

MINUTES OF THE  
OAK CREEK PLAN COMMISSION MEETING  
TUESDAY, FEBRUARY 14, 2017

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

**Minutes of the January 24, 2017 meeting**

Commissioner Siefert moved to approve the minutes of the January 24, 2017 meeting. Alderman Guzikowski seconded. On roll call: all voted aye, except Commissioner Correll, who abstained as he was not in attendance at the January 24, 2017 meeting. Motion carried.

**SIGN PLAN REVIEW  
POTBELLY SANDWICH SHOP  
160 W. TOWN SQUARE WAY  
TAX KEY NO. 813-9046**

Zoning Administrator/Planner Pete Wagner provided an overview of the proposal (see staff report for details).

Commissioner Chandler asked the applicant for more information on the eye-level signs. Kristin Peterson, Innovative Signs, responded that at this point, they don't know exactly what they are going to be putting up there. The examples shown are possible suggestions; however, it depends on what they are advertising at any particular time. Commissioner Chandler asked if the signs would be changing regularly. Ms. Peterson responded that the vinyl lettering is changed quarterly depending on what the specials are.

Commissioner Correll motioned that the Plan Commission approves the sign plan submitted by Kristen Peterson, Potbelly Sandwich Shop, for the commercial tenant portion of the property at 160 W. Town Square Way allowing the following:

- 1) One 31.26 square-foot, 28.875" tall, wall sign on the north elevation
- 2) One 31.26 square-foot, 28.875" tall, wall sign on the south elevation
- 3) Two eye level signs, not to make more than 10% of the glazing opaque on the south elevation
- 4) One sign panel to the existing monument sign.

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

**REZONE/CONDITIONAL USE PERMIT  
STORAGE SHOP USA  
331 & 401 E. OAK ST.  
TAX KEY NOS. 733-0008 AND 739-0009**

Zoning Administrator/Planner Wagner provided an overview of the proposal to rezone properties to M-1, Manufacturing with a Conditional Use Permit operation of contractor's offices, yards, or shops without outdoor storage (see staff report for details).

Frank Petelinsik, 611 E. Oak Street, asked if the City is going to permit all the mini-warehouses to become residential. Mayor Scaffidi responded no.

Commissioner Bukiewicz asked if the City has to mandate that a building of this size has to be sprinklered for fire protection. Asst. Fire Chief Kressuk responded that they would evaluate the building's spec. plans to determine the needs for fire suppression in them. Generally, they find that these structures are relatively smaller in scale, but that will certainly be monitored as the building plans come forward. The units are subject to all prevailing fire prevention codes. Commissioner Bukiewicz asked if any time a building is rented out, will they have to let the City know what the particular use is and what type of items they are storing. Zoning Administrator/Planner Wagner responded that when they are purchased, they have to get an occupancy permit for what type of use they are going to have. At that time, the City will know what type of items they will be storing.

Commissioner Bukiewicz asked if the Fire Department would know what type (if any) of chemicals will be stored there. Asst. Fire Chief Kressuk responded that they would know when the occupancy permit application is submitted. It is important to note that these buildings are constructed to a certain specification. The construction methods and materials and the size of the structure also dictate what type of occupancy could take place in those particular structures without fire suppression being provided.

Commissioner Carrillo asked if there is any signage that goes along with these. Zoning Administrator/Planner Wagner stated there will only be a monument sign reading Self Storage USA. The idea of this use is not to bring customers to this location. It is for storage of vehicles or equipment.

Commissioner Bukiewicz motioned that the Plan Commission recommends that the Common Council approves the rezoning and conditional use permit for a contractor's office, shops, and yards with no outdoor storage for the properties at 331 and 401 E. Oak Street after a public hearing and subject to conditions and restrictions that will be prepared for the Commission's review at the next meeting.

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

**PLAN REVIEW**  
**SIKH TEMPLE OF WISCONSIN**  
**7512 S. HOWELL AVE.**  
**TAX KEY NO. 781-9031**

Planner Papelbon provided an overview of the project (see staff report for details), and mentioned that she did receive two emails from residents expressing their concerns about lighting and screening to the residences to the south. Also, there was a question about noise and when the construction would occur.

Planner Papelbon stated that staff met with the applicants this week to discuss the plans. This proposal before the Plan Commission is considered a maximum buildout. Should they have any changes to the plans, staff would work with them to make sure that all requirements are adhered to in terms of compliance with the local Code.

Commissioner Bukiewicz asked if there was any proportional number of parking spaces they have to have for a field the size that they are proposing. Planner Papelbon responded that this is a private soccer field for the temple. It is not going to be a commercial recreational facility or a park, so they are not required to have a certain number of parking stalls.

Commissioner Correll asked if there was some fencing proposed along the abutting property line with the residences, and if so, does staff feel it is adequate based on some of the potential concerns of the residences. Planner Papelbon responded that the fencing is in conjunction with the landscaping that will be blocking the parking stalls themselves. They are not intended to block the activities on the recreation field. That is why staff made the recommendation prior to receiving the emailed concerns from the residents that the Sikh Temple applicants consider adding some vegetation on the rest of the southern side to block some of the soccer field activities from those residences.

Planner Papelbon stated that what is proposed along the south is a 6-foot-tall wooden fence to the corner. It was extended just a little bit in the southeast corner where there is a tree and a few shrubs. That was intended to provide the most screening of the parking lot to prevent lights from going through to the residences to the south, and then adding the landscaping to further block some of the lights that will be coming from the vehicles that will be traveling down to the southern parking area.

Planner Papelbon clarified that what is shown on the plan is what is required. The Plan Commission can add some additional buffering requirements.

Commissioner Siefert asked if the electrical inspector has looked into how the lighting is set up. Planner Papelbon responded that the lighting does have to be approved by the electrical inspector. He does need to receive those plans before he can issue any kind of review or approval, and the applicants are aware of that requirement.

