

**MINUTES OF THE  
OAK CREEK PLAN COMMISSION MEETING  
TUESDAY, FEBRUARY 28, 2017**

Alderman 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, Commissioner Correll, Commissioner Siefert and Commissioner Chandler. Mayor Scaffidi and Commissioner Dickmann were 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 February 14, 2017 meeting**

Commissioner Siefert moved to approve the minutes of the February 14, 2017 meeting. Alderman Guzikowski seconded. On roll call: all voted aye. Motion carried.

**SIGN APPEAL HEARING  
AURORA HEALTH CARE  
200 E. RYAN RD.  
TAX KEY NO. 874-9940-001**

Zoning Administrator/Planner Wagner read the public hearing notice into the record.

Alderman Bukiewicz made three calls for public comment. Seeing none, the public hearing was closed at 6:06 p.m.

**SIGN APPEAL  
AURORA HEALTH CARE  
200 E. RYAN RD.  
TAX KEY NO. 874-9940-001**

Zoning Administrator/Planner Wagner went over the variances requested as contained in the staff report.

Commissioner Correll stated that entrance signs are needed on both Ryan Road and Howell Avenue. However, he does not see why the signs have to be larger than allowed.

Matt Finke, Poblocki Sign, West Allis, stated he was there on Karen McKensie's behalf. He stated that the lot is very large. It is an urgent care facility and they are trying to keep the signs visible, and easily seen from both thoroughfares from Howell and Ryan.

Commissioner Siefert stated the sign is overkill and he does not see the advantage to have the requested height. There is a standard in the City and he would like to stick with it. He is not supportive of this.

Commissioner Correll stated that because of the way the lot does lay out and the size, extra signage is needed. His concern is not the number of signs, but the requested size of the signs.

Commissioner Chandler asked for more information on the directional signs. Mr. Finke responded that the sign on the northwest corner is the first sign that is seen as people are pulling off of Ryan Road. There is a parking lot to the right and left. It is so people end up in the right places. Zoning Administrator/Planner Wagner stated that the size of the directional sign does not comfort to code. There is a total of 6 sf in area and they are proposing 13.75 sf. The height is fine, but the size is

not. Typically directional signs are to be pointing left/right, but they have 4 different areas to direct people once in the entrance of the site. Mr. Finke stated that most times directional signs end up being on posts, whereas this is an architectural sign so it is a monolith, solid sign.

Mr. Finke referenced the sign on the corner. There are sidewalks on two sides of the sign. The base is 2' high, not unreasonable to believe that removal there will be snow piling up 2' rather easily. They are trying to keep the address and "urgent care" portion well above that height.

Commissioner Carrillo stated that the quantity of signs being requested is okay because it is a huge corner lot. However, she would like the applicant to work within the perimeters of the specifications as a City.

Commissioner Johnston stated that it sounds like the majority of the Commissioners are concerned about the monument signs on the outside of the lot where size is an issue. He asked if there was an issue with the directional signs for that size. He agrees that he does not like the size of the monument signs. He is okay with the variance with the directional signs. There is a lot of information they are trying to put on there and he does not think the smaller sign will get that information across. Commissioner Correll concurred. Commissioner Correll referred to the exterior sign in that same area where there is an incline. Coming up that might be bigger than needed.

Zoning Administrator/Planner Wagner suggested that the address on the sign could be dropped to the base support and save about 6".

Alderman Bukiewicz stated he agreed with the Council and is okay with the number of signs. Size is a problem on the outside. The directional sign he is fine with.

Commissioner Correll moved that the Plan Commission grant a sign variance at 200 E. Ryan Road, allowing:

1. The installation of three ground signs as located on the submitted site plan
2. The installation with 13.75 SF directional sign as located on the submitted site plan.

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 were a couple of revisions made this afternoon to the conditions and restrictions that were in the packet. The highlighted items have changed since February 14, 2017.

Page 2 of 10 under section F – public access and trail easement minimum 20 feet in width on the west property line shall be granted for the proposed Class I bikeway as depicted on map 9 on the City of Oak Creek Park and Open Space plan.

Under H – all intersection improvements including traffic signals at the intersection of Opus Drive and Oakwood Road shall be designed, upgraded and installed per the approved development agreements. Costs for such design, upgrades and installation shall be the responsibility of the applicant and/or property owners. There was one change to this section and that is based on the conversation this afternoon. The installation for the intersection of Howell and Oakwood was not necessary per the TIA at this point.

Page 3 of 10 under subsection L – there was a sentence added at the end of this to clarify based on the conversation had at the last meeting regarding trucks traveling west on Oakwood Road and that says that trucks utilizing this facility shall adhere to all posted traffic signs and regulations. Trucks exiting and entering the site shall not utilize W. Oakwood Road west of its intersection with S. Opus Drive if and until such time as the posted traffic signs and regulations are altered. That allows that if that section of road changes for the allowance for trucks, they would be allowed to use that as any other truck would.

Page 4 of 10 – subsection E – screening of loading docks – it was clarified that loading docks shall be screened from adjacent residentially-zoned or residentially-utilized properties through the use of landscaping, berming, fencing or other means approved by the Plan Commission. That landscape plan would be for the Plan Commission’s review at the site plan level.

Under section J – berms – it was clarified that landscape berms at heights to shield headlights shall be incorporated into the landscape plans for the southwest portion of the property along the residential properties to the east and Oakwood Road to the south. Landscape plans shall incorporate one tree and 5 shrubs for every 35 linear feet of fencing along and adjacent to the proposed 20-foot-wide public access and trail easement west property line. We had discussed if berming would be feasible in this area, and the berm would have interfered with the location of that trail, which is why we now say landscaping. That would also be part of the landscaped plan before the Plan Commission at site plan level.

Page 5 of 10 – Section N - landscaping and screen fences shall be installed and maintained in accordance with the approved landscape plan and executed development agreement. The screen fence shall be installed on the south side of the property immediately across from the entrance to the site to shield vehicle headlights from the residential properties to the south. That was discussed at the last meeting in regards to the residential properties that would be immediately south of that entrance drive. That was intended to provide some additional screening of the headlights.

Page 7 of 10 – Subsection E – Exterior lights shall be extinguished to a maximum of 50% in areas not actively in use and reduced to levels deemed essential for safety and security in areas in active use.

Section H – at no point on the boundary of a residence or business district shall the sound intensity level of any individual operation other than the operation of motor vehicles or other mobile equipment exceed 58 or 62 DBA respectively during normal operations. This is the citation of Section 17.0810 of the Code.

Section I 4 – the Zoning Administrator or designee shall be permitted access to premises and structures during reasonable hours to make those inspections as deemed necessary by the City to ensure compliance with these conditions and restrictions. If however, the Zoning Administrator or designee is refused entry after presentation of their identification, a special inspection warrant may be procured in accordance with Section 66.122 of the Wisconsin Statutes as amended. At the last meeting, there was some concern as to how these conditions and restrictions would be enforced. This is attempting to address that concern by allowing the Zoning Administrator to go on site and inspect possible violations.

Section J – air pollution controls shall be instituted in accordance with Section 17.0802 of the Municipal Code, and in conformance with all state and federal regulations.

Section K 3 – security fences and associated gates shall not incorporate barbed wire on any portion adjacent to a residential district line or residential use.

Section L – outdoor storage of equipment shall be limited to dolly equipment in designated parking areas as approved by the Plan Commission. No other outdoor storage, excluding vehicles and semi-trailers. Proposing the Code language used in conjunction with the operation of the business parking in designated parking areas approved by the Plan Commission is permitted. This is trying to get at allowing the use of the property to have the semi-trailers parked in designated areas as shown on a site plan submitted for the Plan Commission's review. This is trying to prevent outdoor storage in excess of that, so that it does not become a storage yard.

Under M – fuel tanks may be installed and maintained and inspected and closed to remove per State Department of Agricultural, Trade and Consumer Protection, Wisconsin Department of Natural Resources, Fire Codes, etc. and federal regulations.

A containment plan shall be submitted to the City for review and approval prior to installation. The City shall be provided 48 hours in advance notice of installation, annual or required state and federal inspections, maintenance which requires state and/or Federal permitting, replacement or closure removal and shall be provided access to the site for observation of such activities.

