

MINUTES OF THE  
OAK CREEK PLAN COMMISSION MEETING  
TUESDAY, APRIL 12, 2011

Mayor Bolender called the meeting to order at 7:00 p.m. The following Commissioners were present at roll call: Commissioner Dickmann, Commissioner Johnston, Commissioner Cassista, Commissioner Bukiewicz, Mayor Bolender, Commissioner Nowak and Commissioner Chandler. Commissioners Michalski and Correll were excused. Also present Peter Wagner Zoning Administrator and Assistant Fire Chief Tom Rosandich.

**Significant Common Council Actions**

There were no comments or concerns from the Commission.

**Conditions and Restrictions – Tires Plus Total Car Care  
8051 S. Howell Avenue  
Tax Key No.: 813-9021**

Mr. Wagner explained to the Commission at the March 22, 2011 meeting the Plan Commission recommended to the Common Council that a conditional use permit be issued to allow for Tires Plus Total Car Care to operate an automobile service facility at 8051 S. Howell Avenue. The conditional use permit would allow them to construct a 10-bay, 8,500 square foot tire change and auto service facility on this property subject to conditions and restrictions.

The conditions and restrictions include provisions that aim to ensure that the property is maintained and does not become an eyesore. This includes prohibiting any outdoor storage of junk, junked vehicles, tires or other products and requiring that all vehicles set to be stored overnight are kept indoors.

Commissioner Johnston questioned the hours of operation. Mr. Roger Franz, Tires Plus stated the hours of operation are generally Monday through Saturday 7-7 and Sunday they are either 8-6 or 8-5.

Commissioner Bukiewicz questioned if there would be a gable roof and if mechanicals would be on the roof. Mr. Franz confirmed there would be a gable roof but the mechanicals would not be on the roof. Commissioner Bukiewicz stated the mechanicals would need to be screened if they were not inside the building.

Commissioner Dickmann questioned if it was necessary to put restrictions on the hours of operation. Mr. Wagner explained they were not near residential areas so it would not be necessary but if the Commission wanted they could be added.

Mr. Arden Degner, 8540 S. Pennsylvania Avenue questioned the recourse the City would have if the business went under and left an eyesore. Mayor Bolender would not

look at when they would pull out but would rather look at when they would grow or increase their business. They can't put recourse on a building. Mr. Degner disagreed and pointed out other communities do have restrictions on buildings such as gas stations. Mayor Bolender explained he was talking about environmental impact and they would not be handling gasoline on the property and it was not a concern. Assistant Fire Chief Tom Rosandich stated there would be fire issues with a vacant building and they are required to inspect them twice a year and the sprinkler system needs to be maintained.

Commissioner Cassista moved that the Plan Commission recommends to the Common Council the conditions and restrictions for Tires Plus be approved as part of the conditional use permit for an auto service center at 8051 S. Howell Avenue after a public hearing.

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

**Plan Review – Tires Plus Total Car Care  
8051 S. Howell Avenue  
Tax Key No.: 813-9012-001**

Mr. Wagner explained to the Commission that at this meeting the Plan Commission was being asked to review the conditions and restrictions, site plan, and a certified survey map related to this project.

The proposed building will be primarily constructed of brick with a split face block belt course and accent pillars. The building will have a pitched roof and the front portion will have windows and awning on all 3 sides. There will be landscaping throughout the property, however staff feels that additional landscaping south of the building would help to break up the long expanse of wall and aid in screening the mechanicals and utility meters.

Commissioner Bukiewicz questioned what was being requested with extending the sidewalk south to Sonic because it was going over an impervious surface. Did we want them to paint lines? Mr. Wagner explained there was an island between the two businesses and they would like to see a paved path between the two for pedestrians. Mr. Franz stated they could add the sidewalk going south and they could have the landscaping open to Sonic.

Commissioner Bukiewicz questioned the reason behind the angle parking. Mr. Wagner explained at the last meeting there was concern that the area between the proposed sidewalk and the stall was narrow. Mr. Franz explained there was a ten foot apron to pull up and maneuver the car that was concrete but was not technically a sidewalk. Mr. Wagner stated angling would not necessarily improve the flow of traffic. Ms. Renee Bauermann, N3 Development explained it was a twenty-four foot wide isle and the code requires a twenty-two foot wide isle for two way traffic so they are in excess of the what

the code requires. It is two different materials which on the plan makes it look different but it is a two way drive isle.