Alderman Guzikowski asked if there is any consideration of a berm along the south border that would help with alleviating the majority of the headlights coming through. Planner Papelbon responded that she would leave it to Commission to determine whether a berm is preferable to a fence.

Mayor Scaffidi stated that this seems to be adequate screening given what is there now. The residents are far enough away and some of them have their own fences. This is a nice upgrade and gives the applicant the opportunity to fully utilize their property and do some more things with their members. Mayor Scaffidi stated the proposal, as submitted, is fine.

Planner Papelbon stated that this is a maximum build-out. When she spoke with the applicants, they mentioned this could be a phased plan, or that some of the parking stalls may be relocated or not installed at this time. Commissioner Correll stated that the fence and vegetation lines should not be phased. Planner Papelbon stated that they would be required as part of the screening.

Commissioner Bukiewicz asked if any of the homes to the south will be impacted by storm water issues. Planner Papelbon responded that this plan is calling for the installation of a brand new storm water pond to supplement the one that is already there. Depending on what gets built, if there is a change to the storm water, it will have to be held on that land and will have to be approved by Environmental Engineer Phil Beiermeister. Commissioner Johnston stated that their grading plan shows a swale along the south property line with catch basins. It should improve what is out there. Engineering still has to go over the storm water plan to get that approved. Commissioner Bukiewicz asked if a pond would go in with the parking lot. Commissioner Johnston responded it will depend on what and how much gets built that triggers the need for that pond.

Commissioner Bukiewicz asked what would be required if they just did the parking lot. Commissioner Johnston responded that it depends on how much impervious surface they add.

If they just add a minor amount, they might not need the full pond to be built now, because of what is out there catches that.

Commissioner Siefert asked if there is a time limit on building the additional parking. Planner Papelbon responded that there is not a phasing plan or deadline at this time.

Commissioner Bukiewicz moved that the Plan Commission approves the site plans submitted by the Sikh Temple for the property at 7512 S. Howell Ave. with the following conditions:

1. That all fire codes are met.
2. That the civil and landscape plans are revised to match each other and incorporate corrections as noted by staff.
3. That all final plans (site, landscaping, etc.) are submitted in digital and paper formats for review and approval by the Department of Community Development prior to the submission of permit applications.
4. That final lighting plans are submitted for final approval by the Electrical Inspector prior to submission of building permit applications.
5. That stormwater and grading plans are submitted for final approval by the Engineering Department prior to issuance of permits.

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

**CERTIFIED SURVEY MAP  
WE ENERGIES  
10861 S. HOWELL AVE.  
TAX KEY NO. 955-1014**

Planner Papelbon provided an overview of the proposal to divide the existing Lot 4 into 2 development lots and an outlot for stormwater infrastructure (see staff report for details). She mentioned that there were comments received from the Wisconsin Department of Transportation that were forwarded on to the applicant for their inclusion into a revised CSM.

Commissioner Correll moved that the Plan Commission recommends to the Common Council that the Certified Survey Map submitted by Arlene Buttke, WE Energies, & Wispark, LLC, for the property at 10861 S. Howell 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 Siefert seconded. On roll call: all voted aye. Motion carried.

**PLAN REVIEW  
WE ENERGIES  
10861 S. HOWELL AVENUE  
TAX KEY NO. 955-1014**

Planner Papelbon provided an overview of the proposal for an electrical substation (see staff report for details).

Commissioner Bukiewicz moved that the Plan Commission approves the site and building plans submitted by Arlene Buttke, WE Energies, for a portion of the property at 10861 S. Howell Ave. with the following conditions:

1. That all building and fire codes are met.
2. That detailed plans and a permit application (if required) for signage are submitted to the Inspection Department.
3. That all final plans (site, building, etc.) are submitted in digital and paper formats for review and approval by the Department of Community Development prior to the submission of building permit applications.
4. That final lighting plans are submitted for final approval by the Electrical Inspector prior to submission of building permit applications.
5. That stormwater and grading plans are submitted for final approval by the Engineering Department prior to issuance of permits.

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

**CONDITIONS AND RESTRICTIONS  
OPUS DEVELOPMENT COMPANY, LLC  
500 W. OPUS DR.  
TAX KEY NO. 924-9012**

Planner Papelbon stated that there are quite a few conditions and restrictions. This is a newer use in the City as far as the extent of proposal. Planner Papelbon reviewed the following from the conditions and restrictions:

Page 1 – There is a request under Section 2, subsection 6d, Fire Protection, for the containment plan for the fuel tanks. There were quite a few emails that were submitted earlier in the afternoon that were provided to the Plan Commission and applicants regarding neighbor concerns for the installation and safety of those tanks.

Subsection B on Page 1 gives more clarification as to what would be required for Plan Commission review going forward should this be approved. The plans for new buildings, additions, structures, and exterior remodeling or site layout modifications would require further Plan Commission review.

Page 2 – subsection D, the highlighted section is an add-on. The Oak Creek Water and Sewer Utility would also have to approve the sanitary sewer and water main connections. They have provided comments and those have been forwarded to the applicants. Any public improvements required to serve the property would be the sole cost of the property owner.

Page 2 – subsection G, traffic signals at the intersection of Howell Avenue and Oakwood Road shall be upgraded and installed per the Traffic Impact Analysis and approved development agreements. Costs for such upgrades and installations shall be the responsibility of the applicant and/or property owners.

Page 2 – subsection III A, parking for this development shall be sited and provided in accordance with Section 17.0403 of the Municipal Code. That is standard. Additionally, one designated space within an approved structure or surface lot for each trailer, tractor, truck, maintenance vehicle and dolly shall be provided as approved by the Plan Commission. Parking

of vehicles, trailers and equipment shall be confined to areas specifically designated on the approved site plan. That is the approved site plan that will be before the Plan Commission should this move forward.

