands; the people are always very respectful there is not any fighting going on. Like he said he has hired a security firm that comes in and just monitors to make sure everybody is doing what they need to be doing. It's a family event there are people that are going with kids to actually listen to some of these bands. There has been some violations and I know he's going to try and correct those things for you guys, but please consider not stopping this because it is a community event that a lot of people like to go to."

Bernie Hall, 9022 S. 26th St:

"I just want to say I think we should let them have a chance, let them have their venues they do a lot of good for the community, they've done a lot of good for the hospital. My wife, she's a nurse in the hospital. She's come home raving about how good they've been to them through COVID. Everything they've done, they donated food. We've stopped in there, good food, good people, I mean, everything's good. I get it there's some violations, I think with all my heart that they'll get them corrected and make what's right for everybody. I don't find it right that we should shut this down like we have other businesses, or even potential businesses in the neighborhood because of supposed noise complaints. I realize Franklin is not in our jurisdiction, but we got Mulligans right across the road, they're packed, they got people parking on the roads, right on 27th Street. I get it, it's a business they're busy during peak times, it's going to happen, but we got to give them a shot, we really do."

Kim Batchelder, 8931 S. 26th St:

"Thank you for what you have done to the community for COVID, but also I'm a nurse, I work at Saint Luke's, I worked through COVID and having COVID concerts last summer was more of a slap in the face to me than anything, mask less, I did not appreciate that at all. Another thing I don't appreciate is that every week concerts, I think it's a bit excessive, I can't enjoy one single weekend all summer long, this is Wisconsin, it's freezing $\frac{3}{4}$ of the year, during the summer I just want to sit outside on my deck and have a nice conversation with my friends and family. The first weekend I worked a 12-hour shift, came home, just wanted to sit outside, it was so noisy out, it was echoing off the neighbors' houses. I went in the house closed the doors, my patio doors and my windows were rattling it was so loud. I went upstairs to take a shower; my shower door was rattling. I couldn't get away from it, I was exhausted, I just wanted to sit and watch TV, I couldn't hear my TV without having it at an obscene level, I was so tired. There was parking along both sides of Grays Lane at that point, so I was concerned if there was an emergency, people being able to get through to Grays Lane. Also, I have concerns with the barriers, there just like those orange and white barriers like I feel I can plow through it on my bike, with their reconfigured

parking lot, a car must navigate the parking lot. I just feel like that's not a safe barrier to have in the parking lot with the patio and the people there. Basically, my biggest concern on my personal level is my quality of life. We tried to having people over for the second heavy metal concert and we couldn't have a normal conversation in my backyard without having to raise our voices just to be able to hold a conversation and I just don't want to live my summer like that, I want to be able to have people over on a Saturday night and enjoy my summer and it was just so noisy. I downloaded the decibel app on my phone and it was in the 70s. I took it with a grain of salt because I wasn't really sure how accurate that was, but on the decibel readings that were on the screen before that one where it got to 83 that was right in front of my house. It is quite loud at my house. I'm fine with the occasional concert, but every single Saturday I just want some weekends of peace and quiet to enjoy my summer."

Larry Kangas, 980 E. Randy Rd.:

"I also work for a radio station so I support radio. There are summer music series in different suburbs as well, I know we're only worried about Oak Creek. I think the music venues can adhere to rules. He does a great job with his music. I think as long as he has the guidelines, the structure that you're asking for, I'm sure he will adhere to, be able to accommodate what you're looking for. As well as for the residents in the area with the decibel levels. Horny Goat Brewery down on 1st Street used to have music and there were complaints and stuff then. It can be done. On 6th Street people were complaining about the decibel level so he made accommodations to make sure the decibel levels did get lower because he did get complaints so it can be done, I'm sure Chuck will do everything possible to adhere to the rules that you set forth. I'd like to see another music venue be allowed."