Planner Papelbon stated that these were changes that were made based on comments at the last meeting.

Alderman Bukiewicz stated that the audience should keep in mind that they are going over the language. This use has already been approved. The purpose of discussion for this item is strictly pertaining to approving the language in the conditions and restrictions.

Brian Randall, Friebert, Finerty and St. John, 330 E. Kilbourn Ave., Milwaukee spoke on behalf of the applicant.

Mr. Randall stated that in attendance were Trina Murphy, FedEx Freight, and Michael Bauer from Fischer who is on the development team. Carl Rudebusch was also in attendance.

Mr. Randall stated that this is a FedEx Freight operation. All of the trucks will be FedEx freight owned, and employee operated. This is a 48 acre site. This is an 115,000 square-foot building that is expandable at a future phase to 147,000 square feet, 158 terminal doors, dock doors, expandable again to 218. Jobs will have 192 at Phase I and 315 at the full phase, and they are still estimating \$29.5 million project cost.

Mr. Randall stated that they are on Opus Drive. It connects off of Oakwood Road and the state highway that it will ultimately funnel to is Howell Avenue. Most of the traffic will go north to the Ryan Road interchange, but utilizing Howell. The staff condition that references traffic signals is one that they wanted to point out. It is the Opus Drive/Oakwood intersection. There is no traffic signal there. It is through traffic right now east/west on Oakwood Road with stop signs north and south Opus Drive. That is a stop sign intersection right now. With the requirement of conditions and restrictions, they will be putting in approximately \$250,000 to \$300,000 intersection improvements at that location. Oakwood and Howell does have signals, turn lanes and arrows. As indicated by staff, the traffic impact analysis, it will continue to operate acceptably including the full build out of Oakview Business Park.

Mr. Randall continued that why they viewed this site as an appropriate one for this use is that they are right in the heart of the M-1 zoning. The conditions and restrictions will certainly address some of the impacts with the residential directly to the south. The surrounding area is M-1 and consistent with the City's Comprehensive Plan consistent with the surrounding zoning.

Mr. Randall showed on a slide the landscape plan and pointed out the wetlands that are in the middle. They will not be impacting those, whatsoever, and they are working around those. They are taking care of the onsite detention in the southwest corner. Also in the southwest corners, there is an access point for emergency vehicles only. The truck traffic and employees will not be using that. The Fire Department early on in the project asked for that type of emergency access. There will be breakaway gates or key access in that area. There are also wetlands in the northwest corner as well. The tree line that is between the back of the homes on Oakwood and Opus Drive and the measurements from that tree line to where the terminal facility is is 700 feet. There is a great amount of distance, but they will be adding the berming as indicated and the screen fence opposite their driveway and many of the other features.

Mr. Randall continued by saying that the berming on the plan is opposite the Oakwood Road residents. It is the bushes and trees along Oakwood Road that would be in place for the berming. They are adding the berming around the storm water pond to the southwest of the site. Along the entire west property line, they will dedicate a 25-foot easement along that property line. That will also pull the fence in 20 feet. They will have landscaping (one tree per 35 feet with bushes in between), so they will be able to landscape that area along the west property line within that easement and dedicate that to the City for its future bike path.

Mr. Randall stated that they are in a TIF district, but they are not seeking any TIF incentive money. Whatever their valuation is, whatever their taxes go to will pay off TID 8. Whatever projects costs/bonding the City has done will retire in 2029. Perhaps the increment will allow the City to retire that TID early and then put all the properties back on the tax rolls.

Mr. Randall stated that they have been able to comply with all the conditional use permit conditions.

Mr. Randall displayed a partial list of CUP conditions. He stated he will need one of the design waivers for the hard wall construction because of the dock wall doors. They are not hardwall, but they will be able to commit to the appropriate design materials. They have the landscaping that exceeds the Code requirements, screening, berming. They will not have container shipping. They won't have stockpiles of materials. They won't have piles of pipes. Mr. Randall stated that the language that they came up with is fine. The reference to code added and used in conjunction with the operation of the business. They can work with that because the equipment that is on the site will be used in conjunction with freight coming in and going out. They do not anticipate storing anything. If it always has to be used in conjunction with the business, that is a good qualifier. They can work with the lighting and parking restrictions. They have the employee parking at one location and then there is the yard with the equipment dollies, the yard hostlers and the trucks and the trailers and noise restrictions. Given the size of the site and how it's laid out and the proximity, they are going to be able to comply with the noise restrictions, which were adopted from the City's Municipal Code.

Mr. Randall stated they are going to add the signals. They will do the final lift of asphalt on Opus Drive. There is a water main loop that will create some redundancy and better water quality for the sanitary water. The traffic flow conditions were spelled out and they have committed to that again. The trucks will not be going west on Oakwood Road. They will not be going to the west of that location. It is already posted "no trucking."

Mr. Randall stated that the conditions and restrictions being presented are a very thorough document. It is very reasonable and complete and they can operate within the confines of that, which will be something they will be looking forward to in bringing this \$30 million investment to the City with these jobs and really taking a vacant site and putting an appropriate use with the conditions and restrictions in place that will work for everyone.

Alderman Bukiewicz read into the record the following:

Barbara Burger, 8944 S. Glenmoor Court:

*"My understanding is that the FedEx project has been in the works for about two years. Why were the residents informed only a few weeks ago? How does their presence benefit Oak Creek?"*

*"Why would anyone vote to approve the project of FedEx when it will create adverse environmental problems? Noise fumes, fuel leakage and traffic nightmares."*

Maureen Willms, 991 W. Leeds Ct.:

*"I live in the English Aire Subdivision, which is directly west of the proposed development. I would just like to read a condensed version of the forward to the book, The Auto Immune Epidemic. These are the words of Dr. Douglas Kerr, who is a neurologist and neuroscientist. As a faculty neurologist and neuroscientist at the Johns Hopkins Hospital at Baltimore, MD, I spent the last decade evaluating and treating patients with autoimmune disorders of the nervous system. I founded and continued to direct the Johns Hopkins transverse myelitis center. The only center in the world committed to developing new therapies for this paralyzing autoimmune disorder. Increasingly I see that more and more patients are being felled by this devastating disorder. Infants as young as five months old can get TM and some are left permanently paralyzed and dependent upon a ventilator to breathe. But this is supposed to be a rare disorder reportedly affecting only 1 in a million people. Prior to the 1950's there was a grand total of 4 cases reported in medical literature. Currently my colleagues at Johns Hopkins Hospital hear about and treat hundreds of new cases every year. In the multiple sclerosis clinic, where I also see patients the number of client's cases has likewise continued to climb. Autoimmune diseases have not always been this common. The prominence of autoimmune diseases like Lupus, multiple sclerosis, and type 1 diabetes is on the rise. In some cases, autoimmune diseases are three times more likely common now than they were several decades ago. These changes are not due to increased recognition of the disorders or altered diagnostic criteria. Rather more people are getting autoimmune disorders. Something in our environment is creating this crisis. The immune system in our bodies is charged with an amazingly complex task. To recognizing it more, all the cells and tissues within our body and at the same time to attack any and all invaders, foreign cells and viruses, bacteria and fungi are wondrously complex immune system can successfully protect our bodies while recognizing and eliminating billions of distinct infections with which we come in contact. When functioning well, the immune system immediately recognizes a virus or bacteria that has gotten into the body and initiates an attack on the invader allowing us to recover from a cold only after a few days. But this precisely choreographed dance between the immune system and the tissues it is designed to protect goes badly awry and autoimmune diseases. In such diseases, the immune system begins to attack the very tissue it was designed to protect. But what triggers autoimmunity to occur? Over the last 40 years something has been pushing the immune system over the edge. Something is causing the immune system to increasingly mistake which the line becomes blurred. The immune system that attacks the body itself, the autoimmune disease occurs. In all likelihood, much of the reason is for the catastrophic mistake of the immune system comes from the countless environmental toxins to which we are currently exposed. Toxins that interfere with the way the immune system communicates with the rest of the body. The numbers are staggering. One in 12 Americans, one in 9 women will develop an autoimmune disorder. Since it is clear that not every patient with an autoimmune disease is correctly diagnosed, the prevalence is clearly much higher than that. The American Heart Associates estimates by comparison only one in 20 Americans will have coronary heart disease. Americans are more likely to get an autoimmune disease rather than cancer and we have not recognized the urgency of an autoimmune epidemic. We are facing both an increased prevalence of autoimmune increasing exposure to environmental toxins. Is it clear that the exposure of environmental toxins is causing increase autoimmunity? Several lines of evidence suggest this jury too has a verdict.*