Commissioner Johnston explained the concern was not the two way traffic but people making the move into the building itself. It is very narrow for citizens to make that turn into the building. It would be difficult to make that turn with a vehicle of any size. Ms. Bauerman explained the employees are the ones that would be pulling the vehicles into and out of the building not the customers and it is something the employees are used to doing. Mayor Bolender questioned the width of the bay doors. Mr. Franz stated they were ten foot wide.

Commissioner Dickmann commented the south wall was a large expanse with not much to break up the wall. There was not much landscaping proposed and he questioned what there plans were to break up the area and make it look good before the trees and plants were mature. Mr. John Burkemper showed the Commission the landscape rendering and explained they did think they had done things that would break up the long expanse and you would not see much of the south side of the building because it would be blocked by Sonic. The eastern area along with the front would be the focal point of the building and they have addressed that with the spandrel glass, the canopies and the peak and also with the landscaping complementing the architecture of the building.

Commissioner Bukiewicz commented moving the mechanicals to the west would only create an additional expense for this customer and would still need to be screened no matter how far it was pushed back. He felt sufficient screening could be accomplished with landscaping and leaving the mechanicals to the east of the building. Mr. Burkemper added if they were to push it to the west, there is the expense of taking it to the west, but also as the building functions back to the front of the building they would also have to run the mechanicals on the inside.

Commissioner Johnston questioned if they had any issues with moving the parking lot back so that it would line up with Sonic's parking lot. Mr. Burkemper did not have any problems with that issue.

Commissioner Johnston moved that the Plan Commission approves the site, building, and landscaping plans for the Tires Plus Total Car Care, subject to the following conditions:

1. That all approvals are conditioned upon the applicant receiving Common Council approval of the conditional use for this project.
2. All building and fire codes are met.
3. That the lighting plan is approved by the Electrical inspector prior to the issuance of building permits.
4. That the final site grading, drainage, and stormwater management plans are approved by the Engineering Department.
5. That the final utility plans are approved by the Water & Sewer Utility.

6. That the final landscaping plans are approved by the City Forester and Department of Community Development prior to the issuance of building permits.
7. That any wall signs are either individually-mounted or raceway-mounted channel letters.
8. That all mechanicals and utility meters are screened with landscaping that will provide year round screening.
9. That the front parking lot is moved to the west to line up with the existing parking lot at Sonic.
10. That the proposed sidewalk in front of the building is extended south to provide a pedestrian connection to Sonic Drive-Thru.
11. That a development agreement is entered into between the developer and the City for the extension of water to serve this development.

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

**Certified Survey Map – Willow Tree Development  
8051 & 8081 S. Howell Avenue  
Tax Key Nos.: 813-9021-001 & 813-9012-002**

Mr. Wagner explained to the Commission Willow Tree Development was requesting approval of a certified survey map that would create three parcels in the B-4, Highway Business zoning district. The CSM would affect the properties at 8051 & 8081 S. Howell Avenue. Lot 1 would remain vacant for future development, Lot 2 would be the site of a proposed Tires Plus automobile service center, and Lot 3 is the site of Sonic Drive Thru.

Lots in the B-4, Highway Business district require a minimum lot area of 30,000 square feet and a width of 150 feet. Each of these lots meets or exceeds these requirements. Each of these lots would continue to maintain the minimum 30 percent greenspace as required by the zoning ordinance.

Mr. Franz explained that he spoke with Michael DeMichele and that he was fine with signing a development agreement so they could close on the lot.

Commissioner Johnston questioned if the greenspace requirements were being met. Mr. Wagner stated the new configuration did meet the 30 percent requirement.

Commissioner Nowak moved that the Plan Commission recommends that the Common Council approve the certified survey map for the property at 8051 S. Howell Avenue, subject to the following conditions:

1. That a development agreement for the extension of the watermain to the north end of the property is entered into between the developer and the City and that the terms of this agreement are completed prior to recording.
2. That any technical corrections are made.

3. That a cross-access easement is shown on the map or a separate document showing this easement is submitted to the City prior to recording.

Commissioner Chandler seconds.

Commissioner Johnston requested changing the first condition that if it is not completed prior to recording there would be a letter of credit provided from Tires Plus.

First and second concur. Roll call, all voted aye. The motion to approve carries.

