



Common Council Chambers  
8040 S. 6<sup>TH</sup> Street  
Oak Creek, WI 53154  
(414) 766-7000

## COMMON COUNCIL MEETING AGENDA

MONDAY, APRIL 3, 2017

7:00 P.M.

Daniel Bukiewicz - Mayor  
Steven Kurkowski - 1<sup>st</sup> District  
2<sup>nd</sup> District  
Mark Verhalen - 3<sup>rd</sup> District  
Michael Toman - 4<sup>th</sup> District  
Kenneth Gehl - 5<sup>th</sup> District  
Chris Guzikowski - 6<sup>th</sup> District

### The City's Vision

*Oak Creek: A dynamic regional leader, connected to our community, driving the future of the south shore.*

1. Call Meeting to Order / Roll Call
2. Pledge of Allegiance
3. Approval of Minutes: 3/21/17

### Recognition

4. **Proclamation:** Consider Proclamation No. 17-05, to Robert J. Anderson, Sr., for dedicated service to the City of Oak Creek as a member of the Police & Fire Commission (by Committee of the Whole).

### Public Hearings (beginning at 7:00 p.m.)

*Citizen input, comments and suggestions are requested on the specific item(s) identified below. Action by the Council may occur at the same meeting if so included in the agenda.*

5. **Code Amendment:** Consider a request to amend Section 17.0330(c), Section 17.0331(c), Section 17.0332(c), and Section 17.0333(c), allowing religious institutions as conditional uses in the RRO, Regional Retail Overlay District; the UVO, Mixed-Use/Office/Urban Village Overlay District; the NO, Mixed-Use Neighborhood Overlay District; and the OO, Mixed-Use Office Overlay District (27<sup>th</sup> Street Overlay Districts).
6. **Ordinance:** Consider Ordinance No. 2847, amending Sections 17.0330(c), Section 17.0331(c), 17.0332(c), and 17.0333(c), and creating Sections 17.0330(c)(10), 17.0331(c)(9), 17.0332(c)(10), and 17.0333(c)(7), to allow religious institutions as conditional uses in the 27<sup>th</sup> Street Overlay Districts (by Committee of the Whole).
7. **Code Amendment:** Consider a request to amend Section 17.0329(c)(2)(c)(1) and Section 17.0329(c)(2)(c)(2), allowing the Plan Commission to grant a modification of standards for buildings in the 27<sup>th</sup> Street Overlay Districts.
8. **Ordinance:** Consider Ordinance No. 2846, amending Sections 17.0329(c)(2)(c)(1) and 17.0329(c)(2)(c)(2) and creating Sections 17.0329(c)(2)(c)(1)(f) and 17.0329(c)(2)(c)(2)(e) to allow the Plan Commission to grant a modification of standards for buildings in the 27<sup>th</sup> Street Overlay Districts (by Committee of the Whole).

Visit our website at [www.oakcreekwi.org](http://www.oakcreekwi.org) for the agenda and accompanying common council reports.

9. **Code Amendment:** Consider a request to amend Chapter 17, Section 17.03170 of the Municipal Code, creating the LM-1, Light Manufacturing Zoning District. This change would result in the renumbering of the existing Section 17.0317 to be renumbered to Section 17.03171.
10. **Ordinance:** Consider Ordinance No. 2848, creating Section 17.03170 of the Municipal Code to create a new LM-1, Light Manufacturing zoning district. The current Section 17.0317 will be renumbered to Section 17.03171) (by Committee of the Whole).

## New Business

### **MAYOR & COMMON COUNCIL**

11. **Informational:** Summarized Treasurer's Report on investing and banking accounts for the month ending February 28, 2017.
12. **Motion:** Consider a motion to approve revisions to the City of Oak Creek Hiring Policy, as recommended by the Personnel Committee (by Committee of the Whole).
13. **Motion:** Consider a motion to approve the 2017 Vendor Summary Report in the amount of \$255,683.96 (by Committee of the Whole).

### **HEALTH**

14. **Motion:** Consider a motion to approve the Interim Health Officer, Jacqueline Ove, to apply for the Cultivating Healthy Communities grant program through the Aetna Foundation (by Committee of the Whole).

### **STREETS, PARKS & FORESTRY**

15. **Motion:** Consider a motion to reject the bids for the 27<sup>th</sup> Street Tree Planting project, and direct a re-advertisement of the work (Project No. 17020) (by Committee of the Whole).
16. **Motion:** Consider a motion to approve the purchase of an Avery Traffic Jet Street Sign Printer package from Avery Dennison Reflective Solutions, for a total cost of \$46,561.00 (by Committee of the Whole).

### **COMMUNITY DEVELOPMENT**

17. **Ordinance:** Consider Ordinance No. 2849, amending the Comprehensive Plan and Planned Land Use map for the property at 140 E. Rawson Avenue to reflect the change in land use from Planned Business to Planned Industrial (1<sup>st</sup> District).
18. **Resolution:** Consider Resolution No. 11805-040317, approving the First Amendment to the Land Purchase Agreement with The Waters Senior Living Holdings, LLC (2<sup>nd</sup> District).