*Guilty. But the difficulty of finding the smoking gun direct evidence is caused by the increased exponentially number of chemicals to which we are exposed. We need to recognize the urgency of the autoimmune epidemic and we need to take steps to combat it. Future research is unlikely to define a single cause for autoimmunity, but rather triggers that include environmental exposures and infectious agents interacting in complex ways in the immune system. This research in all likelihood clearly establishes a link between these exposures and autoimmunity and it will begin to define how these exposures cause autoimmunity. But the fight against autoimmunity needs to be fought on several levels. Extensive research, better therapies to treat these diseases and actions to decrease our environmental exposures. The last action will require personal responsibility, political action, and corporate accountability. If we do these things, autoimmunity will be a cluster of rare diseases that we treat with effective medications. If we don't, autoimmune diseases will increasingly devastate families and will increasingly tax our health care system. If we don't act now, it will be too late.*

*The reason I read this to you is because I have a rare autoimmune disease, multiple autoimmune diseases and my daughter was just diagnosed with one. All of them are acquired, meaning they were all caused by environmental factors. So knowing that I am going to have to breathe diesel fumes every day after this is put in is going to negatively impact my health directly."*

Dana Zidek, 9867 S. Deerpath Drive:

*"First I want to tell you that I lived in Chicago for 15 years. And one of the reasons we moved to Oak Creek was to get away from pollution, traffic and you're bringing it into my backyard. We live on the north side of the property and with Joy Global being where it is, I hear trucks a lot. But they don't have 24 hours 7 days a week, 365 days a year business. This is going to really negatively impact our life; the whole neighborhood. You want to limit the sound between 11 at night and 7 in the morning. And I realize that on paper it sounds really good that you will be able to enforce that, but we all know that it will be unenforceable. Because what am I going to do at 2:00 in the morning when they are jamming those breaks? Call the Police Department? They have better things to do than take care of that. They really do. I can't call anybody from the City. They will be in bed sleeping, but I'll be the one who will be up listening to this night after night. I won't be able to sleep with my windows open ever again because of the noise. That's not even getting into the traffic, the smells and everything else. That's what I have to say."*

Hiram Buffington, 9651 S. Fox Run:

*"I was here two weeks ago. And again, I was able to get the revised plan and again an excellent job by Kari. But again, I'm not happy with it. This is still a bad deal, not only for the people in Fairfield, but for all of those residential that were signed where this thing is going to sit right in the middle. But I've got three suggestions that can be added to this report to clean up some things.*

*The first item is under paragraph H, Page 7, with the words, there's been a cut and paste, of the existing noise ordinance. But here's the problem. It exempts mobile sources. That's the business these guys are in. Moving freight trucks, diesels moving in and out and I can just see that that's a problem. So what needs to be done is that paragraph, the parenthesis, needs to be stricken from this record so there is no misunderstanding about what is being expected by the neighbors. That's the first item.*

*The second item is paragraph, Page 7, which brings in and mentions a lot of nuisance fumes and things like that. And that's fine. It's very broad. It's very inclusive, but again it's vague. Now the problem is there's a famous man, F. Edward Deming, that coined the phrase, you can't control what you don't measure. Now we were told at the meeting last night that FedEx has no base line of this operation that they have across 27<sup>th</sup> Street. Not in regards to noise, not in regards to any of the hazardous air, emissions, so they know nothing. And that's what they said. They didn't*

know. So as part of that to strengthen that provision, what I'm asking for is that the applicant put \$250,000 in an interest-bearing escrow account so that the City can go in on their dollar and to verify that they are meeting. Now there's several contaminants of concern, airmatic hydrocarbons, polycyclic hydrocarbons, carbon monoxide particles, hydrochloric acid fumes and others. And that needs to be measured so we set a base line within the first three months after they go in operation. And then in every six months to redo that. Now at the end of their 25-year life cycle, they can have what's left back. And this again would be managed by the City in doing that.

And then the final issue is page 8, and again this is still a much improved over what we had on the 14<sup>th</sup>, there needs to be added to paragraph M, the provision that the area where they're going to have centralized fueling. They need to have a secondary containment for any spillage that occurs during the fueling, but also when the deliveries are made of diesel fuel. So they need to have at least 10% of this \$40,000 capacity in a containment system in case of a failure of a line, delivery line or so forth. Again, I still say this is a bad deal for all of these residents that have been paying their freight for the last 25 years. You know I'm not impressed with talking about jobs that are moving across 27<sup>th</sup> Street into Oak Creek. That don't impress me. That doesn't get, that's a non-starter as far as I'm concerned. So the real issue is here is the best interests of the residents in Fairfield and these other subdivisions is being sold out to these Johnny-come-latelies in FedEx. So that is my comment."

Alderman Ken Gehl, 322 W. Summerhill Place:

"Just want to reiterate the fact that I think you heard from a lot of the residents here. They are significantly concerned about the environmental, the noise, the traffic concerns that probably even Brian I think had suggested, there's 89 provisions in this conditions and restrictions thing. I think that speaks to the fact that there's significant ambiguity and not difficulty controlling this particular operation on this particular site. I think it speaks to the fact that it is just the wrong business for this particular property. And I will leave it at that. I think moving forward you guys, this body sits here for the fact helping the City control its zoning and control its planning and land use decisions. I think that's when you need to seriously consider whether or not we've got in place here enough restrictions to limit the impact not only on the folks along Oakwood Road, Fairfield, English Aire, folks on the east side of Howell Avenue. You get a lot of people living around here. The map unfortunately did not actually reflect the fact that English Aire and Fairfield should be in green on that map and they are in darker purple. Significant in the way of the fact, despite the fact you've got page after page of restrictions, you're probably not going far enough to make sure this thing is suitable for this kind of residential neighborhood. Thank you."

Tracy Ryba, 325 W. Summerhill Place:

"Hello. If the development of the FedEx terminal, the freight terminal and office buildings move forward, I formally ask the committee to consider denying third shift freight and terminal operations at this property. The time between 10 and 6 a.m. should be considered quiet time. If it deemed necessary for third shift working during November 25 to December 25, I firmly object to any truck arrivals or departures between 10 and 6 a.m. Consider not only the adults pleading for needed sleep, but all of our kids need to be well rested so they can be at their best while at school. As my neighbor had said, you, we won't be able to keep our windows open at night at all. Lastly, if the committee would somehow consider breaking up the traffic pattern so not all 380 semi-trucks and double trailers, they won't congest Howell and Ryan Roads on a daily basis. I understand you can't go west on Oakwood, but there has to be maybe some other way for trucks coming from the south going south can go one direction down Howell and the traffic coming from the north and going northbound can go northbound on Howell onto Ryan. At least it is a compromise. If FedEx is asking to come into an area surrounded by residential housing, they should respect our rights; our rights to air and ground, to be pollutant free and free from noise, the forgotten pollutant."