Chester Szydel, 2216 W. Grays Lane:

"I don't have an issue with the concerts or anything. My concern is some of the last events he's had have been pretty crowded, the car show in particular. They ran out of places for people to park. They were actually double parked on Grays Lane so you could only get, if you turned in there was a car coming at you, you had to wait and traffic was backing up trying to turn in because they didn't know that right where you turn on the intersection of Grays Lane that it was all clogged, so it starts backing up. The other issue is when you're trying to pull out of Grays Lane making a left or a right turn trying to cross the road when they're parking all the way up to the corners now you're having to pull out into one of the lanes to see the traffic in the lane. So, if there's a car coming you're out far enough you're going to get the front end of the car taken off. My concern is if they are going to continue to do this law enforcement needs to give guidance or tape up the road or something so that there's no parking on that road where you turn in so it's the full width of the road. Secondly, the traffic from the corner back at least 50 or 60 feet has to be set back on each side so you can see traffic north and south on 27th otherwise you're having to pull your vehicle way out to see the traffic, by then you're in the middle of traffic. That's my only thing that needs to be addressed."

Jill Stevenson, 8961 S. 26th St.:

"Again, I applaud everything that you've done for the community during COVID, that is fantastic. All of that stuff that was mentioned does not interrupt me any night of the week. I don't have to listen to it, I don't have to be around it. This week Saturday we are finally getting together with our family, I have 80-year in-laws and a father we have hardly seen him in a year. So, Father's Day, perfect time, right? It was Saturday we got to together. We were in our backyard, enjoying ourselves, the music started, three songs in, my in-

laws left. Is that fair? Would you like that? Would you like that in your backyard? I invite you all, come on over to our backyard, sit in there. I'll switch your backyards with you, I know where some of you live. I'll sit in your backyard on Saturday, you sit in mine. If you think this is so much fun, it isn't. I get it, okay a little music, we listen to Mulligans twice a year, we deal with it, we know when it's coming, but every single Saturday, would you want that? I don't think so, it's not fair. It's not a little Alpine Valley going on and that's what they've turned it into."

Jim Copeland, 2420 W. Grays Lane:

"I live a few houses behind Jim Dandy's. Everything that my neighbors said is completely true. The other thing that we run into is that past Jonathan's house they park on one side, they get all the way up to the top of the hill going over Grays Lane, going east, you have to wait for traffic to come, somebody has to pull in somebody's driveway to let people get through. On the car show event, great that was fine it was a big thing except for one small issue, you had people pulling out into West Grays Lane like cattle, you had to shoo them out of the way so you could either get into or out of Grays Lane. We got to the end of Grays Lane to turn either left or right, you can't see left because everything is blocked, parked up to the stop sign. The other issue we have is in the past we had to go up and down the ditch and we picked up sacks of bottles, cans, little liquor bottles, trash, I don't want that anymore. The music is fine, it doesn't bother us, but everything else that goes with it does."

Fred Placek, 2401 W. Hilltop Lane:

"Again, not to go over too much of what we already heard. I feel very sorry for those people on 26th Street. We're on Hilltop, we're another few blocks away. The other night we had our doors closed, air conditioning on, and still hearing the booming and thumping and trying to just relax and watch TV and we're still hearing this and I know it seems to be a bit of a discrepancy, some people, it's not that loud. I'm six to eight blocks away and I'm hearing this with our doors closed. I feel for the lady having the relatives over and not being able to even sit on their patio. There only two blocks away. Our main concern is again, sure seems to me like 15 concerts is excessive. It sure seems to me that the readings that you took on the sound, it's accurate that's what it is and that's over the ordinance level is my understanding, correct? It's just excessive, it's too loud and to just be able to sit on our patios that far away and not be to enjoy a Saturday night seems to be a quality of life issue."

Assistant Fire Chief Havey explained there will be some modifications needed for emergency access vehicles. The Code is limited in terms of temporary structures, however if the structure becomes permanent needed or required fire protection may change. The 20-foot access for emergency vehicles, parking, and other issues will need to be addressed.