Page 2 – subsection D – Parking areas and driveways adjacent to a residential zoning district line shall at a minimum provide buffer yards as required by Section 17.0205 of the Municipal Code. As a reminder, the buffer Code requirement does say that it is a 20-foot minimum buffer in addition to any setbacks.

Page 2 – subsection G – All off-street parking areas shall be landscaped in accordance with the code as stated in those sections.

Page 2 – subsection H – Adjustments to the required parking may be made by the Plan Commission in accordance with Code.

Page 2 – subsection I – Loading areas shall be provided in accordance with code. At no time shall any part of a truck or van be allowed to extend into the ROW of a public thoroughfare while being loaded or unloaded.

Page 3 – subsection J – Any offsite improvements shall be the responsibility of the property owners(s). That is with regard to driveway approaches.

Page 3 – subsection K – A second point of access to W. Oakwood Road shall be provided to the site for the use of emergency vehicles only. That is on the southwestern side of the property. It is on the “L-shape” that is on the southwest corner along Oakwood Road.

Page 3 – subsection L – Trucks utilizing this facility shall adhere to all posted traffic signs and regulations. Trucks entering and exiting this site shall not utilize W. Oakwood Road west of its intersection with S. Opus Dr.

Page 3 – section IV B – For lighting, pole height – the height of parking lot light poles shall not exceed 25’ as measured from grade. Light sources shall be shielded or installed so there is not a direct line of sight between the light source or its reflection at a point five feet or higher above the ground of adjacent properties and streets. That is taken directly from Code. The intention is to prevent light trespassing; to provide some screening of residences along Oakwood Road.

Page 3 – subsection D – Light fixtures shall not be permitted within required buffer yards and exterior lights shall conform to the requirements specified in the subsection below with regard to reduction and extinguishment after hours.

Page 4 – subsection E – Screening of loading docks – Loading docks shall be screened from adjacent properties through the use of landscaping, berming, fencing or other means of proof by the Plan Commission. That would be during site plan review. Requirements for berming could be incorporated into these conditions and restrictions as the Plan Commission sees fit.

Page 5 – subsection N – Landscaping shall be installed and maintained in accordance with the approved landscape plan and executed development agreement that would be per the approved plan by the Plan Commission at a later date and the development agreement that would be drawn up for the property for the development itself.

Page 6 – subsection K – The Plan Commission can modify some of the standards that are in the previous section by a  $\frac{3}{4}$  majority of the vote of the Commissioners present at a meeting, but only if supplemental design standards or improvements are incorporated into the project which compensates for the modifications. That is standard from City Code.

Page 6 – section VII – Building and Parking Setbacks – These are establishing the setbacks and identifying some of those areas that are required that are specifically called out in the Code. The front and street setback for structures is 40 feet; 30 feet for off-street parking. Rear setback and side setback for principal and accessory structures would be 20 feet, and off-street parking would have to be 15 feet from the side and rear. These setbacks are the minimum, and buffer yard requirements are in addition to these setbacks.

Page 6 – section VIII – subsection D – Hours of operation – Operations may occur 24 hours per day, 7 days per week. However, between the hours of 10 p.m. and 6 a.m. outdoor activities shall be restricted to those deemed essential for continued operations. Mayor Scaffidi asked who determines what is essential for operations. Planner Papelbon responded that means limiting it to the extent possible. The exterior movement involves the use of dollies, which use the back-up alarm. The City is trying to not limit the operation itself so much that they cannot operate, but at the same time giving some relief to those in the residential neighborhood.

Page 7 – subsection E – exterior lights shall be extinguished or reduced to a maximum of 50% in areas not actively in use and reduced to levels deemed essential for safety in areas in active use. Again, this is to try to limit some of those activities in consideration of the residential neighbors.

Page 7 – subsection F – No outdoor paging systems shall be used. That is on site at all times.

Page 7 – subsection G – The use and volume of back-up alarms shall be limited to the minimum required by federal law at all times.

Page 7 – subsection H – Idling of equipment or vehicles shall be limited to a maximum of 5 minutes in any one hour period. Exceptions are limited to the following:

1. Idling necessary for diagnostic or inspection purposes. Unless an emergency exists, idling for diagnostic or inspection purposes shall only occur between the hours of 7 a.m. and 9 p.m.
2. Idling to operate defrosters, heaters or air conditioners to prevent a safety or health emergency.
3. Vehicles may idle up to 15 minutes in a one hour period if the outside air temperature is 32 degrees Fahrenheit or below or 80 degrees Fahrenheit and above.

Page 7 – subsection I – Security fences and associated gates

1. Shall be subject to Plan Commission approval for location, material and opacity;
2. Shall not exceed 10 feet in height
3. Shall not incorporate barbed wire
4. Shall be maintained in a structurally sound, safe and attractive condition

Page 7 – subsection J – Outdoor storage shall be limited to dolly equipment in designated parking areas as approved by the Plan Commission.

Page 7 – Section IX – Signs – no pole signs shall be permitted as part of this development and traffic directional signs shall be located for the purpose of relieving traffic congestion and promoting the safe flow of traffic within the development. Also, giving a maximum height above established grade and maximum square footage as deemed by code, which would be 5 feet above grade and 6 square feet in total.

Page 7 – Section X – Permitted uses – One freight terminal with two underground fuel storage tanks in excess of 5,000 gallons and outdoor storage of dolly equipment subject to plan approval by the Plan Commission.

Under Time of Compliance – the operator of the conditional use shall commence operations in accordance with these conditions and restrictions for the conditional use within 12 months of the date of adoption of the ordinance and shall expire within 12 months after the date of the adoption of the ordinance if a building permit has not been issued for this use. This is a standard code requirement.

