

MINUTES OF THE
OAK CREEK PLAN COMMISSION MEETING
TUESDAY, FEBRUARY 10, 2015

Alderman Bukiewicz called the meeting to order at 6:05 p.m. The following Commissioners were present at roll call: Commissioner Johnston, Commissioner Carillo, Alderman Bukiewicz, Alderman Guzikowski, Commissioner Correll, and Commissioner Siepert. Mayor Scaffidi attended via telephone through the first agenda item. Excused: Commissioner Dickmann and Commissioner Chandler. Also present: Kari Papelbon, Planner; Doug Seymour, Director of Community Development; Peter Wagner, Planner/Zoning Administrator; and Mike Kressuk, Assistant Fire Chief.

Commissioner Siepert moved to approve the January 27, 2015 meeting minutes. Commissioner Johnston seconded. All voted aye. Motion carried.

**Conditional Use Permit
Chick-fil-A
150 W. Town Square Way
Tax Key No. 813-9047**

Ms. Papelbon provided a brief overview and stated that the site plan has been revised from the last meeting to show some detail on the proposed landscaping around the front. This is a concept plan, but it gives the Commission an idea of what kind of landscaping can be designed for screening along Drexel Avenue.

Joe Vavrina, HR Green, explained the concept of how they could screen the drive-through from Drexel Avenue. This screening will be created through an effective layering of a variety of evergreen shrubs, so it is a year-round screen.

Mayor Scaffidi stated that the applicant has addressed the issue with the visibility of the drive-through lane along Drexel Avenue, which was one of the concerns raised at the last meeting.

Dimity Grabowski, 9858 S. Deerpath Drive, stated that a Chick-fil-A would be a very welcome addition to the City of Oak Creek. However, she is not in support of it at this location. She stated that several years ago when the Drexel Town Square was in its conceptual stages, the public was told that this was going to be a quality A-grade investment development, and that was Mayor Bolender's vision as well. She stated that considerable changes have been made to the original concept. Ms. Grabowski asked the Plan Commission to not approve this request as this is a restaurant with a drive-through with a conditional use permit. She stated that if this is approved, it sets a precedent for other drive-throughs being allowed in Drexel Town Square.

Ms. Papelbon stated that a 6,000 square-foot building with a drive-through facility was part of the original plan in the approved PUD.

Jerry Franke, President, WisPark, co-developer with the City on this property, stated that the site plan was not done when Mayor Bolender was Mayor of the City. This came up 5 to 12 months afterwards following a series of intensive public input sessions. The original site plan that is included in the approved document that was a subject of public hearings at the Plan Commission and Common Council levels includes a 6,000 square-foot restaurant with a drive-through at this very location. As part of the approval process of this project, a Traffic Impact Analysis (TIA) was required by WisDOT. That document is reviewed by the City and ultimately approved by WisDOT. Within that study, a 6,000 square-foot restaurant with a drive-through was approved; the improvements they were making were generated based upon that kind of use. The use of traffic volume is reflected in the transportation improvements that are being made as part of Drexel Town Square.

Mark Verhalen, 1200 E. Ryan Road, stated he is not a proponent of having a drive-through at the site.

Mr. Verhalen asked how many other drive-through restaurants in Oak Creek are allowed to filter traffic around the front of the building. Being that this is so close to the street, even though there is screen proposed, it takes away from the ambiance of the rest of the businesses that are proposed to be there, particularly Water Street Brewery. Mr. Verhalen asked if the City Forester signed off on the change to the landscaping in front.

Ms. Papelbon responded that the City Forester has not seen the landscape plan because it is only a concept plan right now.

Mayor Scaffidi stated that he respects the comments about the perceived change in plans, but a lot of what has been talked about as far as changes are based on people talking about what they thought Drexel Town Square was going to be versus what the planners, developers, and elected officials worked out. Mayor Scaffidi stated he agrees with Mr. Franke in that they brought in experts on what this could be, and have done a sensational job in matching what makes sense for the economy and the City and what makes sense for the partners at Drexel Town Square. It is a place with a lot of different interests and businesses. Mayor Scaffidi stated that the majority of the feedback he has received is in favor of Chick-fil-A.