**Planned Unit Development (PUD) Amendment – Oak Creek Elderly, LLC**  
**8841 S. 13<sup>th</sup> Street**  
**Tax Key No.: 857-9989-001**

Mr. Wagner explained to the Commission on August 19, 2008 the Common Council approved a rezoning of the property at 8841 S. 13<sup>th</sup> Street to Rm-1 (PUD), Multi Family Residential Planned Unit Development to allow for the development of a 44-unit senior assisted living facility. One 22-unit building was constructed and opened in 2009. Due to the success of that building the applicant would like to increase the total units in the second phase from 22 to 29 (7 additional units). This requires an amendment to the PUD since the existing ordinance limits this property to 44 units. Since the second building will also increase in size and required parking, the general development plan will change slightly.

The second building will be setback further than the building to the north to accommodate some additional parking stalls in the front. The front façade will remain the same as the original approval and will look essentially like the existing building. There will be a dumpster enclosure in the parking lot that will be required to be finished with brick to match the building. There will also need to be some landscaping to help screen the dumpster.

Commissioner Johnston noted there were some large pine trees on the site and more than likely would be taken down with the construction of this building. The drainage swale would run along the property line.

Commissioner Dickmann questioned what a tracking pad was and what was the change from the old and new drawings they received and also questioned if the fire department would have any problems getting in the back of the building with their equipment. Assistant Fire Chief Tom Rosandich felt there was enough access from the front that they would be able to get in the parking lot. The depth of the building is only 100 feet and their hoses are 150 feet. Commissioner Johnston explained the mechanicals and landscaping were relocated further back and the brick along the trash enclosure were the changes to the new drawings. The tracking pad is just for construction vehicles coming in and out so they are not tracking debris onto 13<sup>th</sup> Street.

Commissioner Johnston questioned where the sidewalk was going along the building. Mr. Wegenke explained there was a sidewalk between the two buildings that was already installed and there would be a side entrance for employees. Commissioner Johnston questioned if there was an easement between the two properties for the sidewalk because it would be on the property line. Mr. Wegenke stated he could get an easement if it was going to be an issue. Commissioner Johnston explained it would only be an issue if he ever wanted to sell the buildings. Mr. Wegenke stated he would get an easement.

Commissioner Dickmann moved that the Plan Commission recommend to the Common Council that the amended conditions and restrictions for the property at 8841 S. 13<sup>th</sup> Street submitted by Oak Creek Elderly, LLC, are approved after a public hearing.

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

**Temporary Use – Stein Outdoor Garden Center – Pick n’ Save Parking Lot  
2320 W. Ryan Road  
Tax Key No.: 878-9994-002**

This item was discussed and moved on at the same time as the next item.

**Temporary Use – Stein Outdoor Garden Center – Kohl’s Parking Lot  
9035 S. Howell Avenue  
Tax Key No.: 859-9035**

Mr. Wagner explained to the Commission Stein Gardens & Gifts was requesting a temporary use permit that would allow them to operate a temporary garden center in either the Pick n’ Save parking lot at 2320 W. Ryan Road or the Kohl’s parking lot at 9035 S. Howell Avenue.

The garden center will consist of one tent, multiple metal racks of garden products, small shed and other garden supplies and take up approximately 16 parking spaces. The garden center will be enclosed by a wood picket fence to provide a barrier between traffic and customers. The applicant is asking for the Plan Commission to grant a temporary use permit for one of the above locations, not both.

Staff has concerns about granting a temporary use permit for a business that does not operate a permanent business in the City and competes with local businesses that provide permanent jobs and tax base.

Mayor Bolender expressed concern for not allowing the use because they do not have a business in Oak Creek. Other businesses have these temporary uses and they might employ some of the youth in the City of Oak Creek. Residents don’t need to be driving all over to get what they want. Mr. Wagner explained it would open up parking lots to become a market place similar to Seven Mile Fair in Caledonia. Staff has a concern with granting temporary uses for parking lot sales and the precedent it is going

to set for the City. Mayor Bolender comment then maybe they should stop all transient merchant sales. He does not want to put restrictions on certain groups of people.

Commissioner Dickmann questioned what other cities do in situations such as this. Mr. Wagner explained he did not look at what other cities allow only what Oak Creek's ordinances state. Mr. Jerry Schmitt, Stein's, stated they were approved in Muskego, Cedarburg and Whitefish Bay and also in Cudahy. They are also looking at other communities and the only one they are running into difficulty would be the City of Sussex where they have no desire to have an outdoor display area of any kind.

Commissioner Bukiewicz understood the concerns of staff but other businesses are allowed to have temporary outdoor displays and as long as it is done correctly he does not have a problem with the proposal.

