

MINUTES OF THE  
OAK CREEK PLAN COMMISSION MEETING  
TUESDAY, FEBRUARY 23, 2016

Alderman Dan Bukiewicz called the meeting to order at 6:00 p.m. The following Commissioners were present at roll call: Commissioner Johnston, Commissioner Carrillo, Alderman Bukiewicz, Alderman Guzikowski, and Commissioner Siefert. The following members were absent and excused: Mayor Scaffidi, Commissioner Correll, Commissioner Chandler, and Commissioner Dickmann. Also present: Doug Seymour, Director of Community Development; Kari Papelbon, Planner; and Pete Wagner, Planner/Zoning Administrator.

Commissioner Siefert moved to approve the February 9, 2016 meeting minutes. Commissioner Guzikowski seconded. On roll call: All voted aye except for Commissioner Johnston who abstained.

Ms. Papelbon stated that since only four members voted on the Minutes, they will have to be held until the next meeting so that there is a majority vote. Alderman Bukiewicz noted this.

### **Significant Common Council Actions**

Ms. Papelbon reported there were no significant council actions.

### **Exchange of City Owned Land 7600 S. 6<sup>th</sup> Street (portion) & 600 W. Drexel Ave. (portions) Tax Key No. 782-9996-002 & 782-9000**

Ms. Papelbon introduced this item and explained that it is in relation to the property at 7600 S. 6<sup>th</sup> Street, which is owned by the City, and 600 W. Drexel Avenue. During the review of site plans for the development of 600 W. Drexel Avenue, the developer learned that additional right of way would be obtained along 6<sup>th</sup> Street and Drexel Avenue, which necessitated the reconfiguration of the lot. The City offered to pursue an exchange of a portion of the adjacent land for the right-of-way purposes so that the project could proceed. Ms. Papelbon explained that the City-owned property contains floodway and flood fringe, and due to its unique shape and presence of floodway, the lot could not support compliant private development if sold to a non-adjacent landowner.

Ms. Papelbon presented a visual exhibit that showed the portion of City-owned property that would be given to 600 W. Drexel in exchange for the fifteen-foot-wide right-of-way along 6<sup>th</sup> Street, and the ten-foot-wide right-of-way along Drexel Avenue. The floodway and flood fringe would be unaffected by the exchange. The additional land is for compliance with building and parking setbacks, as well as safe access to Drexel Avenue.

Ms. Papelbon explained that this would further the objectives of the City by allowing for the redevelopment of an underused corner lot. The proposed use was previously

reviewed and approved by the Plan Commission and the Common Council earlier this year, and this exchange would support that project. Being that the land is City-owned, the Plan Commission is required to make a recommendation to the Common Council. The rezone of the additional land and incorporation into the existing conditional use permit for 600 W. Drexel Avenue will be the next item on the agenda.

Alderman Bukiewicz asked if there were any people wishing to make public comment on this item.

Arden Degner, 8540 S. Pennsylvania Avenue, Oak Creek, WI, inquired if there would be sidewalks in this area due to its proximity with Drexel Town Square.

Ms. Papelbon responded that part of the reason for the exchange was for additional right-of-way for sidewalks at a future date.

Director of Community Development Doug Seymour wanted to thank the Commission and Jason Luther for working with the City on this plan. He advised that it took great foresight by staff and property owner to plan for the future. The opportunity to secure this right-of-way allows for the proper planning for Drexel Avenue, which will include sidewalks. He advised that timing on this may be a little different because you would not want to see the investment go in only to see it get ripped up a year or two later for a much more comprehensive sidewalk system.

Alderman Bukiewicz opened up the discussion to Plan Commission members for comment.

Commissioner Siepert asked how much of the property being given to the developer is floodplain, and how much is usable land. He asked if there is anything the developer can use for expansion.

Ms. Papelbon responded that all of the land being exchanged and given to 600 W. Drexel is outside of floodplain boundaries, all usable land.

Alderman Bukiewicz commented that this is a case where the developer and the City got together and cooperated greatly, not only for the benefit of the developer, but the City on the whole.