## **LICENSE COMMITTEE**

The License Committee did not meet prior to the 4/3/17 Common Council meeting. Tentative recommendations are as follows:

19. **Motion:** Consider a *motion* to grant an Operator's license to the following (*favorable background report received*):
- Natalia M. Perez-Gardipee, 21940 Foxhaven Run, Waukesha (Erv's Mug)
  - Christine L. Platzer, 8650 S. Ventana Ave., Oak Creek (Erv's Mug)
  - Carrie E. Hedl-Daniels, 3617 S. 22<sup>nd</sup> St., Milwaukee (Applebee's)
  - William G. Krueck, 8381 S. Pennsylvania Ave., Oak Creek (Legion)
  - Cheryl M. Cummings, 8725 S. Wood Creek Dr., Oak Creek (Legion)
  - Joseph M. Gilsdorf, 2151 N. 51<sup>st</sup> St., Milwaukee (Valentine Café)
  - Ramona J. Koeller, 2425 S. 30<sup>th</sup> St., Milwaukee (Charcoal Grill)
  - Rosa Brown, 2670 S. 13<sup>th</sup> St., Milwaukee (Oasis Mobil)
  - Christopher Maringer, 3803 Greenway Ln., Racine (Woodman's)
  - Edith Chavez, 10234 S. Shepard Ave., Oak Creek (Woodman's)
  - Milica Stojisavljevic, 2863A N Downer Ave., Milwaukee (Bootz Saloon)

### ***Adjournment.***

#### **Public Notice**

Upon reasonable notice, a good faith effort will be made to accommodate the needs of disabled individuals through sign language interpreters or other auxiliary aid at no cost to the individual to participate in public meetings. Due to the difficulty in finding interpreters, requests should be made as far in advance as possible preferably a minimum of 48 hours. For additional information or to request this service, contact the Oak Creek City Clerk at 766-7000, by fax at 766-7976, or by writing to the ADA Coordinator at the Oak Creek Health Department, 8040 S. 6<sup>th</sup> Street, Oak Creek, Wisconsin 53154.

It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice

**COUNCIL PROCLAMATION NO. 17-05**

**TO**

**ROBERT J. ANDERSON, SR.**

**FOR DEDICATED SERVICE TO THE CITY OF OAK CREEK  
AS A MEMBER OF THE  
POLICE & FIRE COMMISSION**

WHEREAS, Robert J. Anderson, Sr. was appointed to the Police & Fire Commission on May 19, 1992, and has dutifully served the City in a thorough, conscientious and professional manner for twenty-five years; and

WHEREAS, throughout his tenure as a member of the Police & Fire Commission, Robert J. Anderson, Sr., has been instrumental in the appointment of three Police Chiefs, three Fire Chiefs, and countless police officers, fire fighters, detectives, Lieutenants, Sergeants, Battalion Chiefs, Captains, and Assistant Chiefs; and

WHEREAS, Robert J. Anderson, Sr., served as a liaison between the citizens of Oak Creek and the Police and Fire Departments, ensuring that these departments run smoothly, effectively and with the utmost integrity; and

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Common Council of the City of Oak Creek do hereby show their appreciation and gratitude to Robert J. Anderson, Sr. for his dedicated service to the City of Oak Creek as a member of the Police & Fire Commission.

BE IT FURTHER RESOLVED that this proclamation be spread upon the minutes of this meeting and that the City Clerk be and she is hereby directed to transmit a suitable copy thereof to Robert J. Anderson, Sr.

Introduced and adopted this 3<sup>rd</sup> day of April, 2017.

\_\_\_\_\_  
Kenneth Gehl, Common Council President

\_\_\_\_\_  
Daniel J. Bukiewicz, Mayor

ATTEST:

\_\_\_\_\_  
Catherine A. Roeske, City Clerk

Vote: Ayes \_\_\_\_ Noes \_\_\_\_

TO BE PUBLISHED MARCH 9 & 16, 2017

OFFICIAL NOTICE

**NOTICE OF PUBLIC HEARING  
BEFORE THE OAK CREEK COMMON COUNCIL**

**PURPOSE:** The purpose of this public hearing is to consider proposed amendments to Sec. 17.0330(c), Sec. 17.0331(c), Sec. 17.0332(c), and Sec. 17.0333(c) to allow religious institutions as conditional uses in the RRO, Regional Retail Overlay District; the UVO, Mixed-Use/Office/Urban Village Overlay District; the NO, Mixed-Use Neighborhood Overlay District; and the OO, Mixed-Use Office Overlay District (27<sup>th</sup> Street Overlay Districts).