Planner Papelbon stated that they did receive quite a few emails that were passed along to the Plan Commissioners during the afternoon. The two that were provided were passed along to the applicants. They are opposed to the idea of two 20,000-gallon fuel tanks in the ground. This following came from one of the owners of the building that is north of the property at 10001 S. Howell Avenue:

*We have future plans of developing the land behind our building and our concern would be the potential environmental hazards.*

Elise Wetzal, 574 W. Oakwood Road, stated that there was going to be all kinds of restrictions as to idling, the unloading of trucks between 10 pm and 6 am. She wants to know who is going to be in charge of enforcing those restrictions. She said between 10 pm and 6 in the morning that it would be limited, but not stopping completely, which she feels is unfair to all living in the area listening to trucks beeping. They already hear everything from Renewables and GE. She hears every truck that turns around, every truck that backs in, UPS, FedEx. Every truck that backs in, she hears hit the dock. [Address] 574 [W. Oakwood Rd.] is right in line with where this is going to go. She would really like to know who is regulating that. She was concerned about safety and what would happen to the water with the location of the tanks. If something did happen, it is underground.

She is not completely against Oak Creek expanding. She has lived here her entire life, but she does not think this is the right area for this. She feels this is a good idea, but a bad location. It is a really quiet neighborhood and now 300-some odd trucks are being added, plus their employees whipping back and forth.

Zoning Administrator/Planner Wagner stated that more than likely it would be his position as Zoning Administrator to enforce the conditional use permit, but he would be working in partnership with the Police Department since his hours of operation are 8 am to 4 pm.

Mayor Scaffidi asked Asst. Fire Chief Kressuk regarding the appropriateness of the underground storage tanks. Asst. Fire Chief Kressuk responded that the size of the tanks is going to be determined by the size of the facility and their particular needs. At the last Plan Commission meeting, discussion was held regarding above ground tanks, and the hazards that generally seen with above ground installations versus the hazards with underground installation. Underground installations present certain challenges in the future. If there is any type of leakage, it is going to go into the soil and potentially contaminate an area. There is always that risk. Currently, the technology has gotten better and the State of Wisconsin and the Oak Creek Fire Department will be participating in the planning and inspection of the installation of those facilities.

Commissioner Correll stated that they were provided some information. The information shared seemed to state that there was a considerable high number of potential leak issues. He asked for an opinion on the validity of that statement. Asst. Fire Chief Kressuk responded that he won't substantiate or deny in either direction. Usually with the underground installations, the



Fire Department finds out late. They find out when there is a new development going in or when there is a demolition or when there is some sort of DNR action that notices leaks in the area. Very rarely is the Fire Department or most City departments made aware of it. They generally find out when the leak has taken place. As far as incidents of those, he cannot comment on nationwide statistics. The only comment he could revert back to is that the technology and installation methods have changed over the years to try to prevent those from occurring. Certainly those are improvements in the tank industry.

Commissioner Siefert asked if the City has any means of checking any underground leaks or if that is the DNR that does those checks for potential leaks. Planner Papelbon responded that she is not aware of any means that the City has.

Alderman Guzikowski asked if the tanks could be above ground, because if there are leaks, at least the soil is not being contaminated.

Tom Mueller, 320 W. Oakwood Road, had questions about the exit points for this bermed property onto Opus Drive. If he is coming out of his driveway, the trucks are coming out this way and coming back out to go to Oakwood. He is worried about the lights flashing the woods all night long, even though that is supposed to be restricted traffic. The hours of greater use are also before dawn. He already sees a street light through his woods and he does not look forward to every few minutes getting truck lights here. Similarly along Oakwood Road, people coming west on Oakwood and turning by the cemetery are flashing the cemetery all night long too. Those people in the cemetery include two new graves right at that corner. Right at that corner is the visionary owner of the entire woods on the 1876 plat map. He is buried on land that he basically gave for the cemetery. He is wondering if there could be wooden fencing that would block those lights in that arc of the turning vehicle in back of him and by the cemetery. Mayor Scaffidi stated he is actually the caretaker of that cemetery, Oakwood Rest. Mr. Mueller stated that the wooden fencing that comes to mind is kind of like what he has in part of his backyard. There is a whole row of different kinds of wooden fencing north on Howell Avenue around the subdivision after the horse farm. Mayor Scaffidi asked Mr. Mueller where he is envisioning the fence line. Mr. Mueller responded he is proposing some feet of fence. In his back yard he just redid the posts because they were rotting and they were 6-foot sections. He stated he would recommend 30 feet by the cemetery that would take care of the turning vehicles. Mayor Scaffidi stated that it would be on the south side of Opus preventing headlights from going through the woods and onto Mr. Mueller's property. Mr. Mueller stated that was correct.

Al Leischer, 574 W. Oakwood Road, stated he wanted to know why FedEx doesn't expand their present facility in Franklin. There is plenty of land available out there. There is better access to the freeway and very few neighbors to upset. Mr. Leischer asked if they were going to change that road that his property abounds because he needs access to the back of his lot now. He doesn't want them taking out that road. The road he was referring to is the one on the backside of the lots. He really needs access to that and he is hoping they are not going to change that. Mayor Scaffidi stated they are not going to take the road out. They are going to improve it actually.

Mr. Leischer stated he has concerns about the watershed of this property. Before Opus put that road in, most of the rainwater ran off into that small wetland area. When they put in that road, they cut off the natural drainage to that wetland and it all got diverted to his property and his neighbor's property. Now all that rainwater that comes down flows through the back of his property. This is also going to be a problem further up towards the road because the lots are fairly low and all that water comes through people's backyards near the road essentially flows out toward that pond that they are going to put in. He is hoping that when they do the site grading, they are going to take this into consideration so it doesn't turn into one big pond.

Mr. Leischer stated that someone mentioned at the last meeting the thick vegetation that is behind these houses. It is not that thick. He stated that if a quick search on noise abatement doesn't do a thing for quieting up the noise. It really doesn't work. From his backyard, he can hear every semi [truck] from that turn that the other gentleman was talking about. They can be heard coming down that road through the turnaround, and they either stop and park and have lunch or breakfast or whatever and take off again. It is quite noisy and then to get this 300 times a day, go figure.

