

MINUTES OF THE  
OAK CREEK PLAN COMMISSION MEETING  
TUESDAY, OCTOBER 28, 2014

Mayor Scaffidi called the meeting to order at 6:00 p.m. The following Commissioners were present at roll call: Commissioner Dickmann, Commissioner Johnston, Commissioner Carrillo, Alderman Bukiewicz, Mayor Scaffidi, Alderman Guzikowski, Commissioner Correll and Commissioner Siefert. Commissioner Chandler was excused. Also present: Pete Wagner, Zoning Administrator/Planner; Kari Papelbon, Planner; and Mike Kressuk, Assistant Fire Chief.

Commissioner Dickmann moved to approve the minutes of the October 14, 2014 meeting. Ms. Papelbon clarified Item "Certified Survey Map/One West Drexel, LLC/331 W. Drexel Avenue/Tax Key No. 813-9031-000" per Commissioner Chandler's suggestion that Mayor Scaffidi stated that multiple CSMs were submitted prior to Common Council adoption of a text amendment to the Code allowing the creation of up to 8 lots via CSM. Alderman Guzikowski seconded. On roll call: All voted aye, except Commissioner Siefert, who abstained. Motion passed.

**Certified Survey Map  
Matthew Lyons, Azura, LLC  
8870 S. Mayhew Drive  
Tax Key Nos. (860-1001 to 860-1208)**

Commissioner Siefert stated he wanted to make sure that there are two things added onto the certified survey map; 1) 25' easement added because of the lateral, and 2) that it needs to be inspected and approved to the State's statutes prior to acceptance at the Utility. Mayor Scaffidi asked the applicant if he was in agreement with these suggestions. Matthew Lyons, 3390 S. Wadsworth Boulevard, Lakewood, CO, responded that these items were previously addressed with Ms. Papelbon in the comments to the CSM.

Ms. Papelbon stated that Commissioner Chandler asked if the comments received by the Utility were something the applicant will address. Mr. Lyons responded yes.

Commissioner Correll moved that the Plan Commission recommends to the Common Council that the certified survey map submitted by Matthew Lyons, Azura, LLC, for the property at 8870 S. Mayhew Dr. be approved with the condition that all technical corrections are made prior to recording. Alderman Guzikowski seconded. On roll call: All voted aye. Motion passed.

**Rezone and Conditional Use  
Matthew Lyons, Azura, LLC  
8870 S. Mayhew Drive  
Tax Key Nos. 860-1001 to 860-1208**

Ms. Papelbon noted that the Plan Commission will be asked to rule on three different requests as part of this application.

1. Whether the requested increase in density for senior housing is appropriate. As stated in the proposal, a majority of the residents will be 65+ due to the typical onset of Alzheimer's/dementia. Section 17.0311(c)(3) states as part of the allowable conditional uses in the Rm-1, Multifamily district: "Housing for the elderly provided that the density of

such housing shall not exceed twenty-seven (27) units per acre and shall meet the minimum per unit building area specified” in Sections 17.0311(d) and (g).

2. Whether a CBRF may be allowed within 2,500 feet of an existing CBRF. Ms. Papelbon noted that this is no longer a concern according to the City Attorney.
3. Whether a reduction in the minimum number of parking stalls is appropriate. The proposal calls for the construction of 42 parking stalls for employees and residents. As many of the residents will not or cannot drive, the proposal is to construct the equivalent of 1 space per 3 residents (22 stalls) and 18 spaces for the peak staff shift (18 stalls). Staff has recommended that the Applicant pursue shared future parking with the existing professional office condo building to the south, and to identify a potential future parking area on the site plan.

Commissioner Correll asked if changing the zoning to multi-family will leave the City open if this development doesn't happen. Ms. Papelbon clarified that there is a timeframe for compliance. If this development does not go forward, after a certain time, the conditional use will expire and the zoning would revert back if that is specified.

Matthew Lyons, 3390 S. Wadsworth Boulevard, Lakewood, CO, gave a presentation of the background of Azura, LLC, and their current portfolio. Their specific focus is to care for those that are affected by Alzheimer's and dementia. While they do care for people who are under the age of 65, the intent is to care specifically for those who are affected by Alzheimer's and dementia with the average age being 81.

Mr. Lyons gave an overview of the proposed site plan. They are contemplating entering into a shared access and parking agreement with the owner of the existing building to the south. There will be 14 parking stalls, which will mirror those in the parking lot of the existing building to the south. There would be shared parking for the condo office building and their facility.

The parking that they have proposed (42 stalls) is one parking stall for three residents plus one per staff at the peak shift. This mirrors what is required in Oak Creek's zoning code for nursing homes, which is the most applicable fit for this use given that most of the residents will not be driving.

