

MINUTES OF THE  
OAK CREEK PLAN COMMISSION MEETING  
TUESDAY, OCTOBER 13, 2015

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, Alderman Guzikowski, Commissioner Correll, Commissioner Siepert and Commissioner Chandler. Also present: Kari Papelbon, Planner; Assistant Fire Chief Mike Kressuk; and Pete Wagner, Planner/Zoning Administrator.

Commissioner Dickmann moved to approve the September 22, 2015 meeting minutes. Commissioner Siepert seconded. On roll call: all voted aye, except for Commissioner Correll, who abstained. Motion carried.

**Public Hearing – Sign Appeal**  
**Starbucks**  
**8880 S. Howell Avenue**  
**Tax Key No. 860-9035-000**

Zoning Administrator/Planner Pete Wagner read the hearing notice and opened the hearing.

Mayor Scaffidi called for public comment and on first call:

Rosemarie Annonson, 3920 E. Ryan Road, Oak Creek, WI 53154, stated that she does not like all the signs she is seeing, that they are really ugly, they distract, and when traveling and looking for something she is looking for an address. She stated that she feels that the address is far more important that you can locate what hundred block you are in. She stated that she is opposed to any variance granting by this commission for a new sign or another sign.

Mayor Scaffidi made a second call and a third and final call for public comment. Seeing none, the public hearing was closed.

**Sign Appeal**  
**Starbucks**  
**8880 S. Howell Avenue**  
**Tax Key No. 860-9035-000**

Mayor Scaffidi moved to discussion of Item 6A, which is a consideration of the request for the sign appeal for the property at 8880 S. Howell Avenue.

Mayor Scaffidi asked if this (sign) is on the east side of the property. Mr. Wagner responded that it is south of the McDonald's, and the sign would be located on the east elevation toward the back of the property.

Mayor Scaffidi asked if there would be changes with the curbing and whether it fits in that property. Mr. Wagner responded that the variance is phrased to specifically allow this ground sign to be located at that location.

Commission Chandler asked if the new sign has a speaker because there's a face-to-face interface also.

Brett Skirvin, Starbucks, 8880 S. Howell Avenue, responded that it is essentially replacing the old speaker box. It will have a speaker that basically has the same decibels as what's existing. It will actually be like the existing, except you will see a picture of the barista's face. It's new technology - McDonald's and Burger King, for the most part, have these confirmation screens. An advantage to this is being able to confirm your order. This is something Starbucks has never had in the past. It reduces the chance of error with a barista getting your order wrong, especially in the morning with the busy rushes which can cause backflow in the drive-through line and sometimes can be hazardous to traffic on site.

Commissioner Chandler asked whether the advertisement will also have sound associated with it. Mr. Skirvin responded that it is a totally static image until a car actually pulls up to the screen and then it sets off a trigger. It does have an auto dimmer that dims down when no cars are present. It is shut off at night. The goal is to not have any unwanted light shining that could be potentially distracting to drivers. It's almost invisible from Howell, but the goal is to negate any unwanted light/sound.

Alderman Bukiewicz stated that, in his point of view, it is just an upgrade in service. He stated that sign ordinances are tricky as a speaker post box is classified as sign. As technology goes forward, the banks are using interactive service. He does not have an issue with this going forward at all.

Commissioner Correll stated that the representative already clarified that most of the QSR's (quick service restaurants) don't have speaker boxes, it's all confirmation screens. He stated that he did not think they ever asked for them - this is the first thing that has come in front of the Plan Commission. So it's a non-issue as long as it's placed in that same spot. He stated that he did not think the sign was adding anything.

Commissioner Dickmann stated that he agreed, but that it is another example of why we need to look at our sign ordinance since technology is moving ahead.

Commissioner Siepert asked about the size of the sign.

Brett Skirvin advised that there was a typo on the original artwork that was initially provided to the City. It's actually only 5-feet 5-inches tall. I think we had it at 9 feet. It's actually at such a height that it's actually face-to-face as standard car height where you're going to be sitting in your car so you can have that face-to-face conversation with a barista.

Mayor Scaffidi asked what the width of the sign would be.

Brett Skirvin responded that he believed it was around four feet.

Zoning Administrator/Planner Pete Wagner stated that the entire sign is 12-square feet in area, which is 3' x 4'.

Alderman Bukiewicz moved that the Plan Commission approve the proposed sign appeal for the property at 8880 S. Howell Avenue submitted by Bruce Beyerly (Starbucks) that would allow Starbucks to install an additional menu board in the existing drive-through (Tax Key #860-9035-000) as long as it's in the same location as existing speaker box. Alderman Bukiewicz asked Mr. Wagner if that wording is correct.