**Hearing Date:** Monday, April 3, 2017  
**Time:** 7:00 p.m.  
**Place:** Oak Creek City Hall  
8040 South 6<sup>th</sup> Street  
Oak Creek, WI 53154  
Common Council Chambers

**Proposal:** The proposed Code Amendments for Sec. 17.0330(c), Sec. 17.0331(c), Sec. 17.0332(c), and Sec. 17.0333(c) would allow religious institutions as conditional uses in the RRO, Regional Retail Overlay District; the UVO, Mixed-Use/Office/Urban Village Overlay District; the NO, Mixed-Use Neighborhood Overlay District; and the OO, Mixed-Use Office Overlay District (27<sup>th</sup> Street Overlay Districts).

The entire text of the proposed amendment to the 27<sup>th</sup> Street Overlay Districts is available for review upon request. Any person(s) with questions regarding the proposed changes may contact the City of Oak Creek at (414) 766-7000, during regular business hours (7:30 a.m. – 4:00 p.m.).

Date of Notice: March 2, 2017

CITY OF OAK CREEK COMMON COUNCIL

By: Stephen Scaffidi, Mayor

**PUBLIC NOTICE**

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# City of Oak Creek Common Council Report

**Meeting Date:** April 3, 2017

**Item No.:** 6

**Recommendation:** That the Council adopts Ordinance No. 2847, amending Sections 17.0330(c), 17.0331(c), 17.0332(c), and 17.0333(c), and creating Sections 17.0330(c)(10), 17.0331(c)(9), 17.0332(c)(10), and 17.0333(c)(7) to allow religious institutions as conditional uses in the 27th Street Overlay Districts.

**Background:** The Ridge Community Church has submitted a proposal to amend the Municipal Code to allow religious institutions as conditional uses in the 27th Street overlay zoning districts. Churches are currently only permitted in the I-1, Institutional (base) zoning district.

The Ridge Community Church proposes to purchase the Value Cinema properties at 6912 and 6912R S. 27<sup>th</sup> Street and redevelop the existing building for a church. The base zoning of this property is B-2, Community Business. This base zoning district does not allow for religious institutions as permitted or conditional uses. Therefore, in order for the property to be utilized for a religious institution, the usual process requires a rezone of the property to I-1, Institutional. However, complicating this is the fact that the property is located within the 27th Street Regional Retail Overlay (RRO) zoning district. This district imposes additional standards and regulations on use and design for properties within its borders. This overlay district does not currently allow religious institutions as either permitted or conditional uses.

The effect of the properties' location within the RRO is that the redevelopment for the proposed church necessitates an additional step - an amendment to the 27th Street zoning overlay districts to allow a religious institution as either a permitted, or (as proposed), a conditional use. If the Council concurs and amends the text of the Zoning Code, the applicants would return to the Commission at a subsequent date to change the base zoning of the property to I-1, Institutional.

When contemplating the regulation of institutional uses, especially those of a religious nature, municipalities must consider the unique legal status afforded under the Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000. That Act, and its potential implications, are briefly described in the attached article from The Planning Commissioners Journal (Fall 2009).

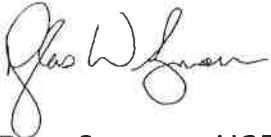
To summarize the highlighted text, regulations that allow places of assembly (e.g., theaters, day care centers, clubs, commercial recreation facilities, etc.) either by permitted or conditional use should also apply consistently to houses of worship. As such, one might raise the question if there is a legitimate and compelling government interest for allowing such places of assembly in a base zoning district, but not within a zoning overlay (RRO) on the same property.

As proposed, the text amendment would amend the Municipal Code to include religious institutions as conditional uses in each of the 27th Street overlay zoning districts (RRO,

Regional Retail Overlay District; the UVO, Mixed-Use/Office/Urban Village Overlay District; the NO, Mixed-Use Neighborhood Overlay District; and the OO, Mixed-Use Office Overlay District). No other changes to the districts are included with this proposal.

**Fiscal Impact:** Although there is no direct fiscal impact with amending the Overlay Districts to allow religious institutions as conditional uses, such developments have the potential to render existing taxable properties tax exempt. New or expanded developments, however, would still be subject to impact fees.

Prepared by:




Doug Seymour, AICP  
Director of Community Development

Respectfully submitted,



Andrew Vickers, MPA  
City Administrator

Fiscal Review by:



Bridget M. Souffrant, CMTW  
Finance Director/Comptroller

ORDINANCE NO. 2847

BY: \_\_\_\_\_

AN ORDINANCE TO AMEND SECTIONS 17.0330(c), 17.0331(c), 17.0332(c), and 17.0333(c) TO ALLOW RELIGIOUS INSTITUTIONS AS CONDITIONAL USES IN THE 27TH STREET OVERLAY DISTRICT(S)

The Common Council of the City of Oak Creek does hereby ordain as follows:

SECTION 1: Section 17.0330(c) is amended to read as follows:

(10) Religious Institutions.

SECTION 2: Section 17.0331(c) is amended to read as follows:

(9) Religious Institutions.

SECTION 3: Section 17.0332(c) is amended to read as follows:

(10) Religious Institutions.

SECTION 4: Section 17.0333(c) is amended to read as follows:

(7) Religious Institutions.

SECTION 5: All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

SECTION 6: This ordinance shall take effect and be in force from and after its passage and publication.