Mr. Leischer asked who would enforce the idling of the trucks. Mayor Scaffidi stated that it was just mentioned that it was the job of the Zoning Administrator and the Police Department. Mayor Scaffidi stated that he should call the City and make a formal complaint on whatever he is witnessing.

Mayor Scaffidi reiterated Mr. Leischer's questions that he wants to know whether FedEx wants to build in Franklin or Oak Creek. They have made the decisions to come to Oak Creek and that is what is being considered. Mayor Scaffidi stated that the road will be improved. Mayor Scaffidi stated that the site grading plan would move the water more efficiently and protect the back ends of lots as much as they could. Commissioner Johnston stated that there is not really going to be a change on the south side of the road. The drainage on the site will be detained. That will go to storm water ponds that will be constructed for this site, but nothing south of the road. There is not enough right-of-way for anything. Mr. Leischer stated that some of those ponds, like the one by the old Staples building, have a high berm around it to where the water flowing through his backyard isn't going to get in there. Commissioner Johnston stated they will have catch basins and swales to accommodate that water flow. Mr. Leischer asked if there would be some kind of ditch or something just so that the water can keep moving. Commissioner Johnston responded yes.

Commissioner Bukiewicz stated that he thought that the Oak Creek Water and Sewer Utility will actually improve the site because of the sanitary sewer and finishing out that whole project. Commissioner Johnston responded that the sanitary sewer is already installed for the site. The water will be looped through the site to have a looped water system. The storm sewer will actually be completed with this project. Commissioner Bukiewicz stated that again, the site is actually being improved by developing.

Hiram Buffington, 9651 S. Fox Run, stated that he sees some weaknesses in the information that was relayed to him. It seems to him that what is being brought in is over \$20 million in tax base. He has been there 25 years. He has been paying taxes for 25 years. He feels he has been sold out. He thinks the Plan Commission had it correct when they disapproved this. He thinks it was irresponsible for the Common Council to override that. As far as the issues, there are a lot of environmental impairments that are going to occur because of this project. He started with the air emissions of these so-called mobile sources. When collectively adding 100 plus idling diesel engines spewing hazardous air contaminants into the air collecting on the paved surfaces and running off into the stormwater collection system, nobody is doing anyone any favors.

Mr. Buffington stated that it doesn't even mention the noise control in there. It is his understanding that the City ordinance that deals with that exempts mobile sources. Does that mean that it exempts all of these hundreds? Why is there not a provision added to these requirements, these restrictions, that says they have to meet the same noise level at their boundary as everyone else. So they are using the federal approach to regulating these sources to skirt the noise issue. The EPA, in their wisdom, says that they will deal with these environmental hazards by the Tier 3 vehicle and fuel standards. Those things will not be finalized until after 2030, and it will only affect a certain portion of these sources. The property

noise issue is certainly an oversight. Something has to be done about that. From what he has seen, the amount of vegetation and berming is not going to do that. There are 101 residents in his subdivision, but he sees several others that are going to be impacted just as well. This whole process has been corrupted, and he doesn't know if it is for political reasons or why. He stated that there has to be a payback for doing all of this. He doesn't know what it is going to generate in the way of funds, but is hard for him to say that this is going to be a bigger economic advantage to this community than the residents that are there now and paying good money in their property taxes.

Predrag Deronja, 9654 S. Fox Run, stated that he voluntarily declared with Mr. Buffington. He lived a long time ago on a road next to the road that was kind of major artery entrance into the City. No very good noise (*not audible not speaking into the microphone*), frequency of traffic. What will the increase of frequency of traffic be? His neighborhood is not pleasant. He has the feeling that he is the parking lot of trucks. . He understands the City wants business, but he doesn't want to see this development on his toes.

Arden Degner, 8540 S. Pennsylvania Avenue, stated that this omits the requirements that he understands that all service stations must adhere to in the urban area; in that tanks have to be removed from the ground to prevent contamination. If and when this facility moves, sells out or leaves the area, there is no reason why a requirement for removal of these kind of polluting devices should not be added. This is an omission because filling stations require that now for their tanks. They have a limited time out of service and then they must be removed. To restore this ground environmentally, the environment has to be considered in ground as well as the environment in which we live in. We have to keep the ground productive. We just can't contaminate it and then go into a ground field problem like is happening in other parts of the City. This has to be added to the City's Code.

Alderman Ken Gehl stated that he has communicated some items to Doug and Kari. They will obviously need to discuss this as this moves forward, especially on the frontage road. The gentleman made a comment that he feels it should stay there, so there should be a discussion about the merits of potentially removing it as the developer had suggested. Ald. Gehl stated that others in the audience have covered the health and the environmental and noise complaints – he is coming at this from a strategic standpoint. Ald. Gehl opposed this at the Common Council vote from that standpoint. He stated that Mr. Buffington alluded to the fact that it is his opinion that it is the wrong product for the wrong property. Franklin, where this facility is actually relocating from, is actually excluding this new usage from its new business park that they are going to form on that property in Franklin. Given its low value, these things don't typically hold their value over time. That is an issue the City needs to concern itself with. In the meantime, it will help pay to help close the TIF. Once the TIF closes, if it does not hold the value that it is expected to hold, calculations at \$8 million of value. This thing only contributes \$21,000 to the City's tax increment. There is a lot of potential maintenance and upkeep on the intersections and the roads that has to be taken into account. That is going to be a significant issue. It is a significant concern that this particular usage on this particular property really does not from an economic standpoint drive enough value to actually be able to make sure the City can maintain and support our road systems with the heavy usage we are going to see out of these particular trucks and traffic.