Mr. Wagner concurred with that wording and offered a suggestion to use the wording in the 3<sup>rd</sup> paragraph of the staff report - that the Plan Commission make a motion to grant a variance allowing a second, 12 square-foot ground sign located on the southeastern corner of the building alongside the existing menu board located at 8880 S. Howell Avenue. Alderman Bukiewicz changed his motion to Mr. Wagner's suggestion. Commissioner Correll seconded. On roll call: all voted aye. Motion carried.

**Public Hearing – Sign Appeal**  
**Starbucks**  
**2015 W. Ryan Road**  
**Tax Key No. 903-9032-001**

Zoning Administrator/Planner Pete Wagner read the hearing notice and opened the hearing.

Mayor Scaffidi called for public comment and on first call:

Rosemarie Annonson, 3920 E. Ryan Road Oak Creek, WI 53154, inquired whether a second sign was being added or if the sign was being replaced.

Mr. Wagner stated that the applicant currently has a menu board, and next to that board is a speaker box which is not considered a sign. Now the applicant is requesting to put a 3' x 4' visual electronic display showing the barista's face, and showing advertising. It's no longer a simple audio device. It could be used for a lot more and so it is being treated as a ground sign. So they already have one, and you can't have more than one, so they need a variance and that is what's being requested tonight for both locations.

Rosemarie Annonson inquired if this will be limited because some businesses will see them get a second ground sign and not understand that it's a technological development.

Mr. Wagner stated that when the recommendation is made by the Commission, it specifically stated what the variance was for, where the location could be; so it's not like someone can just put the ground sign anywhere like the previous applicant on Howell Avenue or Centennial. It has to be located next to the menu board on a certain elevation of the building, and it's very specific as to where it can be located.

Kalvin Klimeck of Pioneer Engineering inquired whether this will also be available for all other businesses that have a drive-up service.

Mr. Wagner responded yes, until we modify our sign code we're going to have to go through this variance process because it's no longer just an audio speaker box, but actually has visual display of product, materials, brand, logo. So that's why we mentioned earlier that we're going to have to reconsider our sign code and how we address menu boards. Staff is going to have to look and present to the Commission and Common Council how we are going to address this new technology that you're seeing in drive-throughs today.

Mayor Scaffidi closed the public hearing and moved to Item 6B, which is a consideration of the request for a sign appeal for the property at 2015 W. Ryan Road.

**Sign Appeal  
Starbucks  
2015 W. Ryan Road  
Tax Key No. 903-9032-001**

Alderman Bukiewicz moved to grant a variance allowing a second 12 square-foot ground sign located at the southeastern corner of the building alongside the existing menu board located at 2015 W. Ryan Road. Commissioner Correll seconded. On roll call: all voted aye. Motion carried.

**Clarification of Action  
Comprehensive Plan Request**

Ms. Papelbon: As you may recall at the last meeting on September 8<sup>th</sup> regarding the Plan Commission action for the Comprehensive Plan amendment request, the vote ended in a 4 – 4 tie. Upon discussing this with the City Attorney, it appears that that action is considered "no recommendation" by the Plan Commission to the Common Council for that item. So therefore, it is considered dead, it's done. There is no more action; it is considered a failed motion. There are two options available to the applicant: they can either revise and resubmit a new application for the Plan Commission's consideration, or they can proceed to requesting Common Council review of what was presented to the Plan Commission without that recommendation. My understanding is that they have submitted for a new review that will be presented to the Plan Commission at a later date.

Alderman Mark Verhalen, 1200 E. Ryan Road: This proposed action is not in my district; however, my district is going to be affected by it. Therefore, I have a couple questions that may have to go to legal. If this proposal makes it through Plan Commission to deviate from the Comprehensive Plan, it will then probably come back for a rezoning to Mixed Use as per the change in the Comprehensive Plan. My question is: at what point - because the neighbors up there are very concerned with the amount of traffic that's going to be generated, the amount of buildings, the size of the buildings and whatnot - when would a PUD be put on this property? Before it gets rezoned or after it gets rezoned? So if in fact this does more forward, there's restrictions on certain things that can be placed on it during the process.

Ms. Papelbon responded that if the Comprehensive Plan amendment did get approved, the PUD would come at the time of rezone because it is considered one application.

Ald. Verhalen inquired as to who would have to make the request.

Ms. Papelbon responded that the request would be by the applicant.

Ald. Verhalen asked if the City could put a PUD on that thing because having a PUD is putting more restrictions, and the applicant probably won't ask for a PUD.