Mr. Lyons is requesting the zoning change to the Rm-1 with the conditional use for community living. The elderly housing conditional use allows up to 27 units per acre. Their proposal comes out to 23 units per acre and slightly more than that on a beds-per-acre basis, and is well within the senior housing allowance.

Mayor Scaffidi asked what the anticipated timeframe is for construction and opening. Mr. Lyons responded his goal is to be in ground as soon as the frost is gone, around April or May, 2015.

Commissioner Dickmann asked about the timing of the two phases of construction. Mr. Lyons responded that their initial process would be to construct phase 1 and get it stabilized, get a good feel for the market, and increase their brand. Within one to two years, depending on the timing of all that, they would begin construction on phase 2.

Commissioner Dickmann stated that the location of this facility is appropriate because of its proximity to the new Fire Department. Asst. Chief Kressuk stated that most of the emergency

calls the Fire Department receives are from senior living facilities. For every bed of senior housing, that is one call per year.

Alderman Bukiewicz stated that the density is appropriate, he has no concerns about the proximity to other CBRFs, and that the parking is appropriate.

Arden Degner, 8540 S. Pennsylvania Avenue, stated that the City should consider an impact fee for the Fire Department for this type of facility if the calls are going to be at the expense of the remainder of the community.

Ms. Papelbon stated that Commissioner Chandler wanted to know, based on the Code requirements, how many parking stalls would be at the facility. Ms. Papelbon stated it depends on which definition would apply for the proposed use. If it is elderly housing, it would be less than what is being proposed. If it is based on a multi-family unit, it would be a one space per unit requirement or 1½ spaces per unit requirement for traditional efficiency/one-bedroom multi-family. For elderly housing, it is reduced down to what Azura is proposing for spaces. When considering the opportunity for shared parking with the property to the south, that actually goes beyond what is required by Code for elderly housing.

Ms. Papelbon stated that Commissioner Chandler wanted to know why the proposed design of this building is different from the existing facilities. Mr. Lyons stated that many of the buildings they are using now are from a portfolio they acquired. That portfolio was constructed in the early 1990's. Mr. Lyons worked with their architect, staff and experts within the company in the Alzheimer's and dementia field in taking the best of all of the memory care specific homes they have, and came up with a design they feel will maximize the ability for them to care for their residents and maximize efficiencies. They have designed this building as a prototype going forward.

Ms. Papelbon asked if the applicant would be comfortable with a condition of approval at the next stage (November 11, 2014 Plan Commission meeting) that would require that all patients be 65+ years of age or meet the Code definition of "elderly." Mr. Lyons responded that currently they only have 4% of their entire portfolio under the age of 65. They would prefer not to have that condition because they want to be able to care for people with early onset dementia. The people that come to their facilities with dementia that are under the age of 65 are physically and functionally at the same level as 70- and 80-year-olds. The level of care is the same. Mayor Scaffidi asked if the applicant would be comfortable with a bottom limit of 55 years old. Mr. Lyons responded that that would be acceptable.

Mr. Lyons stated the density issue becomes a concern with the Phase II of the project. He suggested the City place a 55+ restriction on the Phase II 20 units and leaving the Phase I primary 40 units unrestricted. Mayor Scaffidi stated his concern of ending up with a facility with many people that are of younger age with dementia issues and not really representing with is being presented to the Plan Commission. Ms. Papelbon stated there are challenges in enforcing that. The Code does specify what "elderly" is. Ms. Papelbon stated that the Plan Commission would be giving an increase in density for an elderly facility that may not have any elderly patients in it.

Mayor Scaffidi asked if the majority of the residents at this facility will be over than 65 years old. Mr. Lyons responded yes. Mayor Scaffidi asked if the City needed to be concerned people under 65 will make up the majority of the patients. Mr. Lyons stated he did not believe so, as the average patient age now at their facilities is 81 years old.

Commissioner Johnston asked if the applicant would be amenable to a reversion of the Rm-1 zoning after one year, with a condition that if they did not start the project by then, they would have to come back before the Plan Commission. Mr. Lyons stated he would be comfortable with that. Commissioner Johnston suggested adding that condition to the official recommendation.

Commissioner Johnston asked Asst. Chief Kressuk if there are any access issues around the building as it is laid out. Asst. Chief Kressuk stated that 90% of the calls to this type of facility are EMS-related. The patient loading area in this building does provide some access. Asst. Chief Kressuk stated as the building permit application and a relatively complete site plan comes forward, discussions can be held regarding access around the structure.

Commissioner Correll stated he is comfortable with requiring that the majority of patients will be 65+. Ms. Papelbon stated that the Code definition of housing for the elderly is "a dwelling unit or units designed to be occupied by elderly persons and their spouses. An elderly person is a person who is 62 years of age or older on the date such person intends to occupy the premises." Ms. Papelbon stated that the term "elderly" is under the definition of conditional uses within the multi-family district. Ms. Papelbon has been talking to the City Attorney about whether or not the increase in density could be utilized with that definition of elderly with the proposed CBRF.