Introduced this 3<sup>rd</sup> day of April, 2017.

Passed and adopted this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
President, Common Council

Approved this \_\_\_\_ day of \_\_\_\_\_, 2017.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

VOTE: Ayes\_\_ Noes \_\_\_\_\_



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

**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.

ATTEST:

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

3/08/2017

\_\_\_\_\_  
Date

# Zoning for Religious Institutions

by Eric Damian Kelly, Esq., FAICP

Many communities have long allowed “churches” in most or all zoning districts. Such an approach worked well when many people walked to services and when many religious institutions were built to accommodate residents of a neighborhood, not those of a whole community.

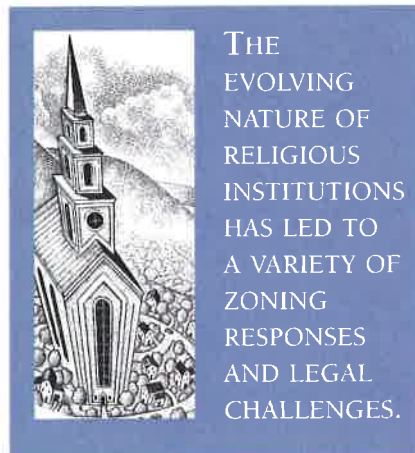
Today, a reference to “churches” is not adequate to conform with the U.S. Constitution. Moreover, there are a number of religious institutions that bear little resemblance to the typical “neighborhood church.” With facilities that can seat 2,000 or 3,000 people and include bookstores, coffee shops, movie theaters, gymnasias, and broadcasting facilities, a number of communities have prohibited religious institutions in some zoning districts and/or have imposed new restrictions on them.

The evolving nature of religious institutions has also led to a variety of zoning responses and legal challenges, including:

- limitations on the expansion or remodeling of religious institutions under local historic preservation ordinances.<sup>1</sup>
- prohibitions against the use of houses of worship for such social service activities as soup kitchens and temporary sleeping space for the homeless.<sup>2</sup>
- limitations on such religious practices as animal sacrifices<sup>3</sup> or the activities of a particular religious facility because of cultural and language differences between members of the group and the dominant population in the community.<sup>4</sup>

## THE LAW

Religious freedom is, of course, one of the core values on which the United States was founded. The first words of the First Amendment to the Constitution read: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof ...”



THE EVOLVING NATURE OF RELIGIOUS INSTITUTIONS HAS LED TO A VARIETY OF ZONING RESPONSES AND LEGAL CHALLENGES.

Those words also limit states and local governments, through the effect of the Fourteenth Amendment in extending the basic freedoms of the Bill of Rights to address all government action. It has long been clear that the First Amendment prohibits a local government from granting a preference to one religion over another. The “free exercise” clause has also consistently been interpreted to provide relatively broad protection for the establishment of facilities in which to worship.

Beginning in the 1980s, however, a series of (largely unrelated) federal court decisions upheld local zoning regulations that excluded churches and other religious institutions from one or more zoning districts in particular communities. Reacting in part to those decisions and in particular to a peripherally related decision of the U.S. Supreme Court, Congress intervened in the field. Its first attempt, the Religious Freedom Restoration Act, was struck down by the Supreme Court as unconstitutional.<sup>5</sup>

Congress subsequently adopted the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. 2000cc. To date, all courts that have considered the constitutionality of RLUIPA have upheld it.

There are two relevant parts of the law. The first part establishes a very heavy burden of proof for a “substantial burden” imposed on the practice of religion by requiring that such a burden be justified by a “compelling governmental interest.” Part of the definition of “substantial burden,” however, specifies that the “substantial burden” test applies only to a land-use regulation “under which a government makes, or has in place formal or informal procedures or practices that permit the government to make, individualized assessments of the proposed uses for the property involved.”

The second part of RLUIPA contains provisions prohibiting governments from discriminating in their land use

1 *City of Boerne, Petitioner v. P.F. Flores, Archbishop of San Antonio, and United States*, 521 U.S. 507, 117 S. Ct. 2157, 138 L. Ed. 2d 624 (1997). The Supreme Court held the Religious Freedom Restoration Act (RFRA) unconstitutional and upheld the city's denial (under its historic preservation ordinance) of a church's plans for expansion. Congress then replaced RFRA with RLUIPA, as discussed in this article.

2 *Stuart Circle Parish v. Board of Zoning*

*Appeals of the City of Richmond*, 946 F. Supp. 1225 (E.D. Va. 1996). The court granted an injunction against the zoning board, thus allowing the church to expand a meal program for the homeless beyond what was apparently allowed by the zoning ordinance.

3 *Church of the Lukumi Babalu Aye, Inc., v. City of Hialeah*, 508 U.S. 520, 113 S. Ct. 2217, 124 L. Ed. 2d 472 (1993). The Court found that an ordinance prohibit-

ing animal sacrifices was targeted at the Santeria religious group and struck it down as unconstitutional. This was a complex decision dealing with a complex subject, and it is difficult to draw major conclusions from the holding.