Ms. Papelbon responded that such is a request. A Planned Unit Development is considered a type of request by an applicant. It's a development request. It does allow some flexibility, which is why some applicants prefer to go through a PUD rather than conforming to the rules as they are. Her understanding is that they would be requesting a PUD.

Ald. Verhalen inquired if there would be any way he could get clarification through the City Attorney on this so that he could take the information back to the people that are asking the questions so that they understand the procedure.

Ms. Papelbon advised that the City is not going to impose a PUD. However, clarification could be sought from the City Attorney.

No action taken.

#### **Final Plat Review**

**Steve Mark, Lily Drive Developments, LLC**  
**Oakfield Village Addition #3**  
**324 E. Rawson Avenue and 400 E. Lily Drive**  
**Tax Key Nos. 814-9011 & 814-0256**

Ms. Papelbon provided an overview of the plat. Nine (9) new building lots and two (2) outlots, all in compliance with district requirements, are proposed. Lot 78, shown as Outlot 6 on the Preliminary Plat, was changed to a building lot based on conversations with the City Engineering Department regarding stormwater infrastructure and road layouts. Outlots 5 & 6 will be sold or dedicated to the City of Oak Creek for stormwater management. Outlot 4 will also provide private stormwater management for the subdivision. She also stated that there was some question as to the status of the installation of the public improvements.

Commissioner Dickmann moved that the Plan Commission recommends to the Common Council that the Final Plat for the Oakfield Village Addition No. 2 submitted by Steve Mark be approved with the following two conditions:

1. That all easements are updated prior to recording.
2. That all technical corrections are made prior to recording.

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

#### **CSM**

**Marc Neldner & Oak Creek Land Investment, LLC**  
**3260 E. Elm Road**  
**Tax Key No. 960-9994**

Ms. Papelbon provided an overview of the application. Alderman Bukiewicz asked the reason for the request to split the lot.

Marc Neldner 8169 S. Wildwood Drive, Oak Creek, responded that it was to split the lot off of a twenty-acre parcel, to build on Lot 3, for their future home. The whole lot package was offered as a deal, but the

acre-and-a-half was not needed, so he wanted to split off the ½ acre and sell it in the future for a residential home.

Alderman Bukiewicz asked if there was any floodplain on the property.

Commissioner Johnston advised that there are wetlands and floodplain on the property. Both just touches on Lot 3 and in the northeast corner of Lot 2.

Marc Neldner advised that soil testing has already been performed, and that can be provided when needed.

Alderman Bukiewicz moved that the Plan Commission recommends to the Common Council that the Certified Survey Map for the property at 3260 E. Elm Road be approved with the condition that all technical corrections are made prior to recording. Commissioner Correll seconded. On roll call: all voted aye. Motion carried.

**Rezone**

**Mark Neldner**

**3260 E. Elm Road (portion of)**

**Tax Key No. 960-9994-000 (portion of)**

Ms. Papelbon provided an overview of the request. The affected portion of the property is Lots 2 and 3 on the proposed CSM that was reviewed in the previous agenda item (6d). Plan Commissioners should note that this rezone request is for the underlying zoning only, and does not affect the existing FF, Flood Fringe overlay district.

Commissioner Chandler asked for further clarification on the zoning for A-1 Limited Agriculture.

Ms. Papelbon responded that Limited Agriculture can be used for farming purposes and a homestead on that farm, and the property has to be actively farmed.

Commissioner Chandler asked if a home can be built on it.

Ms. Papelbon responded that such is the reason for the rezone request. Once the CSM creates the two lots they want to rezone so the two lots can be built for residential purposes.

Commissioner Correll moved that the Plan Commission recommends to the Common Council that a portion of the property at 3260 E. Elm Road be rezoned from A-1, Limited Agricultural to Rs-3, Single Family Residential after a public hearing. Commissioner Siepert seconded. On roll call: all voted aye. Motion carried.

**CSM**

**Jared Greanya**

**9005 S. 9005 S. 11<sup>th</sup> Avenue**

**Tax Key Nos. 864-9003-001**

Ms. Papelbon stated that the request is to divide the property into two single-family building lots of conforming size. Sheet 1 of the CSM shows the proposed division, and the next sheet actually shows the extent of the wetlands on the property. Ms. Papelbon stated that there was a question raised by a neighboring landowner as to water on the property.

Ms. Papelbon further stated that Outlot 1 on CSM No. 5347 will be slightly reconfigured with the dedication of the cul-de-sac to the City. It has already been discussed with applicant that the dedication language must be included on the revised Sheet 5 of 5. Since the report was drafted there has been more information submitted in the form of deeds for the transfer of land in this area. There was just a slight amount of land from the outlot dedicated for the cul-de-sac, so there are a couple of proposed conditions of approval that are probably no longer relevant. The applicant does not own the outlot, and there's no change to the southern lot line for the lot. The only change was to the western lot line for the

dedication of the cul-de-sac.