Eleni Domanos, 1210 W. Dover Drive:

*“Okay, so this may be redundant, but I’m going to repeat probably much of what my neighbors said. So I’m going to start off I’m going to omit some stuff so you’ll be thankful, okay, so if I understand because I just got word of this a week ago, were there four council members that were for it and two against it? So I’m going to start off with this, there were four and two against it, but the way I see it I guess a true number of the people that are against it are in here, they are behind me. So is it four against two, it’s two plus the people and all the constituents in this room who are against this? All the constituents who share our feelings and couldn’t make it and all of those who shared, would have shared our feelings, but were not informed. So you have outnumbered, so you’ve been outnumbered and if you continue to support this terminal, you are ignoring our voices and you hold position to serve yourselves. You know since there have been a lot of new businesses since we moved and it’s disheartening, and I don’t know what you’re turning Oak Creek into, but it seems like you care so much about the commercial, industrial subdivisions and not about our residential subdivisions.*

*Okay, next, I’m here not for me so much, but I’m here for my kids. My husband wanted me to add this and I agree with him, we’re overwhelmed with diesel pollution from the freeway, the trucks and all the other businesses around here, you know, the plants, PPG, whatnot and you are just here to increase our pollution levels and since I have a minute, what I’m going to do is just quickly inform you about the particulate matter that is going to come from this type of business. It is small particulate matter. It’s evasive and it is going to affect our children on a much, much greater scale. I think I am so emotional because I am so disgusted by this so, and I said I wouldn’t be upset, but I was wrong. So true to numbers (unintelligible) that healthy adults because their respiratory systems are still developing and they have a faster breathing rate. They run outside increasing their breathing rate which allows them to inhale these particulates at a faster pace than adults and they are much more susceptible to disease than we are. Increasing rates in childhood cancer is a product of modern living and we don’t need to add more insult to injury. Not in my community. So based on the minutes of, the minutes of exposure, I calculated that we will have approximately 170 hours of idling exposure of diesel fumes. This is only in the summer and winter months extra. Not to mention traffic, accidents, I don’t know, running over people, people exercising, you know, where are we going to, you know, people are running, people are walking. I mean you know, children. You know, I don’t want my kids crossing the street to another subdivision. It is just too much for us, too much, not for, just not for our community. I don’t think anybody is listening.”*

Allyse Whetzel, 574 W. Oakwood Road:

*“I have one question that came up after they went over everything about if there was a change in widening Oakwood Road. Is there a plan for that to happen at some point?”*

Alderman Bukiewicz responded not that he was aware of.

*“Because that would take out everybody’s front yard. I’m pretty sure houses would go missing. My other question is today I was leaving Pick N Save on Ryan Road, 27<sup>th</sup> and Ryan, and I noticed trying to get across Ryan at about 5:15 there was at least 7 FedEx freight trucks. It took forever to get across the road. My question is I was told that it would be semi-truck trailer, tractor trailers plus I guess I call them piggy-backs, but double trailers, and there would be no straight trucks. Is that still going to be the same over here because Franklin clearly has straight trucks, because I saw three of them that say FedEx Freight.”*

Alderman Bukiewicz responded that he would have to defer to the applicant to answer that question.

*"That's fine. I just wanted to make sure it was addressed. My next thing is with all of the money and revenue talk aside, can you honestly say that this parcel of land was the best option for the facility in the middle of a quiet neighborhood. Regardless of your redundant speakings of something worse could go on that property, was this the first spot when you heard of FedEx was looking for a home in Oak Creek. Franklin doesn't want trucking terminals in their industrial parks. So since when do we become the dumping ground for the neighboring city? If Franklin figured it out, why haven't you? We're all very aware that this was zoned M-1 and that there was a possibility of manufacturing going in on this lot. But this takes the cake. This is too big of a project for this area. Isn't there more space in other districts? Probably. But the problem is that FedEx wouldn't score this poorly (unintelligible) an abandoned lot for a dirt cheap price. And it is sad that the main concern here with all of you is the money. Finally, not everybody here will stand and speak. It's not in the cards for them. But seriously, you guys need to hear what we're saying, read what we have written. If other districts were impacted by upgrades, did all of those residents just sit there and twiddle their thumbs while the City just ran them over. No. I guarantee you somebody had to say something at some point. So why is it that districts neighboring this project are against it? Because they have to live with it and deal with it just like everybody in this room. We have to accept the decreased value of your home, the noise, the trucks, the whole mess falls onto who? Us. Not you. Not FedEx, but everybody who lives there. We might not be able to stop it, but I guarantee you nobody in this room is going to give up without a fight."*

Al Leischer, 574 W. Oakwood Road:

*"I would like to enlighten everyone as to how large these 20,000 gallon tanks are. You probably need a little visual here. The average fuel tanker truck that you see in your local gas station unloading carries approximately 9,000 gallons. If you multiply the two 20,000 gallon tanks that would be just a bit less than 4½ of these tanker trucks buried in the ground. That is quite a big supply of fuel. Now if any of these fuel tanks should happen to leak past the safety barriers and contaminate the ground water, will I be notified? Or do I have to wait until my garden crops taste like diesel fuel. I would like the Plan Commission to consider including some type of ground water monitoring test wells to help ensure against environmental disaster. I would also like to see an environmental impact study done on this site, just in case there are any rare or protected plant or animal species living there. Lastly, I would like to ask the Plan Commission to delay voting on this proposal until the next scheduled meeting. A project of this magnitude is going to have an impact on so many more residents than have been officially notified. I have been in contact with many residents within a half mile radius of this proposed site and many of those people are outraged that they have not even been made aware of this project. Thank you."*

Darin Grabowski, 9858 S. Deerpath Drive:

*"The residents behind me great points they brought up. The positioning of the truck terminal. I had a couple of questions for the people that put on their presentation. Is that box truck also where it's like a UPS, where you got the freights, the singles, the doubles, and then the box trucks that actually do deliveries to the residential part of the City? Also, Ms. Zydak with the noise and stuff, we have, I live right behind, right next to her, right behind us we have Joy Global and Suzy's Cheesecake. All we here all day long is loud noise. I told Alderman Gehl about it and he is investigating it now. The slamming of the doors, the trucks, the brakes, the ovens, you can hear the vents blowing all night long. It's loud even though we have a berm there, you can hear it. And then on their site also, I noticed they have an access road on the west side basically like running against the tracks coming out of their garage area. Not correct. It looked like an access road coming out of that site. And then traffic studies. I was just wondering if the City has done a traffic study, or if they did traffic studies on that. With the morning traffic, if you even come down Rawson Road, between 8:00 and 9:00, all you see is UPS trucks going down that road and just backing up traffic all the way from 13<sup>th</sup> to 6<sup>th</sup> Street because of all the traffic, heavy traffic. That is going*

*on. Coming in at night, same exact thing. Now we're putting this into a residential area, basically Oakwood Road and Howell both sides east and west side, you got Fairfield and Shepard Hills plus the residents on Oakwood Road. All that traffic is just a big impact. Bad location my personal opinion. I don't know what the Commission thinks. I know the Council overrode you guys because you did denied it the first time around. If you guys just look into that. Like the lady said over here, lot of locations in Oak Creek for a trucking outfit, 13<sup>th</sup> & Highway 100, right across from Kwik Trip, that Tischendorf land. There's 2 to 300 acres there. No residential basically around there, maybe two or three homes will be affected. But they would probably buy them out anyways. I'm just saying that's great location there, right off the expressway. If they would think of that area."*

Commissioner Correll stated that the Plan Commission denied this when it came before them. It then went to the Common Council, who approved this. Tonight's meeting is to discuss the conditions and restrictions and fix the restrictions and tighten up anything they can do. This has been approved by the Common Council. The Commission's vote tonight is trying to tighten up the restrictions as best as they can to accommodate the residents. It is important for the residents to understand that this has already been denied by the Plan Commission, and this item on the agenda is a completely separate task.

Commissioner Correll stated he has concerns about the amount of traffic that is going to flow to Ryan Road. The Ryan Road bridge is still slated to come out before too long. It is in Walker's budget this year.

Commissioner Siefert stated he has questions about measuring the pollution that will be generated by the trucks. He also has concerns about the noise level and how that can be checked.

Commissioner Chandler asked for more information on item M on Page 8 as far as the containment plan and what that should look like. Planner Papelbon responded that that is intended to get at what would happen in terms of an accident. Asst. Fire Chief Kressuk responded that from the surface perspective, there are multiple ways of providing containment for the surface lot and runoffs. It ranges from onsite dedicated sewer fuel collection system that collects and filters that on site. It could be in the form of berms or concrete barriers around an area to offer some level of spill protection. Certainly with the volume present in those tanks, you are talking a large scope of project there to provide that level of containment. There are options on the surface level to keep that in the site, but certainly once you get into the ground, that would be something that he is not able to comment on.