4 *Ira Iglesia de la Biblia Abierta v. City of Chicago and Banks*, 949 F. Supp. 637 (N.D. Ill. 1996), reversed 129 F.3d 899 (3rd Cir. 1997), reh'g denied. Here the City of Chicago, led by a district alder-

man, changed the zoning ordinance to prohibit the use of specific property for religious purposes after the church had acquired it. The zoning was ultimately upheld, after much litigation. For later proceedings, see *C.L.U.B. v. City of Chicago*, 2001 U.S. Dist. LEXIS 17213 (N.D. Ill. Oct. 17, 2001), *motions denied*, at 2001 U.S. Dist. LEXIS 17213 (N.D. Ill. Oct. 17, 2001).

5 *City of Boerne* (see footnote 1).

regulations against religious institutions. The law's non-discrimination provisions read (in full):

"(b) Discrimination and Exclusion. (1) Equal terms. No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution. (2) Nondiscrimination. No government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination. (3) Exclusions and limits. No government shall impose or implement a land use regulation that – (A) totally excludes religious assemblies from a jurisdiction; or (B) unreasonably limits religious assemblies, institutions, or structures within a jurisdiction."

## IMPLICATIONS AND RECOMMENDATIONS

### 1. Basic Terminology

"Church" is a term generally applied to institutions of the Christian religion. Thus, a provision in an ordinance allowing churches but not allowing other types of religious institutions on its face could be construed to violate both the First Amendment and the non-discrimination provisions of RLUIPA.

As a practical matter, most zoning administrators seem to have allowed mosques, temples, and other institutions in the same locations where churches are allowed. Some local governments have adopted new definitions of "church" that include other types of religious institutions.

The safer course is to use a phrase like "house of worship," "place of worship," or "religious institution," and to define it as follows: "Any building used for non-profit purposes by an established religious organization holding either tax exempt status under Section 501(c)(3) of the Internal Revenue Code or under the state property tax law, where such building is primarily intended to be used as a place of worship. The term includes, but is not necessarily limited to, church, temple, synagogue, and mosque."

### 2. Excluding Religious Institutions from Zoning Districts in General

As the case law under RLUIPA is evolving, it is clear that a local government can exclude religious institutions from some zoning districts, but not from the entire community. In regulating uses that have Constitutional protection, it is always wise to document the governmental interest involved in a particular regulation, even if that governmental interest does not rise to the level of "compelling."

Thus, one can imagine excluding religious institutions from:

- an industrial park zone (to protect the availability of land for uses that will build the economic base),
- an exclusive agricultural zone (to protect farming and limit sprawl),
- a densely populated residential area with narrow streets (to prevent parking and congestion problems), or
- a downtown district (to prevent storefront churches that are used only a day or two a week from creating large dead spaces along major downtown sidewalks).

It seems more difficult to make the case to exclude religious institutions from multi-family residential districts and from most commercial districts, although a few communities have done so.

### 3. Distinctions Based on a Religious Institution's Size

Some local governments may want to recognize the land-use differences between the traditional neighborhood place of worship and some of today's mega-institutions by continuing to allow only the smaller, more neighborhood-scale institutions in residential districts. There are three different ways that a local government might make such a distinction without violating RLUIPA or the Constitution:

1. By distinguishing between the types of institutions based on the seating capacity of the principal worship space. Traditional neighborhood institutions seat between 100 and 250 people in that space; so institutions with seating capacity in that range could be allowed

*continued on next page*

## "Storefront" Religious Institutions

Some communities have dealt with concerns about "storefront" religious institutions. Start-up and other small congregations often seek under-used spaces that are available for relatively low rents; such spaces can range from vacant downtown retail buildings to closed supermarkets.

The reuse of closed supermarkets or "big box" stores as places of assembly typically causes few public concerns. Such facilities are usually found along arterial or collector roads with good access and lots of parking. Use of such a building for worship space one day and a couple of nights a week generally has less impact on the neighborhood than the former retail use.

Storefront facilities in downtown or other older retail areas, however, raise a different set of issues. Communities that adopt revitalization plans for such areas typically try to encourage a streetscape that is lively and interesting for pedestrians. If a religious institution takes over a 150-foot storefront and uses it only on Saturdays or Sundays and just one or two evenings a week, that storefront becomes a relatively long dead space along the sidewalk during the prime hours for downtown shopping, dining, and entertainment.

This concern can be addressed without violating RLUIPA's provisions against discrimination. Along a specific street corridor designated for redevelopment, a local government could legitimately prohibit any place of public assembly – including religious ones – from occupying more than 25 (or 30 or 35) feet of first-floor space fronting on the street.

Many small-town downtown theaters once had similar frontage on main streets, with only a lobby and a hallway fronting on the sidewalk, and the main part of the theater at the back of the building, tucked behind retail stores. Many fraternal organizations occupy the upper floors of downtown buildings, with only a main entrance sharing space with retail on the first floor. Those provide good models for integrating places of assembly into lively pedestrian streets.

continued from previous page

in all residential zoning districts, while taking a more restrictive approach to the larger ones.