The staff recommendation is that the Plan Commission recommends to the Common Council that the Certified Survey Map for the property at 9005 S. 11<sup>th</sup> Avenue be approved subject to conditions 1 and 2 as discussed unless the Commission requires additional conditions of approval.

Ms. Papelbon also advised that as far as the water is concerned, she was contacted by a neighbor in the areas stating their concerns. Those photos were forwarded to the Plan Commission members. The concern was for ponding of water in the area. This might have some overlap with the existence of wetlands in the area as well.

Beverly Sjoblom, 8971 S. Chicago Road, stated that she lives alongside the wetlands. She stated her worry that they have a lot of water there, and referred to pictures that were taken in April that showed yards full of water going into the wetlands. She stated that she is worried whether all the trees will be removed, and where the water will go. She explained that in the submitted pictures her house is a little higher than the proposed lots, but water goes down the hill and into a gulley in her backyard and into the wetlands. Ms. Sjoblom stated that she brought the pictures in and had them sent to Ms. Papelbon.

Mayor Scaffidi asked Beverly Sjoblom if she took the pictures.

Ms. Sjoblom stated that she had, and that the date it happened was in April. The picture was taken that day at noon after the storm that night, and we had about an inch of rain that day.

Mayor Scaffidi asked Beverly Sjoblom if it was this year in April, to which she replied that it was.

Mayor Scaffidi asked what the chance was of getting the pictures up.

Ms. Papelbon responded that it would be a few minutes. She advised that the pictures are showing ponding of water in yards along 11<sup>th</sup> Avenue.

Mayor Scaffidi asked Commissioner Brian Johnston to talk about the lot and the conditions out there.

Commissioner Johnston stated that there are two lots to the north of where this development is located. Water drains through their backyards, and it's fairly flat through there, so any depression is going to hold some water. The wetlands that are there will not be disturbed - they will not be filled in with this project as of today - so the wetlands will stay there. The drainage from the rear yards will still be accepted by the wetlands.

Beverly Sjoblom asked if anyone would like to see the pictures on her phone.

Mayor Scaffidi stated that the Plan Commission members did view the pictures that were provided on their emails.

Ms. Sjoblom stated that she was worried about what happens when it rains. She stated that her next door neighbor had to put in two sump pumps because of it. She added that it was not just her land, but the ones behind and where they're going to build.

Lisa Jonson, 9036 S. Carrollton Drive, stated that she is on the other side of this property. Three houses down they've had water back up in their basement, and have taken out their whole basement the last two big floods that we've had. Three houses to the south - their yard gets a lot of water. So my concern is all the wetland back there. I know in the past that people have tried to build a house - one house - and haven't gone through, so I don't understand how all of a sudden they can build two houses here.

Commissioner Johnston stated that this originally started probably in 2006 with a development agreement. It was laid out for a two-lot CSM. The utilities were extended, the cul-de-sac was added, then the gentleman that was doing the work had some financial issues and it sat there. That's kind of the history of this project. One thing I'd like to add on the staff recommendations for the conditions is a Grading Certificate for the property that would close out the Development Agreement that we have open

be submitted prior to recording. He stated that the property owner is aware of this requirement.

Commissioner Siepert asked why the land was broken up to this configuration, and how it was laid out.

Commissioner Johnston responded that it is laid out the way it was set up almost ten years ago, and it has to stay that way as that is how the utilities were put in for the lots.

Alderman Bukiewicz stated that there is a significant amount of floodplain, and asked if they would be buildable lots. He stated that he found this very surprising, and asked if there was sewer or just natural drainage to the ditch down at that end of town.

Commissioner Johnston responded that there is no storm sewer.

Alderman Bukiewicz asked if there was going to be a holding pond as it really looks swampy there. He asked what recourse there is if we allow this and they want to build a home.

Ms. Papelbon responded that there is no floodplain on the property, there are wetlands.

Commissioner Dickmann inquired as to the staff recommendations: #5 states that the proposed property lines should be reconfigured so that they are perpendicular to the right-of way. He asked Ms. Papelbon to clarify.

Ms. Papelbon responded that that was a comment that was made prior to getting some additional information. It was actually referring to the southern property line for the outlot, but the only change to that made by this CSM has to do with the configuration of the cul-de-sac. So that condition is actually kind of irrelevant now.

Commissioner Dickmann asked if that condition can be dropped.

Ms. Papelbon stated that condition #5 can be taken out. Commissioner Johnston concurred with this.