Alderman Bukiewicz asked if the containment plan has to be approved by the State. Asst. Fire Chief Kressuk stated yes, the DNR does get involved in that. A typical truck stop could have a somewhat contained sewer system on site that doesn't run off anywhere except large containment tanks on the property. If there is fuel runoff, it gets separated from the water and then is removed by whatever service the property decides to use.

Commissioner Chandler asked what item H on page 7 includes. Planner Papelbon stated this is taken directly from Code the intent is that if there is a car or truck going along the road, it would be a temporary rather than a sustained exceedance. This is trying to get at a sustained noise for an excessive amount of time.

Alderman Guzikowski stated that he opposed this item at Common Council level for a variety of reasons. Without questions, FedEx is a great company, but he feels that this is the wrong location for many of the reasons that everyone is stating. He has concerns about traffic and the Ryan Road bridge being taken out. That is going to be a disaster for all of the residents that are just trying to go to and from work or going to get gas, let alone having to work around all of the additional traffic that will be there.

Alderman Guzikowski stated that from yesterday's packet to today, there seems to be changes with the intersections. Yesterday's packet stated the City would pay for upgrades and changes. Planner Papelbon stated that the only change in that section was the removal of the upgrade of the intersection of Howell and Oakwood. Alderman Guzikowski stated that should stay in because all of their traffic is going to be going east out of the facility, leave Opus onto Oakwood Road; south going onto Oakwood Road going east to Howell Avenue. Based upon the numbers and the number of trucks that will be coming and going, why wouldn't that be included in the conditions and restrictions? Planner Papelbon stated that there was a conversation about this and Commissioner Johnston did actually have some comments. Commissioner Johnston stated that they did do a traffic analysis already. That intersection was improved with the Oakview Business Park design. The intersection has already been taken care of and is accommodating all of the needs that FedEx has according to the traffic impact analysis. The only intersection that needed improvement was at Opus and Oakwood, which is why this was removed out of the conditions and restrictions. It also includes out to I-94.

Alderman Bukiewicz asked if the City can impose restrictions that we haven't done to other similar businesses to another one throughout the City. Mr. Seymour responded that the purpose of a conditional use permit is to further regulate activities within a zoning district that because of their impact or scale do require that extra level of scrutiny. When we get into the field of groundwater contaminants and fuel containment, to a large extent and by necessity, we rely on the State agencies that regulate that on a daily basis. However, there is no expertise on the City staff that is such that we could devise a containment plan for this property. That is the role of the State agencies to protect those natural resources. Mr. Seymour stated that it would not be standard practice to require monitoring of the storage tanks. Asst. Fire Chief Kressuk stated he is not aware of any current firm that has additional monitoring. Mr. Seymour stated that the suggestion for providing a base line for measurement of these things where we can is something that can be explored. If it something that the City can effectively measure and regulate within the terms of what the State allows, there has to be a base line.

Alderman Bukiewicz asked if proper notification was given to the affected residents. Mr. Seymour responded absolutely. In most cases and by statute and in fact, public hearings (this is not a public hearing), there is no state requirement for notification. The City of Oak Creek does have a notification requirement and that is for 300 feet from the property line of the project location. The Alderman to the district can expand the notification area. Alderman Gehl did extend the notification area. Notifications have been provided for every meeting. The City wants people to know what is going on and be notified.

Mr. Randall stated that FedEx is a 24-hour facility, so they do have overnight operations. The real numbers in terms of employees on the site and the number of trucks coming and going are between the 6 to 7 a.m. hour and really 5 p.m. and tails between 5 and 11. In the packet from November 22, there was the one City departure after midnight at 3 to 4 a.m. and it picks up during 6 to 7 a.m. cycle. The road departures in the evening hours 7 to 10 p.m. There are two in the 7 p.m. hour, 12 in 8 p.m. hour, 11 in the p.m. hour. By contrast there are 43 total in the 7 a.m. hour, 59 in 8 a.m. hour. They have the concentration during the daytime and that means in the overnight hours, it is much less activity on site and therefore much less trucks, noise and operations. The same is true of employees. There will be 6 employees on site at 1 a.m. in the morning and 6 more arrive at 2 a.m. The bulk of the employees are arriving at 7 a.m. and 8 a.m. for a typical work day.

Looking at the site plan, there is a long, angular L-shaped building. The forklifts are all inside. They are electric forklifts now. They will be moving freight in and out of trailers inside the building. That is really what the overnight hours are going to be as far as the concentration. The M-1 district

allows for the 24-hour facility and that is why they proposed this location, but have the tailored fewer operations.

As far as the equipment and vehicles themselves, they don't have straight trailers or straight trucks. About 80% of the trailers are doubles, but the two shorter length trailers. They are 28 feet each, or they have the 53 foot long single trailers. Those are 99% of the vehicles that are on site. They are not FedEx Express or Ground. The shipping they do is mainly business to business. It is freight and that is why almost all the trucks are going to the expressway to go to their next destination.

Mr. Randall stated that they are willing to and are able to comply with the very thorough staff-presented document. The containment plan will be a very detailed submission and we will work with the Fire Department to make sure everything is in there. Certainly, the State agencies are the regulating authority. If there is a spill, there are notification requirements. The law requires reporting in case of spills. The law requires an immediate investigation. The law requires remediation if it is to that level. That is where the repercussions or remediation kicks in is when/if something were to happen. FedEx is a reputable/operator of this site that is putting \$30 million into the facility and will be keeping up with its maintenance plan and that is what is required by the conditional use permit. The City will receive notice of those inspections which is included in the new language. On the top of page 10, it mentions the 48 hour notice requirement that throughout the ongoing inspection annual or required or other maintenance that requires that type of level of permitting or inspection or any replacement or closure. The closure is key too. That is where the City will have notice and that will be part of the closure. All of that is covered in this and is properly placed in the jurisdiction of the state, which has the personnel to look into these things if and when there is an issue.

Alderman Bukiewicz stated that in response to Ms. Willms' question, yes, she would have to call the police if any violations occur during non-business hours. They would notify the Zoning Administrator and he would go out and talk to a business. If during business hours, a resident can go directly to the Zoning Administrator.

Commissioner Siepert referenced on page 10, sections 13 and 14, violations and penalties, and stated if they fail to comply to the standards, they can actually be shut down until those corrections are made and if they aren't made, then again, the City can revoke their permit to operate and function.

Commissioner Chandler asked about item L. Planner Papelbon responded that it would be used in conjunction with the operation of the business language that is taken from Code. Planner Papelbon stated the applicant is fine with that language being incorporated. If the Plan Commission recommends that, it will be incorporated to state that no other outdoor storage excluding vehicles and semi-trailers used in conjunction with the operation of the business parked in designated parking areas approved by the Plan Commission is permitted.

As far as the access road on the site, what is going down on that southwest corner to Oakwood is emergency access only, and that will be on every site label they have.

Mr. Seymour stated that the Council passed an ordinance remanding this back to the Plan Commission for conditions and restrictions. Should the Plan Commission not recommend any conditions and restrictions, the Council could move forward with a less restrictive set of conditions and restrictions. The decision to not recommend conditions and restrictions does not necessarily obligate the Council to any particular action.

Alderman Bukiewicz moved that the Plan Commission recommends that the Common Council adopts the Conditions and Restrictions as part of the Conditional Use Permit for a freight terminal,

with two (2) underground fuel storage tanks in excess of 5,000 gallons and outdoor storage of dolly equipment as accessory uses, at 500 W. Opus Dr. Commissioner Correll seconded.

Commissioner Johnston stated that the motion should include the language in section L.

Alderman Bukiewicz restated his motion that the Plan Commission recommends that the Common Council adopts the Conditions and Restrictions as part of the Conditional Use Permit for a freight terminal, with two (2) underground fuel storage tanks in excess of 5,000 gallons and outdoor storage of dolly equipment as accessory uses, at 500 W. Opus Dr. and include a restriction (L) as Kari (Planner Papelbon) will now state.

Planner Papelbon stated that Section 8, subsection L, shall read: Outdoor storage of equipment shall be limited to dolly equipment in designated parking areas as approved by the Plan Commission. No other outdoor storage excluding vehicles and semi-trailers used in conjunction with the operation of the business parked in designated parking areas approved by the Plan Commission is permitted.