2. By basing the distinction on the total floor area of buildings located on the site (probably excluding the residence of the principal worship leader).

3. By significantly limiting the accessory uses to a house of worship in less intensive residential districts (see separate discussion in Section 6).

An ordinance making distinctions like those suggested here should allow the larger institutions either in commercial and multi-family districts or where they have direct access to an arterial road, or direct access to a major collector, adjoining an arterial. Most of the modern mega-institutions recognize the marketing value of such locations and actively seek them out. It would be very unusual for a congregation to propose to build a major institution in a quiet residential neighborhood.

Conflicts sometimes arise, however, when an existing neighborhood religious institution grows, gradually buying and tearing down nearby homes to build new facilities. A local government that attempts to limit such growth may face a backlash from the institution's members, but allowing such an institution to grow without restraint can lead to significant neighborhood protests.

#### 4. Non-Discrimination Regulating Religious Institutions & "Places of Assembly"

In our work consulting with local governments, we often find commercial districts that allow theaters but do not allow places of worship. We also sometimes find residential zoning districts that allow community centers but do not allow places of worship. Theaters, arenas, auditoriums, community centers, civic centers, fraternal lodges, and many types of clubs fall under a general category of use considered "places of assembly."

Regardless of whether a local ordinance uses that phrase, the concept is familiar to the courts. A community with an ordinance that allows a theater, civic center, or fraternal lodge

in a location where it does not allow a house of worship is likely to face a major problem defending the limitation on religious institutions under the non-discrimination provisions of RLUIPA.

A New Jersey community, however, raised an interesting issue and succeeded in prohibiting religious institutions in a downtown district where it allowed theaters and nightclubs.<sup>6</sup> The City of Long Branch had adopted a redevelopment plan that called for making its downtown "Broadway corridor" an entertainment center. The concern was that if a religious institution were to locate within this corridor, it would trigger a state law limiting the issuance of liquor licenses

RISK-AVERSE LOCAL GOVERNMENTS SHOULD SIMPLY MAKE HOUSES OF WORSHIP USES BY RIGHT IN A REASONABLE NUMBER OF ZONING DISTRICTS.

within specified distances of churches and other religious institutions – in effect, undermining the city's goals in creating the district.

To avoid this outcome, the City prohibited religious institutions in the corridor district. The city persuaded a federal court of appeals that it was not discriminating between *similar types* of places of public assembly – it was allowing only those places of assembly that would not trigger the provision of state law limiting the issuance of liquor licenses.

This issue has not arisen frequently, and local governments should not assume that other courts will reach the same conclusion. There are, however, two important lessons that can be drawn from the court's *City of Long Branch* ruling. First, the city's decision was based on a carefully considered plan. Second, both the plan and the ordinance showed

<sup>6</sup> *Lighthouse Inst. for Evangelism, Inc. v. City of Long Branch*, 510 F.3d 253 (3d Cir. N.J. 2007)

the rationale for the city's unique treatment of houses of worship under the ordinance. Any local government considering such an unusual distinction should include in the ordinance clear statements of purpose, ideally with references back to a planning or policy document.

#### 5. Regulating Religious Institutions as Special or Conditional Uses

The "substantial burden" test of RLUIPA expressly applies to local regulations that involve an "individualized assessment." A requirement that a religious use obtain a special use permit, conditional use approval, or special exception is clearly an "individualized assessment." Thus, risk-averse local governments should simply make houses of worship uses by right in a reasonable number of zoning districts. A local government that fails to do so will find its ordinance tested under the "compelling governmental interest" test imposed by the "substantial burden" clause of the act.

It would seem to be a fair reading of the law that if a local government does allow such uses by right in a number of districts, it could allow them as uses by review (special uses) in one or more other districts – particularly if there are clear guidelines for when the special use will be approved.

#### 6. Accessory Uses & Religious Institutions

Religious institutions in all zoning districts should certainly be allowed to include such traditional accessory uses as: reasonable signage; housing for a principal worship leader; classrooms for accessory religious education; and a separate assembly hall for social and educational gatherings. But local governments may want to consider limitations on other types of accessory uses in certain residential zoning districts.

For example, some religious institutions today run fleets of buses, and both store and repair the buses at the main worship centers. Large religious institutions may also include bookstores, gyms, movie theaters, and recreational and activity centers. The full range of such

uses are certainly appropriate at religious institutions located in business zoning districts, but because of their traffic, noise, or other impacts, may not fit with single-family and, possibly, some other residential districts.

As a result, accessory uses that local governments might want to prohibit in some residential districts might include: storage of more than one or two buses; bus maintenance and repair; bookstores; coffee shops; digital electronic signs; broadcasting studios; television and radio broadcast towers; movie theaters; gymnasiums; and bowling alleys or other kinds of recreation facilities typically offered by commercial establishments.