Commissioner Correll stated that a lot of time was spent on this ten years ago. He stated that he agreed with Alderman Bukiewicz. He asked where the water is dispersed from an engineering standpoint.

Commissioner Johnston responded that a grading plan has been submitted for this proposal, and basically there are two points coming off the cul-de-sac where the building pads were located. Water just runs off into the wetlands. They are small pads, there's not a whole lot you can do and not impact the wetlands.

Commissioner Correll asked Commissioner Johnston if, in his opinion, the development would have an impact on the water runoff.

Commissioner Johnston advised that it is going to stay the same. There are significant wetlands - drainage isn't going to be changed by building a home. It's still going to be wet, it's not going to make it better.

Alderman Bukiewicz asked Ms. Papelbon if the frontage is there to build, and whether the wetlands counted in the calculations. He asked what is counted - the whole property regardless wetlands, or just what's buildable.

Ms. Papelbon stated that you need to be able to build in conformance with all requirements.

Alderman Bukiewicz asked if usually there is a certain footage on the frontage.

Ms. Papelbon responded that there is still frontage there whether they can use it.

Tom Jonson, 9036 S. Carrollton Drive, stated: we've lived here for about twenty years, and I can tell you that every spring and usually every fall it does significantly get wet back there. I sit with my dog and

watch the ducks land back there, it's that wet. I know there's been multiple attempts to develop this property over the past probably twenty years also. I did inquire about actually purchasing the property for myself and was told that there's no sense in buying it because you'll probably never be able to develop anything anyways. My question is with regard to the cul-de-sac - are we just shifting the cul-de-sac just a little bit to the west? Is that what the layout is to get away from the outlot of the gentleman on the end of 11<sup>th</sup> Avenue?

Commissioner Johnston stated that the cul-de-sac itself is not changing, and explained that when this originally started it was a handshake agreement between the property owner and the gentleman who wanted to divide this up. Since that fell through, the new property owner is just taking off the corner of the outlot that was needed for that right-of-way for that cul-de-sac. The cul-de-sac was installed before they had any of that in place.

Mr. Jonson stated that he remembered that the gentleman put the road back there and tried to develop it, and also put in some culverts and a few things that were against what the DNR recommended. Mr. Jonson inquired if the DNR is aware of this, whether they marked these wetlands.

Commissioner Johnston responded that it has all been delineated.

Mr. Jonson asked how they are going to get access to their property, and whether both access driveways would be off of the cul-de-sac. Commissioner Johnston responded that basically the two fingers that are not wetlands off of the cul-de-sac are where the drives will access the property.

Ms. Papelbon requested clarification from Commissioner Johnston as to whether conditions 3 and 4 are still valid. Copies of the deeds were received. Commissioner Johnston responded that 3 and 4 were not required. Mayor Scaffidi advised the Commission to strike 3, 4, and 5 from the conditions.

Ms. Papelbon advised that the conditions would be:

1. That all technical corrections are made prior to recording.
2. That language for the dedication of the cul-de-sac to the City right-of-way is included on sheet 5 of 5.
3. Commissioner Johnston's recommendation that a Grading Certificate is submitted to the Engineering Department prior to recording of the map.

Commissioner Johnston moved that the Plan Commission recommends to the Common Council that the Certified Survey Map for the property at 9005 S. 11<sup>th</sup> Avenue be approved with the following conditions:

1. That all technical corrections are made prior to recording.
2. That language for the dedication of the cul-de-sac to the City right-of-way is included on Sheet 5 of 5.
3. That a Grading Certification is submitted to the Engineering Department prior to recording of the CSM.

Commissioner Dickmann seconded. On roll call: Commissioner Dickmann, aye; Commissioner Johnston, aye; Commissioner Carrillo, aye; Commissioner Bukiewicz, no; Mayor Scaffidi, aye; Commissioner Guzikowski, no; Commissioner Correll, aye; Commissioner Siefert, aye; Commissioner Chandler, aye. Motion carried.

**Conditional Use Permit Amendment**  
**URSA Oak Creek, LLC & URSA Major Corp**  
**d/b/a URSA Logistics & TEG Properties, LLC**  
**6925 S. Ash Street**  
**Tax Key No. 735-9045-000**

Ms. Papelbon provided an overview of the proposal. Ursa Logistics is planning to locate their corporate headquarters on this property. As mentioned in their proposal, they contract with USPS. No loading or unloading of trucks will occur on the property; instead, trucks are dispatched to USPS locations for pickup and delivery. The request to allow automobile and truck engine and body repair is to maintain their fleet of vehicles.