Commissioner Bukiewicz stated that the State has regulated tank inspections whether it is a gasoline station or a facility like this. He asked how often they have to be inspected and if they have to be upgraded and removed after a certain number of years. Asst. Fire Chief Kressuk stated he does not want to comment on it because it is somewhat of an estimate on his part. The State is as active as they can be currently in evaluating these facilities both above ground and underground tanks. It will be inspected.

Commissioner Bukiewicz stated that as far as removal goes, maybe that is something that could be added to the conditions and restrictions that if they do vacate the property, the tanks are removed whether above ground or underground.

Commissioner Bukiewicz stated that he wanted to complement Planning staff on coming up with the conditions and restrictions. He did vote for this at Council. He thought it could be controlled better through this process. This was an M-1 property, so the noise, the trucks, air quality and whatever was discussed would have been with any business. Commissioner Bukiewicz stated that the fence suggestion on the south side of Opus was a good suggestion. He liked the input that the neighbors brought to the meeting. He does think the water plan is okay. He thinks it will be improved. The property is being marketed and has been marketed for a number of years. It would be great if there could be a greater use, but this is the product at hand. It is currently valued at \$2 million. Regardless of what it turns into, the City is that much ahead. High end jobs (family-supporting careers) are being created here. As far as 100 idling trucks, he does not foresee that. There are restrictions in it. As far as getting ahold of the Zoning Commissioner (sic), it needs to be well understood with the terminal manager and business owners as to what to do to minimize this. They did work with the noise to try to minimize it with the dollies that move things around. He again applauded the Planning department for getting together with the applicant to try to get these.

Commissioner Bukiewicz stated that there will be a traffic increase, but the property could have been three businesses with up to 300 employees in each building. There could have been any number of cars and trucks coming and going. He does not want to speculate on the number of trips going in and out of there because he knows it is going to happen. The City is growing. There is an industrial park just to the south of it. There is going to be traffic on Howell Avenue either way. The applicant is paying for the improvements at the intersection at this particular time. That is another plus to the City. These are things we can work over and work through. He understands the impact to the residents, but this impacts everyone in the City in a different way. Commissioner Bukiewicz stated that he lives in the second district and he has been greatly impacted by the improvements here. People in his neighborhood are not happy about the traffic situation that occurred not only to Drexel Town Square, but the on/off ramp on Drexel Avenue. The City was greatly impacted by that. His neighborhood changed, but for the betterment of the City, this happened. He does think these are workable issues. He does think this is a legitimate business and he does not know why they chose to come to Oak Creek to that particular property. One Alderman made a very good point at Council: as properties open up, whether in the City of Franklin, on 27<sup>th</sup> and 13<sup>th</sup>, this property becomes less and less desirable to develop. Nothing has been done with it for a number of years. The opportunity is here so try to make the best of it with the least amount of impact.

Commissioner Siefert asked if the entire property is going to be fenced. Planner Papelbon responded that this is a preliminary plan, but the intent is to have the entire property fenced.

Commissioner Correll stated he is not comfortable with the answers regarding the noise issues, [Alderman] Dan's comments about what could have gone there, and other options. Regarding the answer that the police ultimately enforce the restrictions, he just thinks there are bigger issues than putting something there that is going to cause another problem.

Commissioner Johnston stated that on Page 2, Section G, he wanted to be sure to include the intersection of Oakwood and Opus for the signals as well.

Commissioner Chandler asked for a review of the noise abatement plan. Planner Papelbon responded that the City has not received a formal noise abatement plan.

Alderman Guzikowski stated that this is a great company, but it is the wrong location. While he wasn't for it before, the tanks and the traffic are going to solidify being opposed to it again.

Brian Randall, Friebert, Finney and St. John, appeared on behalf of the developer and had maybe two or three requested changes.

Mr. Randall showed the landscaping plan. Landscaping will be on the perimeter. The large wetlands are in the middle, and they will be preserving and maintaining them. On the far southwest corner is the newly-installed storm water detention facility, which will accommodate all of the onsite storm water, which is a requirement to develop this site. They will take care of piping and make sure they accommodate and handle all of the storm water as required by Code. On the far northwest corner is another wetland area, and they are staying out of that and really accommodating those natural features on the site.

Mr. Randall stated that the main terminal building is in the essential Phase 1.

Since the November 22, 2016 meeting, they did accommodate the emergency access / fire department access. The FedEx employees will not be going through that particular access point. It is for emergency vehicles only.

Mr. Randall stated they do propose to have fencing around the entire site for safety and security. Because of the operations and contents, they have freight that is coming and going. There are a number of important pieces of equipment high-value dollar items.

Mr. Randall stated that as far as the lighting concerns, it may be appropriate to have a wooden slat fence and they would be amenable to doing that. They are going to be owning 1 foot of land on the south side of Opus Drive. They own everything north of Opus, but then there is Opus, the City street, but they actually have by way of the property lines 1 foot on that side, so they may even be able to accommodate the fence on their property or they can coordinate with neighbors. If that is something the Commission is looking for, they would be willing to accommodate that.

Mr. Randall referenced Section 3, Letter L, Page 3 regarding the truck traffic regulations. There is a truck route going eastbound as a required sign right there "no through trucking" and weight limit of 3 tons going westbound. His request is simply to strike the entire second sentence and rely instead on the readily visible and publicly posted traffic signs. If Oakwood Road is someday expanded, if conditions change, if property owners sell their properties and other development occurs, there will be this 2017 condition on Page 3 that is set in stone. He thinks the better practice is relying on the publically-posted "no trucking" routes, because this facility will be all owner-driven vehicles. They will all be FedEx trucks. His concern is the future and having to somehow having to reopen a conditional use if conditions change. He thinks the better enforcement is by the traffic enforcement.

Mr. Seymour stated that that restriction is entirely appropriate. Should the situation change to the extent that Oakwood Road is further improved and would allow for those types of vehicles to use it, it would be appropriate for the applicant to open up the conditional use permit and lift that restriction. He has no problem at all maintaining that restriction in there. It puts everyone on notice, rather than just telling people to obey the signs.