Accessory uses that ought to be considered carefully are soup kitchens and homeless shelters. Many religious institutions have a theological commitment to helping others, and some want to do it on their home turf. Although neighbors are unlikely to object to a church or synagogue opening its doors to the homeless on the very coldest nights of the year or offering an occasional food give-away or dinner, establishing permanent facilities that attract large numbers of those in need day after day and week after week is likely to lead to conflicts, particularly in exclusively residential areas.

The law on limiting accessory uses at religious institutions is not entirely settled, but at this time it appears that two rules would explain many of the decisions:

First, if the local ordinance says nothing about accessory uses, a court is likely to accept an argument from a religious institution that any sort of accessory use is a part of its normal pattern of worship and thus should be allowed.

Second, if, on the other hand, the local ordinance clearly allows religious institutions with only limited accessory uses in some locations, while allowing those institutions with a full range of uses in others, the courts appear willing to enforce the ordinance as written.

Thus, any effort to update a zoning ordinance dealing with religious institutions should include a serious discussion of what accessory uses are appropriate

and acceptable for them – in each zoning district. The fleet of buses and maintenance garage will hardly be noticed in a highway-oriented business district, but may lead to many complaints in a single-family residential district.

### 7. Parking, Landscaping, and Signs

Remember that the “substantial burden” rule under RLUIPA imposes the “compelling governmental interest” test only on local regulations that involve an “individualized assessment.” The corollary of that principle is that laws of general applicability will not be considered substantial burdens.

Requirements for off-street parking, landscaping, buffering, site lighting, and other amenities are, in almost all communities, rules of general applicability. Limitations on flashing signs and on building heights are also rules of general application and thus are not subject to the “substantial burden” test.

There has been some litigation over the theological significance of steeples and similar vertical extensions of religious buildings. The law is not clear on that, but some zoning ordinances allow a religious institution to exceed height limits otherwise applicable to the zoning district with “non-habitable” space or something similar.

The fact that it is probably both lawful and Constitutional to impose a full-range of site development restrictions on religious institutions does not necessarily mean that it is appropriate to do so, however.

For a small, neighborhood institution with no significant accessory uses, it may make more sense to allow most people to park on the streets than to add an acre or two of paved parking to the neighborhood. Where off-street parking is necessary, a community should consider requiring that only a portion of it be paved, allowing people to park on grass or other porous surfaces during the four or five busiest hours a week.

Most residential districts include significant restrictions on signs. Those rules make perfect sense for residences, but it is unreasonable to expect a church or school to operate without

signs. The ordinance, however, should not provide for “church” signs – it should provide for “accessory signs at institutional uses permitted in residential districts.”

Many local ordinances have some sort of provision for at least one freestanding sign, but they often miss other important issues. For example, if a religious institution or school does not have some changeable copy space on its sign, it will probably make extensive use of banners and temporary signs to promote vacation religious schools, pot luck dinners, and other events; and religious institutions need wall signs, as well as freestanding signs, to provide information on worship schedules and contact information.

### SUMMING UP:

Churches, synagogues, temples, and mosques are all subject to reasonable local zoning regulations. A community updating its regulations or facing a potential controversy over such an institution, however, should check its ordinance to be sure that:

- the ordinance on its face and local practice treat religious institutions in the same way, regardless of denomination or name of the building,
- houses of worship are allowed in all zoning districts that allow other places of assembly, unless there are very unusual and well-documented circumstances justifying a particular distinction,
- religious institutions are allowed in many districts by right and do not require special use permits or other discretionary reviews, and
- site development requirements – which are generally enforceable against religious institutions – are reasonable and practical for those institutions. ♦

*Eric Damian Kelly, Ph.D., FAICP, a lawyer and planner, is a professor of urban planning at Ball State University and vice president of Duncan Associates, a consulting firm. He is a past president of the American Planning Association and General Editor of Matthew Bender's 10-volume Zoning and Land Use Controls.*



OFFICIAL NOTICE

**NOTICE OF PUBLIC HEARING  
BEFORE THE OAK CREEK COMMON COUNCIL**

**PURPOSE:** The purpose of this public hearing is to consider proposed amendments to Sec. 17.0329(c)(2)(c)(1) and Sec. 17.0329(c)(2)(c)(2), allowing the Plan Commission to grant a modification of standards for buildings in the 27th Street Overlay Districts.

**Hearing Date:** Monday, April 3, 2017  
**Time:** 7:00 p.m.  
**Place:** Oak Creek City Hall  
8040 South 6<sup>th</sup> Street  
Oak Creek, WI 53154  
Common Council Chambers

**Proposal:** The proposed Code Amendments for Sec. 17.0329(c)(2)(c)(1) and Sec. 17.0329(c)(2)(c)(2) would allow the Plan Commission to grant a modification of standards for buildings in the 27th Street Overlay Districts. The proposed amendment in each section would read:

Modification of Standards

The Plan Commission may modify any of the above building design standards by a ¾ 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.

Any person(s) with questions regarding the proposed changes may contact the City of Oak Creek at (414) 766-7000, during regular business hours (7:30 a.m. – 4:00 p.m.).