Alderman Bukiewicz moved that the Plan Commission recommend to the Common Council that they favorably consider the exchange a portion of the City-owned land at 7600 S. 6<sup>th</sup> Street with portions of 600 W. Drexel Avenue.

Commissioner Siepert seconded. Roll call: All voted aye. Motion carried.

**Rezone/Conditional Use Permit Amendment – City of Oak Creek & Drexel Partners, LLC**  
**7600 S. 6<sup>th</sup> & 600 W. Drexel Ave.**  
**Tax Key No. 782-9996-002 & 782-9000**

Ms. Papelbon explained that, as mentioned in the previous item, the first three items on the agenda are related. This item is for rezoning the portion of the land to be combined with 600 W. Drexel Ave. from M-1, Manufacturing to B-2, Community Business, and including that portion in the legal description portion of the existing conditional use permit. This will add approximately 9,454 square feet to the legal description.

Alderman Bukiewicz opened the floor to public comment. No comments provided. Alderman Bukiewicz asked if any Plan Commission members had any comments, and seeing none, asked for a motion.

Commissioner Siepert moved that the Plan Commission recommends to the Common Council that a portion of the property at 7600 S. 6<sup>th</sup> St. be rezoned from M-1, Manufacturing, to B-2, Community Business, and that the legal description in Section 1 of the Conditional Use Permit for 600 W. Drexel is amended to include the rezoned property, after a public hearing.

Alderman Guzikowski seconded. Roll call: All voted aye. Motion carried.

**Certified Survey Map – City of Oak Creek & Drexel Partners, LLC  
7600 S. 6<sup>th</sup> St. & 600 W. Drexel Ave.  
Tax Key No. 782-9996-002 & 782-9000**

Ms. Papelbon explained that intent of the proposed CSM is to show the exchange of land for the public right-of-way, and the new lot sizes. Following the reconfiguration, Lot 1, which is the City-owned property, will be 1.599 acres, and 600 W. Drexel Avenue will be increased to 0.787 acres. No portion of the floodway is included in or affected by the exchange.

Alderman Bukiewicz stated that this is a related item, and the City is working with the developer to get this completed. Seeing no comments from the audience, he opened discussion to the Commission.

Alderman Guzikowski applauded the efforts by the Planning Department for handling the complexity of these three items, and trying to get the best use out of this small corner of land.

Commissioner Johnston moved that the Plan Commission recommends to the Common Council that the Certified Survey Map for the properties at 7600 S. 6<sup>th</sup> St. and 600 W. Drexel Ave. be approved with the following condition:

That all technical corrections, including, but not limited to spelling errors, minor coordinate geometry corrections, and corrections required for compliance with the Municipal Code and Wisconsin Statutes, are made prior to recording.

Commissioner Siepert seconded. Roll call: All voted aye. Motion carried.

**CONDITIONAL USE PERMIT AMENDMENT – CLASSIC LANES (GARY DAROSZEWSKI)**

**7501 S. HOWELL AVE.  
TAX KEY NO. 782-9036**

Alderman Bukiewicz advised the Commission and audience members that this item would be held per the applicant's request.

### **Zoning Text Amendment – Exterior Lighting Ordinance Revision**

Mr. Wagner explained that Staff has observed, over the last six-to-nine months, additions to some of the businesses when it comes to the lighting of their buildings. Staff has been looking internally if such should be regulated, and, if so, how it should be done. Mr. Wagner referenced a Milwaukee Journal article on LED lighting of windows and buildings - it seems to be a new cost-efficient way to stand out from everyone else. After doing research, Staff is bringing this to the Commission to ask for the direction that should be taken for regulating this type of lighting. He then provided information on what the City is proposing for a text amendment to the exterior lighting code.

Mr. Wagner stated that at this time the City does not regulate this type of accent lighting. This is something that should be done before the Plan Commission and reviewed by them to see if it fits in the character of the City of Oak Creek.

Mr. Wagner stated that one of the items they are proposing is that the lights be clear or white LEDs. He explained that these lights come in a rainbow of colors. For example, Pineapple Café has used green and purple LED lights. Staff's thought is that there should be a consistent look.

Staff feels that the lighting should only be installed horizontally, such as the roof's edge or canopy, to accent the building. The goal is to prevent lights accenting all the glazing on the property or business, which serves as another opportunity to light up the façade of the building without adding character to the neighborhood.