Alderman Bukiewicz moved on the amendment. Commissioner Correll seconded.

Alderman Bukiewicz retracted the motion to address the issue on the mobile device. Commissioner Correll stated that the question is if the City has the ability not to exclude the mobile device noise, which is really the biggest concern about noise. Mr. Seymour stated that he would refer this to the City Attorney, but it is his understanding that the City's ordinances do not allow them to regulate noise from an operating motor vehicle. Alderman Bukiewicz added that it is his understanding that the hostlers and dollies are the only things that have back-up alarms. That is something that is OSHA regulated and the City does not have the ability to override. Those are the only mobile devices being referred to.

Mr. Seymour asked if the Plan Commission was looking to establish a condition that the noise limits in Section H be applied towards motor vehicles within this development. Commissioner Correll stated that was his understanding. If we do not have the ability or a legal opinion is needed, he would defer to the City Attorney. Alderman Bukiewicz stated that trucks and trailers would apply, but he is thinking about the equipment that moves the things. Commissioner Correll stated his concern is the amount of trucks and the cumulative noise. Alderman Bukiewicz stated his concern is the back-up alarms. As far as the truck sound goes, there is a decibel range in there. Mr. Seymour stated that does not apply to operating motor vehicles. Alderman Bukiewicz asked for a definition of mobile devices. Commissioner Correll stated he thought that meant trucks, cumulative truck noise from the diesel being above this limit would be excluded based on how we have it set. Mr. Seymour stated that motor vehicles are excluded. Commissioner Correll stated his question was if they could not exclude motor vehicles. The noise from the whole operation has to be below that threshold. Alderman Bukiewicz stated he can't really answer what just a truck produces decibel-wise. Commissioner Carrillo asked if trucks idling are included in this. Mr. Seymour stated that if this is a condition that they want in the conditions and restrictions, these do apply to operating motor vehicles. He suggested that it be at the property line as we would typically measure sound. That we will verify the legality of that and if it is found that we cannot do that, we will make that known to the Common Council. Commissioner Correll stated that if they have the ability to potentially not exclude motor vehicles or mobile devices to include trucks. Planner Papelbon stated that for verification, Section 8, H, they are proposing to read:

At no point on the boundary of a residence or business district shall the sound intensity level of any operation exceed 58 and 62 DBA respectively during normal operations. Commissioner Correll stated that that is his proposal.

Mr. Seymour stated that the Plan Commission would need to be cautious about is how this can be uniformly be applied across other developments in the City. Planner Papelbon clarified that the wording in Section H comes directly from Code. It is not anything that staff negotiated with the applicant.

Alderman Bukiewicz restated his motion that the Plan Commission recommends that the Common Council adopts the Conditions and Restrictions as part of the Conditional Use Permit for a freight terminal, with two (2) underground fuel storage tanks in excess of 5,000 gallons and outdoor storage of dolly equipment as accessory uses, at 500 W. Opus Dr. and incorporate the language from Section 8, Item L, Outdoor Storage of Equipment shall be limited to dolly equipment in designated parking areas as approved by the Plan Commission. No other outdoor storage excluding vehicles and semi-trailers used in conjunction with the operation of the business parked in designated parking areas approved by the Plan Commission is permitted. Commissioner Correll seconded. Planner Papelbon clarified that they are only changing Section 8, L. Alderman Bukiewicz and Commissioner Correll stated yes. On roll call: all voted aye. Motion carried.

Mr. Seymour stated that the Common Council will be considering the formal adoption of the conditions and restrictions at their meeting on March 7, 2017.

### **ZONING TEXT AMENDMENT**

#### **Zoning Text Amendment – 27<sup>th</sup> Street Overlay District(s)**

**Modifying 17.0329(c)(2)(c)(1) and Sec. 17.0329(c)(2)(c)(2) to create Sec. 17.0329(c)(2)(c)(1)(f) and Sec. 17.0329(c)(2)(c)(2)(e), allowing for the modification of 27<sup>th</sup> Street Overlay District Design Standards**

Planner Papelbon provided an overview of the proposal (see staff report for details), and stated that right now there are no provisions in the 27<sup>th</sup> Street Overlay Districts to allow modifications of standards. The standards in the overlay districts are over and above what are in the regular Code requirements. This proposal is to incorporate the modification of standards section in two areas because those buildings have in the overlay districts are split from 20,000 square feet and below and 20,000 and above. The language states that the Plan Commission may modify any of the above building design standards by a  $\frac{3}{4}$  vote of members in attendance, but only if supplemental design elements or improvements are incorporated into the project over and above those which are otherwise required, which compensate for the modification of the particular standard. In support of the modification request, the applicant shall detail such supplemental design elements in written and graphical form and provide an explanation as to the nature of the standards for which the modification is requested. This language is exactly what Franklin has in their Code for the overlay districts.

Commissioner Correll moved that the Commission recommend to the Council that Sections 17.0329(c)(2)(c)(1)(f) and 17.0329(c)(2)(c)(2)(e) be created to read as follows:

#### **Modification of Standards**

The Plan Commission may modify any of the above building design standards by a  $\frac{3}{4}$  vote of members in attendance, but only if supplemental design elements or improvements are incorporated into the project (over and above those which are otherwise required) which compensate for the modification of the particular standard. In support of the modification request, the applicant shall detail such supplemental design elements in written and graphical form, and provide an explanation as to the nature of the standards for which the modification is requested.

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

### **ZONING TEXT AMENDMENT**

**Zoning Text Amendment – Religious Institutions as Conditional Uses in the 27<sup>th</sup> Street Overlay District(s) Modifying Sec. 17.0330(c), Sec. 17.0331(c), Sec. 17.0332(c), and Sec. 17.0333(c)**

Planner Papelbon provided an overview of the proposal for an amendment to allow religious institutions allowed in the overlay districts (see staff report for details).

Alderman Bukiewicz clarified that this is the first step, and it will allow the church or religious institution to go forward with the purchase of the building. Planner Papelbon responded that zoning does not have anything to do with land sale or purchase. This is amending the overlay districts that affect those properties to incorporate religious institutions as allowed uses, which they currently do not. Their individual agreements may be tied into our zoning decisions, but the City is not tying its zoning decisions to their purchase.

Commissioner Siefert moved that the Commission recommends to the Council that Sections Sec. 17.0330(c)(10), Sec. 17.0331(c)(9), Sec. 17.0332(c)(10), and Sec. 17.0333(c)(7) of the Municipal Code be created to allow religious institutions as conditional uses in the 27<sup>th</sup> Street zoning overlay districts after a public hearing. Alderman Guzikowski seconded. On roll call: all voted aye. Motion carried.

**PLAN & SIGN PLAN REVIEW  
IKEA DEVELOPMENT  
1830 W. DREXEL AVE.  
TAX KEY NO. 784-9021**

Planner Papelbon provided an overview of the proposal, including changes from the original approval in 2016 (see staff report for details).

Commissioner Chandler asked the applicant why they made changes to their plan. Debbie Tomczyk, Reinhart, Boehner, (attorney representing IKEA) stated that they are basically shifting the building to the west. They have added stormwater, additional features to manage the site, less parking, and more landscaping.

Alderman Bukiewicz stated he likes this plan better with the parking lot on the east side toward the expressway.

Commissioner Correll moved that the Plan Commission approves the site, building and sign plan submitted by Elizabeth Gabor, IKEA Property, Inc., for the property at 7500 S. IKEA Way, with the following conditions:

1. That all signs meet the dimensional and square footage requirements of the B-6, Interchange Regional Retail District.
2. That all revised plans (site, building, landscaping, lighting details, 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.
3. That all mechanical equipment (ground, building, and rooftop) is screened from view.
4. That all building and fire codes are met.
5. That stormwater, grading, and road plans are coordinated with and submitted for final approval to the Engineering Department prior to issuance of permits.
6. That final lighting plans indicating luminaire type, pole type, color, and height are submitted for final approval by the Electrical Inspector prior to the issuance of building permits.
7. That all water and sewer utility connections are coordinated with the Oak Creek Water & Sewer Utility.



8. That detailed landscaping plans are submitted for review and approval by the Director of Community Development prior to the issuance of building permits.