Commissioner Johnston questioned if they had any idea where they would be getting their water and electricity. Mr. Schmitt stated he was working with the Water Department and would be getting their water off of a private hydrant near the oil change business and the power they are going to attempt to pull from the existing light poles. They are only looking for one location and are leaning towards the Kohl's location based on the utility investigation.

Commissioner Johnston questioned what the plan was for restroom facilities. Mr. Schmitt stated they have secured permission from Kohl's for employees and customers. Commissioner Johnston questioned when they were looking to open. Mr. Schmitt would like to open the first week of May.

Assistant Fire Chief Rosandich stated they would need to provide material and an MSDS sheet for the plastic to vinyl. He also questioned if they were looking to add additional stores. Mr. Schmitt stated the Stein family was actively looking to get back on track to open a new location every other year. The idea with the Just Plants is to try it in certain markets that they may not be serving completely. If they find that they are successful than it could lead to a possible brick and mortar store.

Commissioner Chandler question if they lock the place at night or take everything into Kohl's. Mr. Schmitt explained the merchandise will stay within the fenced area. They understand the opportunity for loss and they will track that to determine if it really is a problem. The only shelter that will be locked will be the 6 x 8 foot cashier stand with the registers. Money will be removed from the site everyday and returned to the location the next day.

Commissioner Dickmann moved that the Plan Commission not approve the temporary use permit for the temporary garden center at 2320 W. Ryan Road.

Commissioner Cassista seconds. Roll call, all voted aye. The motion not to approve carries.

Commissioner Dickmann moved to approve the temporary use permit for the temporary garden center at 9035 S. Howell Avenue.

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

Commissioner Dickmann moved that the original motion be amended to add the following conditions:

1. That all building and fire codes are met.
2. That the temporary use shall expire on July 8, 2011.

Second concurs. Roll call, all voted aye. The motion to amend the original motion carries.

**Temporary Use – Blain’s Farm & Fleet Outdoor Garden Center  
501 W. Rawson Avenue  
Tax Key No.: 765-9046**

Mr. Wagner explained to the Commission the applicant was requesting a temporary use permit that would allow them to operate a temporary garden center in their parking lot at 501 W. Rawson Avenue.

The garden center would be located at the eastern side of the parking lot using 68 parking spaces. The garden center will consist of one tent, one aluminum structure with a cloth shed, multiple metal racks of garden products, trees and shrubs, and other garden supplies. The garden center will be enclosed by a split rail fence supported with concrete blocks to provide a barrier between traffic and customers.

Commissioner Nowak moved that the Plan Commission approves the temporary use permit for the temporary garden center at 501 W. Rawson Avenue, subject to the following conditions:

1. That all building and fire codes are met.
2. That the temporary use shall expire on July 4, 2011.

Commissioner Bukiewicz seconds. Roll call, all voted aye with the exception of Mayor Bolender who abstained. The motion to approve carries.

**Certified Survey Map – Brad Schmidt  
7981 S. 20<sup>th</sup> Street  
Tax Key No.: 810-9999-001**

Mr. Wagner explained to the Commission the owner of the property at 7981 S. 20<sup>th</sup> Street was requesting approval of a certified survey map that would divide the property into 2 lots. Lot 1 and the house on that lot would be retained by the current owner.



Outlot 1 will be sold to Northwestern Mutual. As part of this certified survey map the property owner will be dedicating additional right-of-way to the City of Oak Creek along W. Drexel Avenue and S. 20<sup>th</sup> Street.

Commissioner Bukiewicz moved that the Plan Commission recommend that the Common Council approve the certified survey map submitted by Brad Schmidt for the property at 7981 S. 20<sup>th</sup> Street, subject to any technical correction being made prior to recording.

Commissioner Johnston seconds.

Mayor Bolender questioned the correct address because it was on the agenda as 7891 S. 20<sup>th</sup> Street and the staff report had 7981 S. 20<sup>th</sup> Street. Mr. Wagner stated the correct address was 7981 S. 20<sup>th</sup> Street. Mayor Bolender stated they could not take action on this item because it was noticed incorrectly.

The motion to approve was withdrawn until it could be properly noticed.

Mayor Bolender directed the item held for proper notification.

Commissioner Cassista moved to adjourn. Commissioner Bukiewicz seconds. Roll call, all voted aye. The meeting was adjourned at 8:13 p.m.