Mr. Wagner stated that the proposed Section 5 (f) was modeled after a community in Colorado that adopted a similar ordinance in 2012. He explained that there are other communities around the country that are looking at regulating this type of lighting. None of our neighboring communities have ordinances on the books regarding this style of lighting. West Allis and Greenfield are in the process of reviewing a possible code ordinance for regulating these lights.

Mr. Wagner explained that the other Section of Code that needs to be modified is in the electrical section that deals with the type of outdoor lighting fixtures. When the Code was last revised, LED was just a concept. The Electrical Inspector wanted to update the Code to include LEDs as a permitted lighting type.

Mr. Wagner explained that the last amendment is with regard to photometric plans. Part of the conditions of approval for a project is that the lighting plan be approved by the Electrical Inspector. Photometric plans depict the numbers calculated showing the number of lumens as it spreads out across the site. The firms that conduct these tests can show these numbers at a pretty small scale, so they get a lot of zeroes on the

perimeter. The average includes these zeroes, which then incorrectly shows that the proposal is well below a half foot candle. To close that loophole and to help minimize over lighting of sites, Staff is proposing to include the phrase “a point of zero on the photometric data test report shall not be used in calculating illumination levels of uniformity.”

An additional change is proposed to Section 17.0808(d)(6), pertaining to the maximum illumination level under an outdoor canopy. Mr. Wagner explained that there is a State law that relates to the regulation of refueling canopies, so this section will be updated to reflect that.

Alderman Bukiewicz asked if anyone in the audience would like to speak on this item.

Arden Degner, 8540 S. Pennsylvania Avenue, Oak Creek, WI 53154, wanted to know why there wasn't a maximum foot candle listed. He also stated that businesses are using these lights as advertising. He stated that the LED lights are a distraction when driving.

Alderman Bukiewicz responded that calculations of foot candles vary based on the use. What they are currently doing is taking the entire surface area, calculating in the zeroes, and it's not spreading and they are saying they are using less lighting.

Mr. Wagner responded that for the Section on building accent lighting, 300 lumens is the maximum. He explained that there is another Section in the Code pertaining to this, and it is a half foot candle.

Alderman Bukiewicz opened the discussion to the Commission.

Alderman Guzikowski inquired as to some of the businesses in the City that are using LED lights, and how the City would propose to enforce this.

Mr. Wagner provided the following: Pineapple Café, New Spice II on 27<sup>th</sup> and Rawson, a nail salon in the strip mall to the south of Pick N Save, Novo Gym, Wyss Auto, a hair salon on Howell and Ryan, the strip mall on West Ryan Road, Oak Creek Plumbing, and Subway on Oakwood and 32.

Mr. Wagner explained this is why it needs to be addressed. Staff does not want to ban it, they would like to make it uniform, make it horizontal lighting with clear lights, and limit the brightness of it. For enforcement purposes, an inventory of existing business with these lights would be taken and would be considered legal, not conforming once the ordinance is effective. Any other business who installs the lights after the ordinance is effective would receive a notice of violation letter noting this Section of Code, and they would have so many days to comply or they could come before the Plan Commission to request approval for what they are proposing.

Commissioner Siepert stated that he did not have an issue with it.

Commissioner Carrillo stated that she would like to ban the lighting as it acts like signage and should come before the Plan Commission. She stated that the white LED lights are the worst, that they are definitely distracting, and provided an example of a strip of buildings in Racine that are lighted in this fashion (looks cheap). She stated that the requests should be reviewed, the lighting should be kept horizontal, and they should not be given the option to wrap the windows of the business.

Commissioner Johnston explained that a few years ago when Buffalo Wild Wings came in they had the LED lighting around their building, and the City did not want that type of distraction along Howell Avenue. He stated that he sees this as a distraction, he is not in favor of it, and agreed with Commissioner Carrillo to get rid of it now.