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

**CONDITIONS AND RESTRICTIONS  
STORAGE SHOP USA – OAK CREEK, LLC  
331 AND 401 E. OAK ST.  
TAX KEY NOS. 733-0008 AND 733-0009**

Zoning Administrator/Planner Wagner explained that at the last meeting, the Plan Commission recommended approval for a conditional use permit allowing for a contractor's office, yard, or shop without outdoor storage at 331 & 401 E. Oak Street and directed staff to draft conditions and restrictions to be reviewed at their next meeting.

Zoning Administrator/Planner Wagner reviewed the conditions and restrictions with the Plan Commission and noted that on Page 2, Section 3, Parking and Access, Subsection A, parking requirements for this project shall be limited to spaces as shown on the site plan approved by the Plan Commission and in conformance with Section 17.04.03(J)(5) of the zoning code.

On Page 4, Zoning Administrator/Planner Wagner added a section referring to a buffer yard. This was taken directly out of the City's code. Any time a manufacturing district is abutting up against a residential; an additional buffer yard is required, which requires additional landscaping. These two parcels will be zoned from Rs-2 to M-1, but to the east, it will be Rs-2. The applicant will have to have the 50' setback of the buildings. The concept plan shows a 55' setback so it shouldn't impact what he is proposing to do.

Under Section 6, Maintenance and Operation, the applicant had concerns about Subsection D, which refers to individual units are to be owner-occupied. No portion of this development shall be used as a self-service storage facility. He was concerned that someone would own these. These are typically a two-unit development. Typically they would own one and rent out the other. He felt that this condition may prohibit him from doing that. Staff agreed that maybe this is not necessary since this will be owner-occupied. Staff does recommend striking 6 D from the conditions and restrictions. It is addressed later in Section 8 permitted uses.

Greg Thompson, 6810 Cross Country Road, Verona stated that on this particular site if you go to the west, those two lots are pretty much wetlands. The lot to the east is owned by the Milwaukee airport and they don't want residential there. This area is generally planned for more industrial type uses and he was thinking in the buffer zone whether it is actually designed a buffer zone. He was hoping that there would be some discussion at the site plan level rather than making it a restriction. Zoning Administrator/Planner Wagner stated this is spelled out because it is a residential zoning district to the east and west. In the future, if and when that zoning changes from residential to manufacturing, that buffer would not be required. However, until the County rezones that district, the code has to be complied with. The Plan Commission will review at what level that landscaping has to be.

Commissioner Siefert moved that the Plan Commission recommends that the Common Council adopts the Conditions and Restrictions as part of the Conditional Use Permit allowing for the development of a contractor's offices, yards, or shops without outdoor storage at 331 & 401 E. Oak Street after a public hearing with the modification that 6 D be stricken. Alderman Guzikowski seconded. On roll call: all voted aye. Motion carried.

**PLAN REVIEW  
ST. JOHN PROPERTIES, INC.**

**140 E. RAWSON AVE.  
TAX KEY NO. 733-9991-001**

Planner Papelbon provided an overview of the proposal for a multitenant, multi-building (3) office and warehouse development on the property (see staff report for details).

Michael Piechowski, 251 E. Rawson Ave., stated that there is going to be a lot of activity with the loading docks, and he understands why the applicant wants to change the zoning. He asked if the area of land that is elevated will be taken down. He stated that the development will have headlights shining into the homes across the street. Mr. Piechowski stated that he needs more details on this project and more detailed plans, and then the neighbors can come back and discuss their concerns. Planner Papelbon responded that the plans are available on the website. Everything that was submitted to the Plan Commission can be downloaded or viewed on the website.

Planner Papelbon stated that she previously spoke to the applicant to make sure they have adequate landscaping to screen the headlights because there are residential properties on the south side of Rawson Avenue. Mr. Seymour stated that the impact of this development will probably be less than what would typically be associated with a traditional M-1 development of a distribution center.

Commissioner Correll asked if the Plan Commission could review the landscaping plan rather than just leaving that to staff.

Alderman Bukiewicz asked who would be maintaining the frontage road. Planner Papelbon responded that the City does not own that. That is the County right-of-way.

Commissioner Johnston stated that there are three intersections that the traffic impact analysis will review; Howell and Rawson, and the frontage road with Rawson and Tyler and Rawson.

Alderman Bukiewicz stated that they do have to take the neighbors to the south into account.

Bret Mazzone, 120 E. Rawson Avenue, stated his concern about the frontage road being the only access to this property. He has spoken to WisDOT, and because of the line-of-site, it is hard for him to have access to this site there. He would like to know how it will be addressed as far as maintaining the roadway. He stated that this project encompasses 75% of the roadway when you enter off of Rawson Avenue to the west (toward Howell Avenue) to their main access point. They will be using almost the whole roadway for their purposes. Commissioner Johnston stated that it is a County road and all incorporated into the existing ROW along that. The City has no jurisdiction over that road. It will be looked at with the TIA. They are not looking to take that access away.

Planner Papelbon stated that the City Forester did take a look at the landscaping plan and had a couple of species modifications, but other than that, no specific comments at this point. There are trees, bushes and screen walls being proposed. Planner Papelbon described the landscaping plan as far as screening requirements.

Commissioner Johnston stated that for building A, the grading is pretty much the same as it is now. Building B is roughly dropping 12 feet according to their proposed grading plan, and building C is getting raised up above the hill. They are kind of knocking the hill off and pushing it to the east.

Commissioner Chandler asked for information on or samples of materials. Chris Jankowski, St. John's properties, responded that this is the type of building they use all around Wisconsin. They

are proposing a split-face CMU product with some vertical accent banding. Mr. Jankowski described the building colors.

Asst. Fire Chief Kressuk stated that on the western most building there is basically a single access along the west side. They did ask for a Fire Department-approved turnaround at the north end of it.

Alderman Bukiewicz requested that the landscape plan be brought back before the Plan Commission for approval. Alderman Bukiewicz asked if any type of berming would help on the south portions of it. Commissioner Johnston stated that they have a swale running in the area between the frontage road and Rawson Avenue that drains it to that east detention pond. They would not have room for a berm.

Commissioner Correll motioned that the Plan Commission approves the site and building plans submitted by Dustin Atielski, St. John Properties, Inc., for the property at 140 E. Rawson Ave. with the following conditions:

1. That all building and fire codes are met.
2. That a detailed Master Sign Program per Section 17.0706(j) is reviewed and approved by the Plan Commission prior to submission of sign permit applications for any multitenant building.
3. That a revised landscaping plan be submitted to the Plan Commission for further approval prior to the submission of building permit applications.
4. That the plans are revised to incorporate a more durable material, such as composite or metal, for the gate on the dumpster enclosure.
5. That all mechanical equipment (ground, building, and rooftop) is screened from view.
6. That all final plans (site, building, landscaping, 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.
7. That final lighting plans are submitted for final approval by the Electrical Inspector prior to submission of building permit applications.
8. That all water and sewer utility connections are coordinated with the Oak Creek Water & Sewer Utility.
9. That stormwater and grading plans are submitted for final approval by the Engineering Department prior to issuance of permits.

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

**PLAN COMMISSION CONSULTATION  
CONTINENTAL 344 FUND, LLC  
8100 & 8146 S. 27<sup>TH</sup> ST.  
TAX KEY NO. 810-9012-001 AND 810-9005**

Gwen Wheeler, Continental Properties, W134 N8675 Executive Parkway, Menomonee Falls, gave a presentation on Continental Properties and the project as a whole.

Commissioner Carrillo stated that this looks great. Oak Creek does not have a gated community, and it will have a positive effect on the community.

Alderman Guzikowski does like the concept and likes the look of this project.

Commissioner Correll stated he is good with this, and doesn't see any reason why he would oppose it.

Mr. Seymour stated that this is in TIF 7, and this will assist in closing that out.