In 2008, the Conditional Use Permit was amended to allow outdoor storage in the side yard, and to allow the use of crushed recycled asphalt for the outdoor storage areas. The Engineering Department has reviewed the proposal for URSA Logistics, and indicated that the remaining unpaved storage and parking areas must be paved.

Commissioner Chandler asked specifically where repairs will occur. Scott Vandenhouten, Corporate Counsel for URSA Logistics, 248 S. Cardiff Road, Wales, Wisconsin, responded that the truck repair business will be taking place inside of the existing building. The suites that they would be taking over in the garage would be located in the north half of that building. Offices are in the south.

Commissioner Dickmann inquired if the business was taking over the whole building. Mr. Vandenhouten responded that there are other tenants in the building. There are five different suites: Section A is a double wide, Section B is a combination of two suites that when it was built it was two separate suites, and Sections C and D.

Commissioner Dickmann advised that he drove there trying to find it, but was very concerned as there were cars parked on the grass all over on the street. He stated that it is a mess there and he does not know what the applicant is doing is going to help. He hoped he was looking at the right building, but he is very concerned.

Mr. Vandenhouten responded that not only himself, but the CEO have been by there a number of times and he has never seen cars outside of the car parking lot in front of the building. The truck parking would be behind the building.

Commissioner Dickmann stated that he could have been looking at the wrong building, and asked if this is the one that's just south of the parcel post place. Mr. Vandenhouten responded no, it is just south of Wisconsin Electric.

Commissioner Chandler asked if further information could be provided on what area should be paved that is not currently paved. Ms. Papelbon responded that truck parking and equipment storage would be outside. By Code it is required to be paved. The areas that are currently unpaved that would have the parking and equipment storage would have to comply with that Code requirement. However, the applicant has some information from their deed requirements as it pertains to DNR approvals.

Susan Sorrentino, SBRK Law Group, W229N1433 Westwood Drive, Waukesha, Wisconsin. Atty. Sorrentino stated that they have an offer to purchase the property, and it is contingent on URSA Logistics getting approval to use the property. The parking lot north of the building, which is behind the building, would be for truck parking and employee parking only. The lot that is south of the building is for customer and employee parking, and that is all fully paved. The back parking lot is screened from the street and is half paved. In their due diligence in reviewing this property and considering purchasing it, they discovered that there is a deed restriction imposed on the property from the DNR and it specifically addresses the section where there is crushed asphalt. There were a number of sections (of the property) identified by the restriction where if anything is disturbed in that particular area, they (applicants) will need to go back to the DNR for review. Right now it has a closed case file on it. It had been cleaned up to a certain level, but if any other work is done on that property, they will need to go back to the DNR and ask them to reopen and reconsider and ask for permission to do any work on it, including covering it with a cap such as asphalt. Currently the company that is there was given an exception from covering that particular section, and the applicant is not asking for anything over and above, just merely given the same requirement that they were. They have crushed asphalt over it - it's just not paved asphalt. The company that was given the waiver previously is also a paving company, and they were not required to pave it, so we're asking if we could have an exception and not be required to pave that back section, particularly since it's not visible from the street. It wouldn't affect the aesthetic value of it. Ms. Papelbon stated that she has not had a chance to fully review it since it was received that afternoon, so she was not qualified to speak to that deed restriction.

Commissioner Correll voiced concern that there was recently an applicant that was made to put asphalt in where they wanted crushed asphalt, a similar trucking operation across the street. Without the DNR

issue, he doesn't see how the City can handle it differently.

Commissioner Dickmann asked if this item could be carried over one meeting. Mayor Scaffidi asked the applicant if they were willing to hold it over to the next Plan Commission meeting.

Commissioner Dickmann stated that Commissioner Johnston mentioned to him - and he had not realized - that this was the Black Diamond property, which he was very familiar with. He stated that all of his comments were obviously not applicable to this area.

Atty. Sorrentino inquired if the item is held until the next meeting, would there still be time to get on the next Common Council meeting if there is a recommended approval.

Ms. Papelbon responded that this was not possible as it would not be in accordance with the requirements for notice. Ms. Papelbon stated that it would be on the November 17<sup>th</sup> Council agenda. Mayor Scaffidi advised the applicant that if it went through the Plan Commission, they would be able to bring it back on November 17, 2015.

Atty. Sorrentino advised that it's important that they stay on their schedule for closing, and asked that the Plan Commission take action. Since they have submitted their original application, they have received the survey and the surveyor actually notes right on the survey that it is subject to the deed restriction. If that will help in determining where the deed restriction affects the property, she would be happy to share that if the Commission would consider that. As an alternative, if it's insistent that they do have to pave that section, they are requesting that they have at least 24 months in order to do it, and not be required to do it before they could move in. Mayor Scaffidi stated the Commission has done similar things with the timing of the paving and this might be a compromise the City can agree to.