Director of Community Development Doug Seymour stated that there are legal non-conforming rights and status afforded to those who have already placed light. There may be an option similar to what was done with signs several years back in several communities (not Oak Creek) where you can still kind of amortize the cost of those who have already done these types of lighting systems, and sunset so that these don't go on towards infinity. Director Seymour stated that he would like to see some provision in the ordinance such that if a business does utilize these LED lights, even as non-conforming uses, then the business is not able to have signs in the window as that creates billboards.

Alderman Bukiewicz stated that it's difficult to call it accent lighting as accent lighting is something that he considers to be a wash on a building, similar to what was done on City Hall. He stated that he is not in favor of any of it, and agreed with Commissioner Carrillo that it cheapens the whole look of everything. He provided an example scenario of a strip mall where some tenants place the horizontal LED lights and others don't - there will be a strip left dark. Alderman Bukiewicz stated that this lighting is considered "after-market" lighting, and is concerned about the installation and maintenance. He added that if a business wants to do something with the lighting in their windows, he is not against doing something that gently washes down the window with a diffuser but does not provide a bright light. Alderman Bukiewicz suggested that Staff take this item back and provide even more restrictions. As far as the changes the Electrical Inspector requested, as long as they are within standards, he stated that he trusts the judgment on that.

Mr. Wagner explained that while this is the first discussion on the LED lighting, the Commission could still go forward with the other proposed amendments and not include Section 5 of the proposed ordinance. Mr. Wagner suggested that they could make a recommendation approving text amendments to 17.0808(c) (1), (c)(3), and staff take the comments that were provided this evening, discuss the proposal further, and come back at a later date with a proposed text amendment for the accent lighting.

Alderman Guzikowski asked if there was a consensus with the Commission in attendance this evening to get rid of it all together.

Commissioner Siefert stated that he believed this should be held until the full Commission is back.

Alderman Bukiewicz concurred with Commissioner Siefert, but also stated he would not be opposed to doing the few Sections of Municipal Code on foot candles.

Mr. Wagner advised the Commission on the option to make a recommendation that the Common Council approve the text amendments for subsections (c)(1), (c)(3), (d)(6), and (e)(1)e. Mr. Wagner advised that they could move forward with those Sections as they are more technical clarifications of the Code. Staff will then research how successful any other community has been in prohibiting this type of use of lighting, and confer with the City Attorney on how to proceed. This item can be brought back in March for further discussion.

Alderman Bukiewicz moved that the Plan Commission recommends amending Sections 17.0808(c)(1)c, (c)(3), (d)(6), and (e)(1)(e).

Alderman Guzikowski seconded. Roll call: All voted aye. Motion carried.

Alderman Bukiewicz directed Staff to bring this item back to the next Plan Commission meeting to discuss when the full Commission is present.

**Rezone – City of Oak Creek (Milwaukee County Parks Properties)**

**709 & 725 E. Oak St.; 7312 S. 27th St.; 7951, 8067, 8210, 8245, 8290, 8310, 8351 S. 20th St.; 1741, 1901, 2211, 2305, 2319, and 2361 W. Drexel Ave.**

**TAX KEY NO: 733-0017-000, 733-9999-000, 762-9008-000, 810-9016-000, 810-9024-000, 811-9018-002, 810-9014-000, 811-9018-003, 830-9021-000, 831-9033-000, 811-9024-000, 811-9991-002, 810-9992-001, 810-9017-000, 810-9020-000, 810-9022-000**

Ms. Papelbon provided an overview of the request by the County that affects the Runway Dog Exercise Park and several parcels that are part of Falk Park. Only those portions of the parcels outside of the FW, Floodway District will be rezoned, and no overlay districts (e.g., C-1, Shoreland Wetland Conservancy, FF, Flood Fringe, etc.) will be amended by the proposed change.

The staff recommendation is that the Plan Commission recommends to the Common Council that the properties at 709 & 725 E. Oak St.; 7312 S. 27th St.; 7951, 8067, 8210, 8245, 8290, 8310, 8351 S. 20th St.; 1741, 1901, 2211, 2305, 2319, and 2361 W. Drexel Ave. be rezoned outside of FW, Floodway Districts and not affecting any overlay districts to P-1, Park District, after a public hearing.

Alderman Bukiewicz opened the item up to the audience for discussion.