Commissioner Siefert stated it looks nice. He asked if the City is responsible for getting the water and sewer to the site. Mr. Seymour responded that because this is a concept plan, all the answers/details are not available. He stated that typically public utilities are located within public easements, which don't tend to coexist very well with private streets and gated communities. This will certainly have to be worked on in terms of how to structure that. Commissioner Johnston stated that the public sewer and water ends at the north end of Orchard Way. Typically, the water main would be extended through here in an easement and be a public water main. Sanitary sewer would be a private facility that would dump out at the public main at the north end of Orchard Way. Originally Orchard Way was designed to be a public street to extend all the way north to Drexel Avenue. Just north of this property is now a detention pond. That proposed alignment will never happen going north to Drexel. It does create some challenges here. There is a public road that is going to end at a gated community and become a private road through this facility out to 27<sup>th</sup> Street. There is nothing that precludes the City from a cul-de-sac at the end of that public street.

Commissioner Correll stated that all of the goals for 27<sup>th</sup> Street are a moving target and not moving very fast for quite some time, so he is not opposed to a gated community there.

Discussion ensued regarding proposed number of garages. Mr. Seymour stated that the proposed reliance on surface parking is hurting the developer's goals of being a walkable, connected community. Ms. Wheeler stated that they could definitely look at creating more pedestrian connectivity within the site and provide those pedestrian gates to access the adjacent amenities.

Alderman Bukiewicz asked if the Fire Department had concerns regarding access. Asst. Fire Chief Kressuk responded that they did have an opportunity to meet with Continental. Even seeing the conceptual plan, they see some of the pieces of the access through there. Certainly, parked vehicles outside cause some problems in some cases. The idea is to maintain the access roads to alleviate that.

Commissioner Correll stated his concurrence with Mr. Seymour regarding the amount of garages which he originally looked at as being the majority of the pad. Their perimeter parking does concern him.

Planner Papelbon asked what the proposed ratio of masonry/brick is on the buildings as shown. There is a minimum requirement of 65%, and she is not sure if the proposed plans meet that. Ms. Wheeler confirmed that they do not. Ms. Wheeler pointed out the care that was taken in creating these elevations and creating a variety of materials, so that it creates interest. Currently, they are proposing 10% on each side. It was stated that such a percentage was unacceptable.

Commissioner Siefert asked if there is any problem with just the one entrance. Asst. Fire Chief Kressuk stated that the secondary access to the southeast is an important element for the Fire Department. That access is through Colonial Woods, which is part public and part private. Planner Papelbon responded that the road is currently planned to be public. A portion of it which retains the utilities would have to remain public. The applicants would be considering possibly vacating the rest of that public right-of-way to the north. Ms. Wheeler stated she is only showing emergency access at the location of the existing road to the east of Colonial Woods. Mr. Seymour stated that is something that the City would be very cautiously considering. At this point in time, if asked to make the decision today, the City would not support that.

Joanne Storm, 2570 W. Colonial Woods Dr. asked if Orchard Way is public, but Colonial Woods is private and if they are talking about secondary entrance for emergency vehicles and it's a private road. Commissioner Johnston stated that there is an emergency access, public or private,

emergency access people can get down that roadway. They can still access that. They are not looking at accessing the development through that secondary access; just an emergency access point if something was blocking the main entrance.

Ms. Storm stated that the proposed site was phase II of Colonial Woods so where does that leave the existing Colonial Woods. Mr. Seymour responded that Colonial Woods, as it exists today, will essentially be the extent of that homeowners association, the extent of that condominium association. The City cannot regulate that these be condominiums. If it's a multi-family with similar density, they can be apartments if the Council rezones the property. As far as bringing them into the homeowners association, he does not believe that is appropriate given the model they are showing here.

Annette Bath, 8088 S. 27<sup>th</sup> Street, stated she is on the lot line north of the property. Her property is in B-4 zoning. She stated there is enough housing and questioned why someone would put housing on 27<sup>th</sup> Street. She suggested more retail, or hotels or something that is going to bring more money on 27<sup>th</sup> Street. Alderman Bukiewicz stated this was brought to the City. The City did not solicit them. Mr. Seymour stated that there is an overall plan for 27<sup>th</sup> Street, which includes a mix of different uses on 27<sup>th</sup> St., which includes a mix of different uses. From the standpoint of sustaining value for our retail properties, it is important that we try to balance the supply versus what could be reasonably expected to be the demand. Ms. Bath stated that there would be a lot less traffic if you put in a retail establishment than multifamily. Commissioner Correll stated that any proposal that has come before the City for this site has been some type of residential. Mr. Seymour stated that there is not a proposal for manufacturing at this point of the corridor.

**PLAN REVIEW**  
**PRC INVESTORS, LLC**  
**6890 S. HOWELL AVE.**  
**TAX KEY NO. 733-9008**

Planner Papelbon provided an overview of the proposal for an addition to the east side of the existing Johnstone Supply building (see staff report for details).

Commissioner Chandler asked for more information on the colors being proposed for the building. Mark Frieteg, Gerald Knell, Design-Build Contractor responded there are two lighter shades of gray, the horizontal four strips, smooth block, the accent bands would be a slightly darker gray.

Commissioner Chandler asked if there was storage outside. Mr. Frieteg responded that there would not be any outside storage. Mr. Frieteg stated there would be no rooftop mechanicals.

Alderman Bukiewicz asked if there will be any impact to stormwater. Mr. Frieteg stated that the original stormwater engineer compared it to the slightly revised standards that apply today that weren't there 5, 6 years ago. The pond is adequate, but they need to have control flow roof drains on the roof of the addition. It is slowing down the release to that same pond.

Commissioner Correll moved that the Plan Commission approves the site and building plans submitted by Charlie Chawla, PRC Investors, LLC, for the property at 6890 S. Howell Ave. with the following conditions:

1. That all building and fire codes are met.
2. That all final plans (site, building, landscaping, 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.
3. That all mechanical equipment (ground, building, and rooftop) is screened from view.

4. That final lighting plans indicating luminaire type, pole type, color, and height are submitted for final approval by the Director of Community Development, upon written recommendation of 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.

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

## **ZONING TEXT AMENDMENT**

### **Zoning Text Amendment – 17.03170 LM-1, Light Manufacturing District**

Planner Papelbon stated that a lot of research went into this document. Different communities handle light manufacturing in a variety of ways. Planner Papelbon based the new district on determining where uses overlapped, and taking guidance from what other communities do as far as how they define light manufacturing and what their purpose statements were. She also looked at how other communities handle self-storage facilities.

Planner Papelbon stated that this would be open to office parks, research parks, research and development, laboratories, technology and computers, technology development. Those kinds of things would be focused in the LM-1 district. There could be a crossover of LM-1 and manufacturing depending on the type of business, but these uses are specifically captured in the Code.

Commissioner Siefert stated this looks good and Planner Papelbon did a good job putting this together. It explains a little better what they are trying to accomplish.

Commissioner Correll stated that the first purpose statement listed gives the City the most flexibility and keeps it relatively simple. It allows for interpretation. Commissioner Siefert concurred.

Planner Papelbon stated there was a lot of discussion as to what is considered a small scale versus large scale. Staff looked to the State and other municipalities to see if there was any guidance. Some Codes go by production, but Planner Papelbon stated that she does not think that is necessarily the right way to go. Planner Papelbon stated that by limiting the size of the facility, the Code tries to eliminate those potential conflicts with neighboring areas. This is aimed at small scale. They don't want to limit production.

Alderman Bukiewicz asked if auto body shops would be included. Planner Papelbon stated that they were not included.

Planner Papelbon stated that on page 4, Subsection (16)(d), staff had initially put in hours of operation. Staff would like the Plan Commission's opinion on whether that should be removed, and determine appropriate hours of operation on a case-by-case basis rather than trying to regulate it through the Code. Alderman Bukiewicz responded that it provides flexibility if they are going to do an extended second shift.

Planner Papelbon clarified that the Commission likes purpose statement #1, but wishes to keep out the hours of operation for self-service storage facilities.

Commissioner Correll moved that the Plan Commission recommends to the Common Council that Section 17.0317 of the Municipal Code be amended to create a new Light Manufacturing zoning district, after a public hearing. Alderman Guzikowski seconded. On roll call: all voted aye. Motion carried.

Commissioner Carrillo moved to adjourn. Commissioner Siepert seconded. On roll call: all voted aye. Motion carried. The meeting was adjourned at 9:55 p.m.

ATTEST:

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

3/14/2017

\_\_\_\_\_  
Date