Mayor Bukiewicz summarized that the Plan Commission is looking at the Temporary Use, however Code violations are intertwined and need to be taken into account. Mayor Bukiewicz explained there is support within the community for Jim Dandy's, however after hearing from the neighbors there needs to be limits set. Mayor Bukiewicz stated that processes are in place so the City knows what is going on to fix these types of problems in advance. Mayor Bukiewicz stated that the goal is coexisting somewhere in the middle whether it's the timing, number of events, etc. Mayor Bukiewicz encouraged the applicant to get together with staff so the Plan Commission can meet again to work it out. The applicant should be taking neighborhood input into account as well. Mayor Bukiewicz thanked the applicant for his contributions during COVID.

Alderman Guzikowski explained he has heard from over 20 people via phone calls, voicemails, emails, or text messages. The calls have ranged from disbelief to “I’m happy it was at least quiet at 10 o’clock”. Alderman Guzikowski stated he appreciates everything that Jim Dandy’s does, however the Plan Commission needs to look at being a good neighbor, which he is not seeing. Alderman Guzikowski explained that he visited the site during The Toys concert and confirmed that the mentioned problems are all legitimate issues. Alderman Guzikowski says he thinks the Plan Commission and applicant can find a happy median. Alderman Guzikowski stated he encourages the applicant to work with staff to come up with a solution for everyone.

Commissioner Chandler asked the applicant to provide more details about the shipping container, construction of it, the patio, and the use as a Temporary Use.

Mayor Bukiewicz explained the container is a 40’x8’ steel container that has been modified with roll up garage doors and a wooden staircase has been constructed to a platform above. Mayor Bukiewicz stated the purpose is to provide extra bar space, however the materials at this time are not approved by the City.

Zoning Administrator Miller confirmed that the materials of the shipping container do not meet the building materials allowed by Code.

Director Seymour asked where the shipping container will be located if it does not go in the location identified on the provided proposed site plan.

Mayor Bukiewicz asked if the shipping container must leave the premises at the end of the season.

Zoning Administrator Miller stated that the shipping container is 40 feet long, making it 20 feet longer than what is allowed for a temporary portable structure. Zoning Administrator Miller continued by stating that due to the length it will need to be considered a permanent structure and go through all the review and permitting processes as a permanent structure.

Director Seymour asked the applicant to clarify where the container will be located if not located in the location indicated on the proposed site plan. Mr. DeWitt stated the container will be located where it is indicated on the site plan.

Director Seymour asked to confirm that the bar would be located in a place that is not covered by his liquor license. Mr. DeWitt asked if that was the property and stated he has not seen a property line. Mr. DeWitt stated the shipping container bar is supposed to be inside the property line.

Zoning Administrator Miller clarified that the map displayed on the screen is displaying the property to the north and stated that as presented the stage, the bar, and a portion of the patio would not be located on Mr. DeWitt’s property. Mr. DeWitt stated he would move the items in to fit on his property. Zoning Administrator Miller said she does not believe the measurements would work out to allow for all those items in the space. Moving those items on to the property would also put them in the floodway.

Mayor Bukiewicz referenced the presented map and asked to confirm that the yellow space is not Mr. DeWitt’s property. Zoning Administrator Miller confirmed that the space highlighted in yellow is 8868 South 27th Street, but Jim Dandy’s is located at 8900 South 27th Street.

Mr. DeWitt asked for the definition of a permanent structure.

Zoning Administrator Miller explained that a shipping container would be considered a temporary portable structure, however the Oak Creek Code only allows temporary structures to be up to 20 feet in length because this structure is 40 feet in length it would need to be considered a permanent structure. Mr. DeWitt asked if he cut the container in half it would only be 20 feet and could be considered a temporary structure. Mayor Bukiewicz stated technically yes, however there is a limit to the number of temporary structures allowed on a parcel.

Mayor Bukiewicz summarized that City Code does not allow the shipping container as a temporary structure due to its physical size. The shipping container would need to go through as permanent structure and go through the proper inspection and approval process of any other structure.

Commissioner Siepert asked who owns the property north of Jim Dandy's.

Mr. DeWitt stated it is owned by Shawn Utphall.

Commissioner Siepert asked if Mr. DeWitt has a letter of approval stating that he has permission to store things and allow parking on his property.