Commissioner Chandler asked what the interpretation of the actual restriction is. She stated she knew they could not remove the asphalt, but what's the issue that's bringing about the restriction? Ms. Sorrentino responded that the prior use of the property was a company that did soil cleaning, and the ground underneath it was contaminated. The DNR became involved and required 18,000 cubic yards of soil to be removed. The most contaminated soil had been removed, and the rest of it they allowed to stay in place and had specific requirements about how the property could be used and any changes that could occur on the property. Part of the agreement with the prior owner, and she did not think it was the current owner but a couple owners past, is that the DNR agreed to close the file and not force them to remove any more soil so long as a deed restriction was placed on the property that would bind any future owners of the property.

Atty. Sorrentino stated that the deed restriction basically says that prior to any excavating, grading or placing any structure or improvement at the six marked locations, and those are on the right-hand side where it's currently just gravel, the owner of the portion of the property where activity will take place is required to submit a soils management plan consistent with the relevant state statutes and administrative rules for the site for its approval. She continued to read the deed restriction.

Atty. Sorrentino stated that any change to the existing conditions in that area will require the DNR to reopen file, and they were hoping that they would not have to do that.

Mayor Scaffidi inquired as to the size of the restricted area. Mr. Vandenhouten responded that it's probably 2-3 acres. The entire property is nine acres.

Commissioner Chandler inquired about the six areas of concern, and specifically where they are located. Commissioner Correll responded that those six areas are roughly 2-3 acres, or a third of the total.

Commissioner Chandler inquired if a portion could be paved because she thought there were two asphalt areas. Mr. Vandenhouten responded that most of the property is paved with asphalt, and the rest of the property is with crushed asphalt.

Mayor Scaffidi asked whether they can go forward with this proposal without a decision on the unpaved area, pending the local review on the deed restriction. Mr. Vandenhouten responded that really enters into the whole closing deal, so basically they know what their costs are. By postponing a decision, even

months down the road, adds to that timeframe.

Mayor Scaffidi stated that they are asking the Commission to make decisions on something the Commission doesn't have all the information on. Commissioner Correll responded that's why the Commission is suggesting giving a sunset time to pave if the ruling is that they could pave it. Commissioner Correll asked if they were looking for 24 months or some period of time. Mr. Vandenhouten responded in the affirmative.

Ms. Papelbon stated that she really couldn't get a feel for where the property boundaries are and where the building is as it's not identified on the exhibit. Ms. Papelbon asked whether there were other exhibits that might give the Commission a better idea of the shape of the property in relation to the work that was conducted.

Commissioner Dickmann inquired as to what it really meant by the comment made that the DNR closed the file on this. Mayor Scaffidi advised that his interpretation is that there can be no disturbing of that area. If the area is disturbed, they have to go back to the DNR. Commissioner Dickmann asked if that would reopen the file. Mayor Scaffidi responded that it would reopen the file.

Ms. Papelbon made a recommendation to proceed, and have the City Attorney review the information and give a recommendation at the Council hearing. Mayor Scaffidi stated that pending Commission approval, the City Attorney would review the deed and that information would be provided to the Council. Ms. Papelbon stated it would be for the final decision.

Ms. Papelbon stated that the Plan Commission would make their recommendation as to approval and any of the conditions that have been recommended. Between now and the hearing, Ms. Papelbon would confer with the City Attorney to get more information to provide to the Council. Since the Council makes the final decision on the request, it would be at the hearing whether or not the Plan Commission's recommendation would be adopted in full, or amended based on the City Attorney's input. Ms. Papelbon stated that is her recommendation for moving forward on the schedule that we have. She stated that if there is information that might sway the Council toward requiring paving, it would be at the hearing that timeframes would be discussed.

Atty. Sorrentino stated that they understood.

Alderman Bukiewicz wanted to comment on the sunset, and stated that he thought it was a decent compromise going forward, but thought it would be nice to have a decision. He stated that he understood the applicant's timeframe and that we need to move forward on this, but it's a big risk not only on the City's part, but on the applicant's part, too. He stated that we should consider what's in the best interest of both parties.

Commissioner Johnston asked whether Commissioner Correll or Commissioner Dickmann had any recollection of this DNR restriction being an issue when the property was developed for Black Diamond.

Commissioner Dickmann responded that he did not recall.

Commissioner Correll responded that he did not recall.

Commissioner Dickmann recalled the Black Diamond situation, but not these unique situations.

Commissioner Correll stated that he did not think any type of DNR restriction was mentioned.