Rosemarie Annonson, 3920 E. Ryan Road, asked if the Mayor had recused himself from voting. Alderman Bukiewicz stated that he has not. Ms. Annonson asked how he can vote when he is a member of One West Drexel Square; she feels this is a conflict of interest. Alderman Bukiewicz stated that Mayor Scaffidi sits as a representative along with the City Administrator on the One West Drexel board and the Mayor has full voting rights as a member of the Commission. Being a representative of the City on the One West Drexel board does not preclude him from voting at the Plan Commission according to the City Attorney. Ms. Annonson stated she is uncomfortable with that, especially if this item comes down to a tie vote. Mr. Seymour responded that this has been vetted through the City Attorney, the person with whom the City has vested the responsibility for entrusting its operations and legal opinions. The presence of Mayor Scaffidi at this meeting, as well as his ability to vote on this item, has been found acceptable by the City Attorney.

Commissioner Siepert asked how many cars are anticipated to go through the drive-through on a daily basis. Mr. Vavrina responded approximately 500-600 cars per day. During peak hours (lunch and dinner) there will be about 100-250, and everything trails off from there.

Commissioner Siepert asked about the hours of operation. Mr. Vavrina stated the hours of operation are 6:30 a.m. to 10:00 p.m.

Commissioner Johnston reminded the Commission that they are not looking at site or landscaping plans. They only thing that is being considered is permitting a restaurant with a drive-through facility at this location.

Commissioner Correll stated that is exactly how he is looking at it. He is looking at this as a fast-food restaurant. Would the Commission approve a McDonald's or other brands there? He stated his opinion that this is not the right place for a fast-food restaurant if that is all the Commission is looking at.

Commissioner Siepert asked if this is approved, does this open up the rest of the development to have other drive-through restaurants and how this can be controlled. Alderman Bukiewicz responded that within the Drexel Town Square master plan there are only certain lots that allow for it. Mr. Franke stated this was the only facility with a drive-through lane that was considered in the Traffic Impact Analysis. He does not envision another one coming here. There is a financial institution that will have drive-through lanes, and there is perhaps one other restaurant-type use that has a drive-up window. That is on the far west end of the development if it goes forward. In terms of another fast-food restaurant, this is the only one. He does not want to come back with another. He feels strongly that Chick-fil-A is a strong addition to the palette of activity that they want to have at Drexel Town Square.

Commissioner Correll stated that the Commission discussed at length the Panda Express - about it being

outside the Drexel Town Square area, which is why they weren't concerned about the drive-through. This proposal never came up at that time. It may have happened sometime much earlier because obviously it is on this plan, but at that time he does not remember that conversation.

Mr. Franke responded that they ended up with the Panda site by default. The State of Wisconsin, as part of the TIA, stated they wanted the entrance there. The alternative would have been to spend another \$1.5 million in improvements. The site is extremely small. Commissioner Correll stated that he understands this, and it evolved to the point where it made sense there.

Commissioner Correll asked Mr. Franke if there was anywhere else that is slotted for a QSR (Quick Service Restaurant) drive-through restaurant. Mr. Franke stated there are two pads on what he calls the suburban retail sector of the development. Those will be parcels 2 and 7, and there is no contract or letter of intent on those parcels at this time. Mr. Franke stated he is going to pursue, to the best of his ability, casual dining experiences on both of those sites. He does not want any retail. He could have sold both of those parcels to people who would have wanted to put in strip retail at a very good price. They have said no to those. He stated he understands the community wants sit-down casual restaurants. Mr. Franke stated that after this summer, after the verticality of Rick Barrett's projects, Blair (Williams), HSA (Froedtert), City Hall/Library, there will be significant interest in those pads for casual dining experiences. Mr. Franke stated there is a TIA that says they evaluated the site for one drive-through restaurant.

Commissioner Correll stated that once all of this starts to unfold, Mr. Franke anticipates much more interest in sit-down facilities. Would that not be true of lot 3? Mr. Franke stated no. The market can support only so many restaurant seats at any time. They want to have, in addition to pads 2 and 7, restaurants in the Main Street area and the area just to the north of the town square. Commissioner Correll stated that from the beginning, Mr. Franke felt a QSR was right for this lot only. Mr. Franke responded they felt one QSR was right for the development. Commissioner Correll stated that this is the first he has heard of this. Mr. Franke stated that Water Street Brewery will not allow them to do a casual, sit-down restaurant on parcel 3.