Mr. Randall referenced Page 4, subsection of E, pertaining to loading docks, he wanted to make sure that the types of screening that they are showing on the landscaping plan and what the site conditions allow, this is the area of the site that is actually rather low. Looking to the northwest, that they are accommodating what is intended. He has added wording that says whatever their

screening of those loading docks will be, it is similar to like kind buildings. It will be as approved by the Plan Commission.

Opus Drive will be enhanced with landscaping. Mayor Scaffidi asked what the proposed height of the trees will be at installation.

Dave Nelson, Ruedebusch Development, stated they would be following the ordinances. Mr. Seymour asked the applicant what type of screening at planting do they feel would be appropriate. Typically the landscaping standards are designed for more commercial uses where there is a specific need to instantly screen a significant portion of a building or parking area. To rely on the existing standards would not be adequate at this point. Staff would be looking at substantially over and above what the standard is. Mayor Scaffidi stated that whatever the height of a headlight is, the trees that they plant, when planted, should already obscure those lights.

Mr. Nelson stated that they will be mindful of what that area is and will provide that plan appropriately. They are going to comply with Code, and these are site and building plan Code requirements. Mayor Scaffidi stated that if they accomplish what is shown in the rendering, the City would be happy. Mr. Nelson stated that what is shown on the rendering is what they are proposing.

Commissioner Chandler asked what "similar to like-kind buildings" means. Mr. Randall responded it means reasonably accepted standards to similar facilities. In other words, they do not want to have an unreasonably high burden to meet for their facility that the City has never before imposed on anyone else with many nearby examples, with loading docks and trucking. Mr. Randall stated that the qualifier is simply to say they are willing and more than happy to accommodate landscaping, berming, fencing and anything else that may be appropriate that would be similar for effective techniques that the City has used in M-1 districts in areas that do abut nearby residential on a site such as this. Mayor Scaffidi clarified that they are saying they shouldn't be held to a standard that is unreasonable compared to other times they have asked like buildings with similar uses to screen.

Mr. Randall referenced Section VIII, Letter I references security fences and associated gates. This is an example where staff's proposal is that we not incorporate barbed wire. Code does allow barbed wire in certain locations. They are in M-1 district and code precludes it adjacent to residential. They are asking for the ability to use barbed wire if that is what they ultimately choose. They will put that on their next plan with the exclusion of "adjacent to residential." That is a reasonable restriction and it comes out of Code.

Mr. Randall stated that the original phase is that outdoor storage shall be limited to dolly equipment in designated parking places and Section X, subsection C also references only dolly equipment. However, earlier in the document on Page 2, it talks about trailer, tractor, truck maintenance vehicle and dolly equipment. He would be more comfortable stating outright that they will have trailers, tractors, maintenance vehicles and dolly equipment stored outdoors. They just want to make sure that they are being totally clear. What they are not doing is having pipe racking systems, stockpiles, shipping containers or open containers. That is not at all what they are storing outside, but there will be trailers, tractors, maintenance vehicles, trucks and dolly equipment. Mayor Scaffidi asked if staff is comfortable with this. Mr. Seymour agreed that the language regarding the types of vehicles in trailers and equipment is consistent with the original proposal. Staff is looking for more clarity and certainty as to which areas are going to be storing which types of vehicles and equipment so that five years from now there are truck trailers all over the place where they were only designated in one certain area by the site plan. If they are going to be parking trailers there, designate it as trailers and only trailers. If you are going to be parking dollies, designate it as only parking dollies. Mayor Scaffidi asked the

applicant if they would be willing to designate specific areas they would have trailers and tractors and maintenance vehicles. Mr. Randall stated yes, he would work with staff on that. They will be able to work with staff and on the next site plan designate where tractor trailers and trailers and dollies should be.

Mr. Randall stated that they would be amenable to adding a wooden fence on the southern side of Opus and they will add that to the next plan going forward.

Mr. Randall stated they are willing to and are accepting of the idling restrictions that are in the document. FedEx has reviewed those. Planner Papelbon has not had any direct contact with anyone from FedEx. This was a recommendation and taken from other states and municipalities who have idling laws because Wisconsin does not have one that she could draw from. Mr. Randall stated that as far as the idling restrictions, FedEx Freight will comply with that. It is very accurate as to when idling may be needed.

Mr. Randall stated they will not have outdoor paging systems. The backup alarms are only on the yard trucks, and there are eight to ten of those. The regular road trucks will not have backup alarms. A lot of what is in this document they will and can comply with. That is why the couple of things they have pointed out are because they know what their operations are going to be and they know what they need to responsibly operate in Oak Creek.

Mr. Randall stated that they are mindful that the neighbors have a lot of questions. They are contemplating having an open house or a neighborhood meeting on Monday, February 27. They want to be as accommodating and as willing to answer as many questions as they can, knowing that the Common Council date is March 7. They would be happy to have their team and a FedEx person in attendance to answer questions. He was thinking 6 to 8 p.m.

Mr. Randall mentioned the item of the tanks. They will have a subcontractor (as a separate entity) install the tanks. They are right in this location, so it will be a licensed certified contractor that installs them. They will have the maintenance and testing obligations. The lease that is being signed for this one is a 15-year lease with two, 5-year extensions. It is fully expected this will be a 25-year facility and those tanks will have to be maintained and inspected. He does not think it is unreasonable to put some type of language in regarding removal of tanks if the facility ever goes dark. That is something he would like to work with staff on. He would like to have some qualifiers as far as if the tanks are drained and there aren't any contamination issues, and FedEx has left in 25 years. Why remove them if the next user could use them?