Mr. DeWitt stated he does not have a letter, but Mr. Utphall is present and he can get a letter.

Commissioner Siepert stated that the corner of the shipping container is in the floodway and it could create a problem because the container cannot be there for more than 24 hours. Mr. DeWitt agreed and stated that he is able to move the shipping container at any point now.

Commissioner Siepert asked how the containers are moved. Mr. DeWitt stated with a Bobcat.

Commissioner Siepert expressed concern that the parking is not striped at this time. Mr. DeWitt stated he was going to have the parking marked, however he was issued a stop work order from the City.

Commissioner Siepert stated in his personal opinion he would put no parking on Grays Lane. Mr. DeWitt stated he asked about that and was told he is legally not allowed to do that.

Commissioner Siepert asked Mr. DeWitt how he will work with the neighbors that are upset. Mr. DeWitt stated he has no problem sitting down with the neighbors to figure out an acceptable number of concerts. Mr. DeWitt also stated he believes there is a common ground that can be reached with residents.

Commissioner Siepert stated he thinks the Plan Commission should put this item on hold until some of the problems are resolved or agreed upon.

Commissioner Oldani explained that he believes Ordinances dictate a lot of the current problems. Commissioner Oldani considers it unreasonable to have a concert every Saturday. Commissioner Oldani stated 14 conditions on the motion is too many and everyone needs to work together. Commissioner Oldani stated he believes the item should be put on hold for now.

Alderman Loreck said he is a big fan of outdoor seating. Alderman Loreck referenced a separate business in the area that wanted to have outdoor seating, but was turned down due to inadequate traffic barriers, which are similar to what is being used in this proposal. He also stated he would

be in support of the applicant finding a way to have outdoor seating and finding a place for the shipping container to be used. Alderman Loreck continued by stating he likes outdoor music; however, he is concerned about the noise levels for the neighbors. Alderman Loreck is glad to hear the applicant is willing to work with residents.

Commissioner Carrillo stated she was present at The Toys concert and believes it was nice event. Commissioner Carrillo is concerned about the location limits of the liquor license. She stated that the liquor license and everything else that was mentioned will need to be taken into consideration. Commissioner Carrillo stated if the applicant can limit the number of events and the decibel levels she would be in support of the applicant.

Commissioner Sullivan explained he is interested to see how the applicant will reach the City's Noise Ordinance of 58 decibel level at the border of residential and believes it will be difficult to do looking at the provided map. Commissioner Sullivan stated he is in support of it and attends live music. Mr. DeWitt stated that a normal conversation is 62 to 65 decibels and asked if that is technically breaking the Noise Ordinance. Commissioner Sullivan stated that is something that will need to be discussed with staff and Plan Commission. Commissioner Sullivan explained there are ways of reducing the decibel levels and encourages the applicant to present those options. Mr. DeWitt stated he is open to any suggestions.

Mayor Bukiewicz stated the noise can not be eliminated, however there are ways to limit it or reduce the number of concerts.

Commissioner Hanna asked even if the number of concerts is reduced how will the noise level be controlled. Mr. DeWitt stated he does not think it can be controlled, but if an agreement is made about the number of concerts then the complaints will not come in. Mr. DeWitt says he believes that is where the common ground needs to be met regarding how many concerts can be had and be acceptable to everyone in the neighborhood.

Mayor Bukiewicz stated he believes staff, Plan Commission, and the applicant will be able to navigate an agreement. He said he does not think all questions can be answered in the current meeting.

Commissioner Hanna inquired if an exception to the Noise Ordinance will be granted for the concerts, even if the number is limited. Mayor Bukiewicz stated he cannot answer that question well and it is conversation that will need to be had.

Zoning Administrator Miller stated staff needs to sit down to discuss methods to reduce noise so it does not impact the surrounding neighborhood as much. Zoning Administrator Miller explained the stage has been repositioned towards 27th Street, which appears to have reduced some of the noise. Mr. DeWitt stated he has asked the sound people to turn the sound down.