Commissioner Carillo stated it seemed like they (the Plan Commission) spent hundreds of hours on these plans, and she can't remember on the discussions with Panda Express anyone bringing up the possibility of a second drive-through. It was never in the discussion regarding Panda Express. Mr. Franke stated when they did the traffic impact analysis they did not own the Panda Express site - it was outside the territory. They made no such commitment that Panda Express was the only QSR for that establishment. He stated that the parcel is 8/10 of an acre. There are very limited uses that can fit on that parcel that they had to pay a considerable amount of money to get so they could have the traffic access to the development that the State of Wisconsin approved. To say that this is their one QSR, he respectfully disagreed. Commissioner Carillo stated they were at odds about how the City was even going to let Panda Express have a drive-through because they were so close to Drexel Town Square, and that the new Town Center was not going to have any drive-throughs. Mr. Franke stated that perhaps the name does a disservice. To Mr. Franke, the town center component of this property is everything west of Delco Drive. That is where they want the most walkable development to be so people park their cars once and walk around. They could not get a market demand to fill in 60 developable acres with that kind of development here. They would end up with what New Berlin has for its downtown, which is largely vacant buildings. They worked with John Malanafee, nationally-recognized consultant, to say what could be done in a relatively short period of time so that it is sustainable and viable financially.

Commissioner Johnston stated that what is listed in the PUD as conditional use sites for drive-throughs is all of the perimeter outlots, Meijers, City Hall, and all along Main Street. Ms. Papelbon responded the northern part of the B-1, B-2, C-1, C-2, but yes that is correct. Commissioner Johnston clarified that those are all conditional uses in the PUD.

Commissioner Correll stated that the bank drive-through is a lot different than a quick service drive-through, and that there are a lot of different uses that are included under the definition of drive-through.

Commissioner Siefert stated that landscaping all along Drexel Avenue should be considered for

consistency throughout the whole development. They are using a lot of screening to block the drive-through, but what about the other buildings? He would like to see them exposed to Drexel Avenue or Howell Avenue, and he wonders about that type of proposed landscaping. Mr. Seymour responded that they are not reviewing landscaping plans as part of this process. The City has engaged Graef to prepare a set of landscape standards and a conceptual landscaping plan, taking into account all of the factors along Drexel Avenue. As far as landscaping is concerned, they are trying to make it look as if it is all one development. Those standards will be in place, and the recommended species will be in place so there is some continuity in the design of those landscape areas.

Ms. Annonson asked if there was a children's playground. Mr. Hill responded there is a play area separate from the dining room toward the front of the store within the building.

Mayor Scaffidi stated he understands the differences of opinion. No one will like everything going into Drexel Town Square, but he feels this project is worthwhile. Other cities and other developers outside of the City and the State of Wisconsin recognize the value of this development. The City has gotten tremendous grants on this site and will continue to get them. It is a win, but it doesn't mean we are going to agree on everything.

Alderman Bukiewicz said he was somewhat taken by surprise by this. That came from his own negligence in understanding fully what was in the Drexel Town Square plan. Drive-throughs were allowed in certain areas, basically to the east side of the property. He is looking at this as a conditional use permit and if this is the best use we can get for the property. He took into account that they promised grade-A quality. Quality to Alderman Bukiewicz is a successful business that does not turn off the lights and has sustainable people there. He visited the Brookfield and Greendale stores, and they are doing quite well. After that, he arranged a meeting with the business representatives, City planners and interested parties. They came forward and presented a financial plan, which is very solid. There are only so many franchises awarded. They prefer local franchise ownership or at least for the owner to live in reasonable proximity to the business. They only award about six of them a year. They don't saturate the market. Chick-fil-A only builds when they have the cash on-hand to build. This makes for a very solid financial plan going forward. In the last two weeks, Alderman Bukiewicz asked several people what they thought and it was 90/10 on the whole deal. There were talks of having Nordstroms and Macy's here and things that demographics in this area just won't support.

Alderman Bukiewicz stated he has concerns about the drive-through and he has asked the applicant to do something about it. He stated the landscape screening helps. They took the corners into account. As long as the architectural look of the border of Drexel Town Square is kept clean and pristine and meets the approval of our City Forester, he is okay with that.

Alderman Bukiewicz stated that as far as drive-throughs and setting a future precedent, the market is going to drive what comes here. Financial institution drive-throughs are completely different than fast food drive-throughs. The way this is configured, there is absolutely no way to turn that building without having road traffic to Drexel Avenue. Referencing the agreement with Water Street Brewery, he stated there can't be a casual sit-down restaurant next to them, so that eliminates two lots. The City has to look at what type of retail can go in there. It could be small retail business, such as a phone store, a dental store or maybe a Game Stop, could be an AutoZone. Are those businesses going to stay and enhance the traffic and visibility in Drexel Town Square? Alderman Bukiewicz stated this is a very financially-sound business and will bring people in. He stated this request is for a conditional use, and they have to okay it. If it isn't them, it could possibly be some other restaurant chain. He stated he cannot find a reason not to grant a conditional use permit on this particular piece of land.