Commissioner Chandler asked for information on minimizing noise. Mr. Randall stated they do not have a study on this. They do have a 40-acre site, which is fairly sizeable. The focus of the operations is at the terminal area. There will be movement throughout the yard. The employee parking is in the center and is landscaped. This will be one car in, one car out. There is not a lot of activity in that lot other than when employees arrive. The truck activity will take place at the corner right next to the street. They will be moving to the loading docks to pick up their trailers that are all backed in all along these loading dock areas. The trailers, when not in use, are parking along the far north and far west against the railroad tracks. There will be trucks starting and backing up, but they won't have the back-up alarms. It is only the 8 to 10 yard trucks that will have those alarms. When it is busy, 2 or 3 will be operating at one time. One sometimes and at times, none will be operating. The maintenance yard will be an enclosed facility where the trucks can go in and be worked on. The rest of the yard is logistics such as moving the trailers around and driving back off the facility off site. There is perimeter landscaping. They have a very large site and are trying to spread out. He believes the mature tree line will shield lights and some noise to some degree. They are going to do what they can with the buffering, the landscaping and the spacing to be as accommodating as they can.

Commissioner Correll asked if there was any breakdown on the amount of traffic for the third shift. Mr. Nelson stated that in the very first Plan Commission packet, there was a schedule that showed the employees arrival and departure and the trucks. They are a 24-hour facility and as staff has indicated, their activity is much less in the overnight hours. There are fewer employees. There are six arriving at 1 to 2 a.m. Out of a facility that has 192 employees, there are just 6 that are arriving at that time. The peak of the arrivals is 7 to 8 am for an 8-hour day. The peak departure is 4 to 5 pm or thereafter. The truck traffic is very minimal. They are showing one truck as a departure in the 3 to 4 am hour and we have them ramping up at 7 to 8 am 43 total trips, 59 from 8 to 9 am. It is going to be a typical work day.

Alderman Gehl stated that the intersection at Opus and Oakwood will be a significant point of evaluation. Their own TIA says that at some point at build-out, that will operate with unacceptable delays and will likely require signalization. Someone will have to pay for that. He stated that Jerry Franke and WisPark will argue that they have put their money in already. Commissioner Johnston stated that that is going to be included as part of the development agreement for this site that this signal is covered with this development.

Mr. Nelson stated they read the same TIA and they are aware of what the requirements are. There are trigger points going forward and he knows that the southern development, if all goes well, there will be more traffic. Whatever those bench marks are and the responsibility, they will work through that. Mr. Seymour stated that the responsibility as per the CUP, if it is approved by the Council, will be on the applicant.

Alderman Gehl stated he needed to memorialize the fact that the County has a bike path planned on the western edge of that property. It is the extension of the Oak Leaf Trail. An easement will need to be secured for this.

Alderman Gehl stated that from an Oakwood Road view standpoint, some berming right there on the corner is going to limit the view of a somewhat unsightly industrial looking parking platform. The elevation is fairly high there already. An 8 to 10 foot berm would really limit the site line from Oakview and visibility would be significantly improved.

Alderman Gehl stated that the applicant at some time in the past had suggested (when dealing with the light issue) moving the entry point to the far eastern corner of the property, and abandon the Opus Drive to the west. Mayor Scaffidi stated that the applicant has said if they kept the current location of the exit that they would shield that with fencing.

Alderman Gehl stated there are opportunity costs for this project. The City has to pay for the improvements that will be required. This is a low value project and there is an obligation on the elected officials to manage for the best and greatest use of the properties. He stated that there are only a handful of properties that are this size and are zoned for this use and that is at buildout. That is 20, 30, 40 years for now so they have to make sure they are getting the best use out of the land that is available under these Zoning Codes.

Commissioner Chandler clarified that the wording "adjacent to residential" is being added to Page 7, Section VIII, subsection I. 3, and asked if it was their intent to add barbed wire somewhere. Mr. Nelson stated they would like to have the option to do so because Code allows it. He would like to have the option for barbed wire for areas that do not abut residential. They would show this on future plans. Planner Papelbon stated that there is a section of Code that does mention barbed wire being allowed in the M-1 district, but staff has been discouraging it as much as possible.

Planner Papelbon stated that with regard to the issue of who is going to inspect and follow up on these complaints, she can add language to the conditions and restrictions that would allow



access for site inspections by staff. Staff would work with the City Attorney and the applicant to draft language regarding any type of inspection related to the conditions and restrictions. Mayor Scaffidi stated an agreement with staff to coordinate a schedule to monitor. Mr. Randall stated his client would be willing to discuss that and work with staff. Asst. Fire Chief Kressuk stated that it should be noted that the Fire Department does have authority to access sites for matters of public safety for inspection purposes.

Planner Papelbon requested that the proposed changes be emailed to her as she has not received them.

Commissioner Johnston asked what the best way was to incorporate all of the changes and comments and emails into the motion. Planner Papelbon responded that based on the conversations that have taken place, to be as specific as possible. Planner Papelbon suggested that if the Plan Commission prefers, the new conditions and restrictions with all of the changes can be brought back before the Plan Commission at their next meeting. Commissioner Siepert stated that that was a good idea.

Mayor Scaffidi stated that no action is being taken. Staff will clean up the language to incorporate all of the things that the applicant has agreed to and this be brought back before the Plan Commission on February 28, 2017.

#### **POTENTIAL TRAINING OPPORTUNITY**

Planner Papelbon stated that she came across a potential training opportunity regarding building materials. There was an in-person presentation in Colorado. She got in touch with them and they would be willing to come out here and do an in-person training. They can do a lunch-and-learn or a Plan Commission meeting. What they are talking about is the evolution over time of building materials and what is considered good quality strong building materials and answer any questions about that. The Commission indicated their interest in the training.

Commissioner Carrillo moved to adjourn. Commissioner Siepert seconded. On roll call: all voted aye. Motion carried. The meeting was adjourned at 8:05 p.m.

ATTEST:

  
\_\_\_\_\_  
Douglas Seymour, Plan Commission Secretary

2/22/2017

\_\_\_\_\_  
Date