Commissioner Hanna asked Zoning Administrator Miller what the zoning is for this parcel and the one behind it. Zoning Administrator Miller stated the parcel directly behind it is zoned Rs-3. The parcel to the north, 8868 S. 27th Street, is zoned B-4. Commissioner Hanna reiterated her question asking how the noise would be controlled for the Residential Zoning District. Zoning Administrator Miller agreed and stated this is why staff had concerns regarding the concert series and the number of events. Commissioner Hanna expressed concern about making exceptions for one business as the exceptions would then need to be transferred to other businesses as well.

Director Seymour explained that the decibel levels in the Ordinance are tools for repeated levels that rise to the level of a nuisance. He also agreed that the correct way to go about this is to work with the neighbors and the City prior to doing concerts. Director Seymour inquired what will happen in the interim if the Plan Commission decides to hold the item.

Commissioner Hanna reiterated her concerns of needing to keep everything consistent for the entire community. Mayor Bukiewicz agreed it would need to be reasonable and the Plan Commission would need to find something acceptable for businesses and residents.

Mayor Bukiewicz stated that in the interim the City needs to follow the current Ordinance which would not allow concerts until the applicant comes back to Plan Commission. Mayor Bukiewicz also stated the shipping container bar can also not be used until Plan Commission makes a decision.

Zoning Administrator Miller asked Mayor Bukiewicz to clarify if it was just no concerts or no events at all. Mayor Bukiewicz said it would be no other events either because the City needs to be informed of ahead of time to plan for issues.

Commissioner Hanna agreed this item still needs to be worked on and would like the Police Department to be included to help with the safety perspective. Mayor Bukiewicz agreed and stated he appreciates that the applicant brings in a security service, however alcohol was allowed to leave the premises. Mr. DeWitt apologized and stated that he did not know where the property line was.

Mr. DeWitt asked if he is allowed to use the Temporary to leave the container up until the two weeks is up. Director Seymour's response was inaudible.

Mr. DeWitt also asked if he moves the tables in and out is that still considered a (inaudible). Mayor Bukiewicz stated the applicant can meet with staff to discuss that.

Director Seymour stated he would hold and not advance any action on the outdoor seating until there is a Plan Commission decision. Director Seymour stated he would not grant any extensions.

Alderman Guzikowski moved that the Plan Commission holds item 8B for Jim Dandy's until July 13th Plan Commission meeting. Commissioner Siepert seconded. On roll call: all voted aye. Motion carried.

Mayor Bukiewicz requested residents to email him or Alderman Guzikowski indicating the number of concerts or events they feel would be acceptable.

**PLAN REVIEW
KOMATSU
10001 S. HOWELL AVE.
TAX KEY NO. 924-9009-001**

Planner Papelbon provided an overview of the site, landscaping, and lighting plans for the outdoor storage area approved by Ord. 3002 (see staff report for details).

Kevin Risch, Project Engineer for Dave Doro, 8308 47th Avenue, Kenosha, WI, explained that the ponds on the southeast side are being modified. Mr. Risch stated he discussed the pond with Oak Creek Environmental Design Engineer Phil Beiermeister. The south pond will no longer be

a dry pond and there will no longer be a bioswale there. Mr. Risch stated two ponds are being proposed because the existing site has no on-site detention other than the east side of the property, which is being used for fire protection and roof drainage. Mr. Risch also explained that seven of the dual-head light fixtures will be replaced with new fixtures to reduce the noise level of the lights.

Alderman Loreck moved that the Plan Commission approves site, lighting, and landscaping plans submitted by Dave Doro, O.C. Holdings, LLC (on behalf of Komatsu), for the property at 10001 S. Howell Ave. with the following conditions:

1. That all relevant Code requirements remain in effect.
2. That all detailed, revised plans are submitted in digital format to the Department of Community Development prior to submission of permit applications.

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

Commissioner Carrillo moved to adjourn the meeting. Commissioner Siepert seconded. On roll call: all voted aye. Motion carried. The meeting was adjourned at 7:42 pm.

ATTEST:



Kari Papelbon, Plan Commission Secretary

7-13-21

Date