Commissioner Johnston stated there is a donut shop nearby where a conditional use was approved, and the City went round and round with the drive-through issue. If there are already issues with the site plan and the drive-through for Chick-fil-A, should we be considering this? This is just for the conditional use, but the City has been down that path before and we need to consider it. Alderman Bukiewicz stated he visited the donut shop and the place was pretty full. The manager said that after school the kids fill it up. As far as the drive-through went, a few cars went through. It worked okay from what he saw. Alderman

Bukiewicz concurred with Commissioner Johnston and stated it is tough. You have to look at what is here in the moment, and you can speculate what the future holds, but really you have to make this judgment based on the facts that are present right now. The Mayor alluded to how the build-out is going. He does not agree with having to go fast, but do it right. He is taking into consideration - whether this place is a Chick-fil-A, a McDonald's, a Taco Bell - the financial feasibility of this place keeping its lights on. The last thing we want at Drexel Town Square is a brown or dark space. He thinks this place gives us a lot of promise for this type of quick service food as keeping the lights on. Alderman Bukiewicz stated the drive-through is manageable. It is permitted in the use. From that he has to respect that.

Ms. Papelbon stated what the Plan Commission is ruling on is whether or not this location is appropriate for a conditional use for a restaurant with a drive-through facility. This is a conceptual plan, which is required as part of the application. It is not set in stone. If there are requirements at site, building and landscaping review for changes, that would be the time to discuss those items.

Mr. Franke stated the challenge they have with virtually every site at Drexel Town Square is that they are all open to the public right-of-way. That makes it a challenge. You can't put a drive-through on this site and hide it.

Commissioner Carillo stated she still believes in the original overall vision for this area, and would still like to see that come through.

Alderman Bukiewicz stated possible drive-through areas were pointed out in the C-1 and C-2 areas in the downtown area. Realistically that is infeasible on the Main Street. The best the City is probably going to get is a pass-through window at the sidewalk. He does not see it happening here.

Alderman Guzikowski stated he spent the week looking at the Drexel Town Square master plan trying to understand it a little better. He was looking to the other Commissioners to help enlighten him. What he learned is that this does fit the master plan as far as it has been spelled out. He really does have to concur with Alderman Bukiewicz that this is the direction we need to move in because it fits all facets. He thinks it is going to be a positive.

Mayor Scaffidi stated that any idea that we have compromised in every decision at Drexel Town Square is way off-base. Anyone who thinks that Froedtert, (Rick) Barrett, Blair Williams, and Four Points Sheraton are a compromise is not being realistic. When dealing with the economy, developers, and development, there are some decisions you have to make through the process. What you start with is usually not what you end up with.

Alderman Bukiewicz moved that the Plan Commission recommends that the Common Council approves a Conditional Use permit allowing a restaurant with drive-through facilities located at 150 W. Town Square Way after a public hearing and subject to conditions and restrictions that will be prepared for the Commission at the next meeting (February 10, 2015). Alderman Guzikowski seconded. Commissioner Johnston, Commissioner Carillo, Commissioner Correll, and Commissioner Siepert voted no. Alderman Bukiewicz, Alderman Guzikowski, and Mayor Scaffidi voted aye. Motion failed.

Mr. Seymour asked for an explanation from those who voted no why they made that vote. This information is needed for the Common Council to take into account. It may help to shape their discussion, and gives the applicant the opportunity to address some of those concerns. Mr. Seymour asked for specific reasons why they voted no other than it doesn't fit there.

Commissioner Correll stated his personal opinion that that is not the area where he was looking for a quick service restaurant of any type.

Commissioner Siepert stated he agrees with Commissioner Correll and has the same opinion. Commissioner Siepert stated he would like to see Chick-fil-A in the City of Oak Creek, but he doesn't think this is the right spot because of the drive-through.

Commissioner Carillo stated she voted no for these exact same reasons. She believes a drive-through on that road would hamper the view. The trees to block the drive-through will block the traffic from seeing the interior of Drexel Town Square. She stated the plantings would serve as a fence, and would break up that whole beautiful corner. She always thought that the traffic would be too much for people dining outside at Water Street Brewery. She thinks that would be degrading to the area as well.