Ms. Papelbon explained that what is being proposed is a compromise. Based on this, if there is an increase in density for housing for the elderly, then technically they wouldn't be able to treat anyone under 62 years of age. The applicant is requesting that Phase II be restricted to 55 and over, whereas Phase I would have no restriction.

Alderman Bukiewicz moved that Plan Commission recommends to the Common Council that the property at 8870 S. Mayhew Dr. be rezoned from B-4, Highway Business to Rm-1, Multifamily Residential with a Conditional Use for a Community-Based Residential Facility with a capacity for more than 15 persons, after a public hearing. Commissioner Siefert seconded. On roll call: All voted aye. Motion carried.

**Plan Review – Cousin's Subs**  
**135 W. Rawson Avenue**  
**Tax Key No. 765-9018**

Ms. Papelbon explained the planned renovations to the outside of the building, which does not include an addition to the building. Also, any rooftop mechanicals and equipment would have to be screened per Code.

Commissioner Johnston asked about the use of corrugated metal and his concern that it is being used a lot for this project. Brad Kropp, Perspective Design, 11525 W. North Avenue, Wauwatosa, WI, responded that they use corrugated within the restaurant. It is an exterior material that is durable and fits with the brand. He stated that this material is going to be longer lasting, especially as an enclosure around the dumpster, and also provides more of a modern look to that element.

Mr. Kropp stated there are currently four items on the roof plan. These are hoods and exhaust that exist in the building for operation and they would like them to remain as is. Ms. Papelbon stated that the rooftop units are not going to be an issue. The fact that it was called out on the

plan as rooftop equipment, which is a general term, is why the mention of the screening of the rooftop equipment was called out by staff as a condition of approval.

Commissioner Dickmann moved that the Plan Commission approves the site and building plans submitted by Joe Ferguson, Cousin's Subs, for the property at 135 W. Rawson Ave., subject to the following conditions:

1. That all building and fire codes are met.

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

**Plan Review – Tracy Rae's  
823 W. Oakwood Road  
Tax Key No. 954-9994**

Ms. Papelbon provided an overview of the proposal, which is for an addition to the rear of the existing building. Commissioner Dickmann asked if the increase in dining capacity would result in more parking. Shawn Utphall, 3248 Shoreridge Drive, Racine, WI stated that there is an existing garage on the property that they will be tearing down. That will open up a few more spaces for parking. Re-grading will need to be done back there.

Commissioner Correll asked if there was going to be enough parking. Mr. Wagner responded that they asked the applicant to mark on the site plan the number of parking spaces based on dimensions. Based on the existing space and what is going to be added, there should be more than adequate parking. Commissioner Correll asked about the fact that there is a gravel parking lot and not a paved parking lot. Mr. Wagner stated that with an existing facility, the City has not always consistently required paved parking. Because this is the same use and same owner, paving would not be required.

Commissioner Correll moved that Plan Commission approves the site and building plans submitted by Tracy Utphall, Tracy Rae's, for the property at 823 W. Oakwood Rd., subject to the following conditions:

1. That all rooftop mechanicals and equipment are screened.
2. That all building and fire codes are met.

Commissioner Siepert seconded. On roll call: All voted aye. Motion carried.

**Plan Commission Consultation  
Text Amendment – Section 17.0403(e)  
Parking Setbacks in the M-1, Manufacturing District**

Ms. Papelbon explained that this was before the Plan Commission as an initial discussion only, and action is not required at this time. The purpose of this discussion was to get a general feeling from the Commission about this matter. There have been several applications recently that have been reviewed by the Commission with regard to parking in existing and proposed businesses in the M-1 District. Those concerns have to do with the parking setback to the right-of-way. Ms. Papelbon provided an overview of the issue, and stated that Staff believes that there is a suitable solution to the problem: reduce the parking setback requirement to rights-of-way from 40 feet to 30 feet.

Commissioner Correll stated he does not have a problem reducing the parking setback requirement to rights-of-way from 40 feet to 30 feet as long as it is enforced consistently.

Commissioner Johnston suggested adding the requirement that curb and gutter around the parking lot is required. Commissioner Siepert agreed.

Commissioner Carillo asked what the standards are in surrounding communities. Ms. Papelbon stated that has not been explored at this point, but it can be looked into.

Alderman Bukiewicz stated he is okay with the 30-foot setback.

Mr. Degner stated his concern about snow pile-up and to keep that in mind when setting a setback standard. Ms. Papelbon stated that with every application that comes in, staff can request a snow management plan.

Ms. Papelbon stated that staff will take the comments into consideration and come back before the Plan Commission with more information.

Commissioner Carillo moved to adjourn. Commissioner Correll seconded. On roll call: All voted aye. Motion carried. The meeting adjourned at 7:15 p.m.