Commissioner Johnston questioned whether the DNR restriction is still in place given what has happened on the site since 2004, and asked what the DNR regulations would be on it.

Mayor Scaffidi inquired to Ms. Sorrentino if these restrictions are still in place.

Atty. Sorrentino stated yes, they are.

Commissioner Johnston stated that his reading of the deed was that the removal of the soil that triggered review. He stated that the stone could be removed, asphalt pavement could be placed on top of that, and the underlying soil would not be disturbed.

Atty. Sorrentino stated they'd still have to apply to the DNR to remove the existing crushed asphalt.

Commissioner Johnston stated that that asphalt wasn't there in 2004.

Commissioner Correll stated that the Commission is leaning toward requiring paving, depending on the interpretation of the deed.

Ms. Papelbon recommended that the Commission keep the conditions and restrictions as is, with the understanding that additional information from the City Attorney will be provided to the Council at their hearing. At that point, the Council could change the condition to address certain things like timeframes.

Mr. Vandenhouten stated that it was in their best interest to pave as well, but we're mindful of the DNR concerns.

Mayor Scaffidi stated that he thought this compromise would move it forward: we'll get the information we need, you'll have the information you need to decide but it's good to hear that you're saying that you want to have it paved as well.

Ms. Papelbon added that Condition 3D mentions the requirement to pave. Based on information provided by the City Attorney, the Council would determine whether the requirement is valid.

Commissioner Correll moved that the Plan Commission recommends that the Common Council approve a Conditional Use Permit Amendment allowing automobile and truck engine and body repair on a portion of the property at 6925 S. 6<sup>th</sup> Street after a public hearing. Commissioner Siepert seconded. On roll call: all voted aye. Motion carried.

**Plan Review**  
**Bill Kumm – GE Healthcare**  
**120 W. Opus Drive**  
**Tax Key No. 924-9010-000**

Ms. Papelbon provided an overview of the proposal for a 133' x 33' open canopy on the northwest side of the existing building. The canopy will cover a portion of the loading docks, where the recycling dumpsters are proposed. Repair and refurbishing of existing GE Healthcare products, as well as reclamation and salvage of GE Healthcare medical equipment parts, will be the main operations at this location.

Commissioner Dickmann questioned where the recycling will take place.

Ms. Papelbon responded that the materials will be removed from the site in compliance with Federal and State laws for disposing of the materials that they can't use.

Commissioner Siepert questioned what kind of material will be dumped, and asked whether any hazardous materials could be involved.

Lisa Douglas, S84W1281 Blue Heron Lane, Muskego, Wisconsin, stated that the materials that would go into the hoppers are steel, aluminum, copper wire and aluminum and steel rails. There is nothing hazardous in them at all.

Alderman Bukiewicz asked Ms. Douglas if there would be any electric on canopy, how the canopy would be drained, and if gutters would drain to storm sewers.

Ms. Douglas stated that the canopy has gutters, and the electrical is just security lighting to the building.

Commissioner Chandler asked if the recyclable containers had open tops.

Ms. Douglas responded that they are open top containers.

Commissioner Chandler asked if people would have access to these containers.

Ms. Douglas responded that the complex is secured with gates that operated automatically, and the premises will be monitored 24/7 by GE Global Security.

Assistant Fire Chief Mike Kressuk advised the Commission that this facility is moving from an existing facility in the City, they've worked with them before and understand the materials even though the fire department doesn't always know what they are. The Fire Department does have an understanding of the hazard levels of the materials. For the Commission's reference, GE is very good at segregating those materials and making sure that they are kept in the appropriate containers or environments.

Ms. Douglas stated that they are moving from South 10<sup>th</sup> Street to this location.

Alderman Bukiewicz asked if they were consolidating other facilities.

Ms. Douglas stated that there is another GE Healthcare facility located on Grange Avenue that will be joining them at the facility.

Commissioner Chandler requested details on the canopy and materials.

Peter Kucha, Epstein – Uhen Architects 333 E. Chicago Street, Milwaukee, Wisconsin, stated that the canopy would be comprised of steel columns and beams, with a rubber membrane roof and metal fascia. The steel will be painted, and there will be concrete pavement below.

Commissioner Chandler asked if there would be any requirements for materials with the canopy that need to be discussed, to which Ms. Papelbon responded no.

Alderman Bukiewicz moved that the Plan Commission approves the site and building plans submitted by Bill Kumm, GE Healthcare, for the property at 120 S. Opus Drive with the condition that all building and fire codes are met. 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. The meeting adjourned at 7:24 p.m.

ATTEST:

  
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Douglas Seymour, Plan Commission Secretary

11-3-15

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Date