Commissioner Johnston stated his concern focuses on the site layout and how the drive-through works. He has nothing against Chick-fil-A, but doesn't feel this is the right location for a fast food restaurant with a drive-through.

Mayor Scaffidi and Commissioner Correll were excused from the meeting at 7:00 p.m.

Certified Survey Map
John Casucci, RA Smith National
7902 S. 6th Street
Tax Key No. 813-9052 (formerly 813-9031)

Ms. Papelbon provided an overview of the proposal.

Ms. Annonson asked if there was a third lot being created that is going to be a wetland child playland. Ms. Papelbon responded not on this land. The wetland park is actually created by the CSM that is on the next agenda item.

Commissioner Johnston moved that Plan Commission recommends to the Common Council that the Certified Survey Map submitted by John Casucci, RA Smith National, for the property at 7902 S. 6th Street be approved with the condition that any technical corrections are made prior to recording. Commissioner Siepert seconded. On roll call: all voted aye. Motion carried.

Certified Survey Map
John Casucci, RA Smith National
601 W. Drexel Avenue
Tax Key No. 813-9023-002

Ms. Papelbon stated that this is the property that is going to have two items on this meeting's agenda. The first is dividing into two conforming lots plus one outlot. She provided additional details of the proposal.

Commissioner Johnston showed Ms. Annonson the area that is being created by the outlot. This will be the public space/walking space that is created as part of Drexel Town Square. Mr. Franke stated the wetland already exists. It is designated as a wetland, and needs to be preserved. This project has been recognized by the MMSD, the State of Wisconsin, and others as groundbreaking in terms of how to manage and how to make accessible a natural feature. Alderman Bukiewicz stated this is a best water management practice going on there. It plays into the entire plan agriculturally. Given what is going on development-wise, the WisDNR worked very well with the City on this piece of the puzzle. It really adds to the residential feature of this development, and it is still open to the public.

Commissioner Johnston referenced page 5 of 9 of the CSM, and asked that a technical correction be made. On the next CSM, there is an additional easement width that needs to be corrected on the north side of Lot 2. Commissioner Johnston clarified that on the next CSM where Lot 3 is created, there is an additional width that needs to go back there for public utilities.

Commissioner Siepert asked if the outlot referenced on the CSM is tied into Drexel Town Square, or if it is a separate entity. Ms. Papelbon stated that the outlot was created by a previous CSM (dividing 400 W. Forest Hill Ave.) and is not part of Drexel Town Square. That was done with Woodman's. Commissioner Johnston stated that is an existing detention pond that was expanded and created on this site.

Commissioner Johnston moved that Plan Commission recommends to the Common Council that the Certified Survey Map submitted by John Casucci, RA Smith National, for the property at 601 W. Drexel Ave. be approved with the condition that any technical corrections are made prior to recording. Commissioner Siepert seconded. On roll call: all voted aye. Motion carried.

Certified Survey Map
John Casucci, RA Smith National
601 W. Drexel Avenue
Tax Key No. 813-9023-002

Ms. Papelbon explained this is the last CSM that is related to this property on this evening's agenda. It is going to divide the previous Lot 2 that was just talked about into three conforming lots. This is creating the lots for the phased development for Emerald Row.

Commissioner Johnston noted that the notation on the CSM which states "45.5' storm sewer & access easement" should be changed to "45.5' public utility and access easement."

Commissioner Johnston moved that Plan Commission recommends to the Common Council that the Certified Survey Map submitted by John Casucci, RA Smith National, for the property at 601 W. Drexel Ave. be approved with the condition that any technical corrections are made prior to recording. Commissioner Siepert seconded. On roll call: all voted aye. Motion carried.

Temporary Use Permit
Stein Gardens and Gifts
9035 S. Howell Avenue
Tax Key No. 859-9035

Mr. Wagner provided an overview of the project.

Alderman Bukiewicz asked when the permit takes effect. Mr. Wagner stated it could start anytime the permit is approved. Mr. Wagner stated they are planning to start in April. Mr. Wagner stated a beginning date could be added to the motion. The Commissioners did not feel this was necessary.

Commissioner Johnston moved that the Plan Commission approves the temporary use permit for the temporary garden center at 9035 S. Howell Avenue, subject to the following conditions:

1. That all building and fire codes are met.
2. That the temporary use shall expire on July 12, 2015.

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

Commissioner Carillo moved to adjourn. Alderman Guzikowski seconded. On roll call: all voted aye. Motion carried. The meeting was adjourned at 7:13 p.m.