Teig Whaley-Smith, Director of Administrative Services for Milwaukee County, 909 N. 9<sup>th</sup> Street, Milwaukee, WI 53233 - Mr. Whaley-Smith introduced himself as the Director of Administrative Services serving for County Executive Abele. He explained that during County Executive Abele's administration over 150 acres of parkland has been added, and part of the overall exercise with parks is to make sure that they are all appropriately zoned. He explained that the Milwaukee County Parks Department went over their inventory of parks to identify with municipalities if there were portions of any

park that were not currently zoned as parks. He stated that this is a cleanup of the zoning code to reflect the actual use of a park. Mr. Whaley-Smith stated that there is no proposal to change the land, and it will continue to be used as parkland. This is strictly a technicality to be sure that the lands are only used for this purpose.

Alderman Bukiewicz asked if anyone had any questions for Mr. Whaley-Smith.

Commissioner Siepert responded that the changes were pretty clear.

Arden Degner, 8540 S. Pennsylvania Avenue, inquired if it was going to be the City's responsibility for the upkeep of the parks.

Ms. Papelbon responded that the zoning is changing to reflect that is it parkland; the ownership and the ownership responsibility are not changing. The ownership of the property continues to be with Milwaukee County, who is responsible for the maintenance of this land.

Alderman Bukiewicz added that this item came at the request of County Executive Abele to make sure that parkland is protected and remains parkland. There is no intention to sell it off or to push it off to the municipalities.

Jeanette Balistreri 2120 W. Orchard Way, Oak Creek, WI 53154, inquired about the property at 8351 S. 20<sup>th</sup> Street that is zoned as Rm-1, Multi-Family, and asked if it has always been zoned that way.

Alderman Bukiewicz replied that when the three-way land swap with the County, Northwestern Mutual, and the City took place there could have been a piece of land that had been part of Colonial Woods, and it might have been zoned that way at one time. That is why the County Executive wants to clean this up and make sure it remains parkland.

Ms. Papelbon responded that what is under the current zoning is being changed to parkland. Anything that has a slash (in the notice) means that there are multiple zoning districts, which will all change to P-1 except for those areas that are Floodway, Flood Fringe, or Shoreland Wetland Conservancy.

Urbain Boudjou, 2110 W. Orchard Way, Oak Creek, WI 53154, questioned the RM-1 zoning and wanted to know how this would affect property values.

Ms. Papelbon reiterated that all of the current zoning districts will go away except for Floodway, Flood Fringe, and C-1 Shoreland Wetland Conservancy. Anything zoned manufacturing, agricultural, or residential will all go away and be P-1, which is Park District.

Community Development Director Doug Seymour reiterated that this only applies to the properties that are owned by the County. For example, a parcel zoned Rm-1 outside of the identified area is not changing.



Commissioner Johnston moved that the Plan Commission recommends to the Common Council that the properties at 709 & 725 E. Oak St.; 7312 S. 27th St.; 7951, 8067, 8210, 8245, 8290, 8310, 8351 S. 20th St.; 1741, 1901, 2211, 2305, 2319, and 2361 W. Drexel Ave. be rezoned outside of FW, Floodway Districts and not affecting any overlay districts to P-1, Park District, after a public hearing.

Commissioner Siepert seconded. Roll call: All voted aye. Motion carried.

Commissioner Carrillo moved to adjourn.

Clarence Schmidt, 1820 W. Drexel Avenue, Oak Creek, WI 53154, commented that there appeared to be a lot of people missing from the Plan Commission, and questioned how many people are on it.

Alderman Bukiewicz explained the composition of the Plan Commission, and while there were a limited number of Commissioners in attendance, they were still able to conduct business as there was a quorum. He added that if Commissioners are unable to attend, they have the option to provide comments prior to the meeting.

Ms. Papelbon explained that the votes were unanimous, so even if the other members had been at the meeting, the majority approved the items (no different outcome). If there had been any other vote, they would have had to address that. She also explained that these are recommendations for the Common Council, who make final decisions on these requests.

Commissioner Carrillo moved to adjourn. Alderman Guzikowski seconded. Roll call: All voted aye.

Meeting adjourned at 6:55 p.m.

ATTEST:



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Douglas Seymour, Plan Commission Secretary

3-3-16

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Date