Date of Notice: March 2, 2017

CITY OF OAK CREEK COMMON COUNCIL

By: Stephen Scaffidi, Mayor

**PUBLIC NOTICE**

PLEASE NOTE: Upon reasonable notice, a good faith effort will be made to accommodate the needs of disabled individuals through sign language interpreters or other auxiliary aid at no cost to the individual to participate in public meetings. Due to the difficulty in finding interpreters, requests should be made as far in advance as possible, preferable a minimum of 48 hours. For additional information or to request this service, contact the Oak Creek City Clerk at 766-7000, or by writing to the ADA Coordinator at the Health Department, City Hall, 8040 South 6<sup>th</sup> Street, Oak Creek, Wisconsin 53154.

# City of Oak Creek Common Council Report

**Meeting Date:** April 3, 2017

**Item No.:** 8

**Recommendation:** That the Council adopts Ordinance No. 2846, amending Sections 17.0329(c)(2)(c)(1) and 17.0329(c)(2)(c)(2) and creating Sections 17.0329(c)(2)(c)(1)(f) and 17.0329(c)(2)(c)(2)(e) to allow the Plan Commission to grant a modification of standards for buildings in the 27<sup>th</sup> Street Overlay Districts.

**Background:** At the January 10, 2017 meeting, the Plan Commission discussed the current building design standards of the 27<sup>th</sup> Street Overlay zoning districts, and how, potentially, to allow the Plan Commission greater flexibility in their review of site and building plans within those overlay districts. The minutes of that discussion are attached as part of this staff report.

The Commission requested that staff pursue changes to the Overlay Districts that would allow the Commission, by a  $\frac{3}{4}$  vote, to modify standards provided that supplemental design elements or improvements are incorporated into the project over and above that which would otherwise be required. Essentially, the standards would not be waived, but could potentially be modified provided that there are other improvements to compensate for that modification.

The overlay district includes different building design standards for buildings in excess of 20,000 square feet, hence the need to create the modification language in two different sections.

**Fiscal Impact:** Although there is no direct fiscal impact, the amended language in the Overlay Districts will allow the Plan Commission the authority to make case-by-case modifications, with supplemental and complementary improvements, in development proposals. This has the potential to affect certain forthcoming development proposals on lots that have been undeveloped for many years. Such developments would have positive fiscal impacts in terms of tax base and impact fees.

Prepared by:



Doug Seymour, AICP  
Director of Community Development

Respectfully submitted,



Andrew Vickers, MPA  
City Administrator

Fiscal Review by:



Bridget M. Souffrant, CMTW  
Finance Director/Comptroller

ORDINANCE NO. 2846

BY: \_\_\_\_\_

AN ORDINANCE TO AMEND SECTION 17.0329(c)(2)(c)(1) AND SECTION 17.0329(c)(2)(c)(2) ALLOWING THE PLAN COMMISSION TO GRANT A MODIFICATION OF STANDARDS FOR BUILDINGS IN THE 27TH STREET OVERLAY DISTRICTS

The Common Council of the City of Oak Creek does hereby ordain as follows:

SECTION 1: Sections 17.0329(c)(2)(c)(1)(f) and 17.0329(c)(2)(c)(2)(e) are created to read as follows:

Modification of Standards

The Plan Commission may modify any of the above building design standards by a 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.

SECTION 2: All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

SECTION 3: This ordinance shall take effect and be in force from and after its passage and publication.

Introduced this 3<sup>rd</sup> day of April, 2017.

Passed and adopted this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
President, Common Council

Approved this \_\_\_\_ day of \_\_\_\_\_, 2017.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

VOTE: Ayes \_\_\_\_\_ Noes \_\_\_\_\_



MINUTES OF THE  
OAK CREEK PLAN COMMISSION MEETING  
TUESDAY, JANUARY 10, 2017

**PLAN COMMISSION DISCUSSION  
27<sup>TH</sup> STREET OVERLAY DISTRICT**

City Planner Papelbon stated that this discussion affects all of 27<sup>th</sup> Street. There are several overlay districts that affect portions of 27<sup>th</sup> Street. Those were adopted as part of the 27<sup>th</sup> Street Corridor Plan that was a joint effort with the City of Franklin done in 2005. They established certain standards and criteria for those properties along 27<sup>th</sup> Street.

There are four specific districts and general overlay standards – RRO, UVO, NO and OO. They establish overlay districts on top of the underlying zoning districts. They have their own permitted accessory and conditional use allowances, as well as minimum requirements for setback, building heights and those kinds of things. Everything on 27<sup>th</sup> Street in the overlay district has to abide by the general standards, and fall into the specific overlay district in one of these subsections. The City has received several requests for development along 27<sup>th</sup> Street on a couple of parcels. There are some challenges to these proposals having to do with uses that are allowed in the overlay or not the underlying zoning, so there is an inconsistency issue there. There are some building and site standards that don't match what is being proposed. In other words, the overlay district standards are very specific and don't allow any kind of modifications to those standards. It does not allow the Plan Commission the ability to grant waivers to those standards or modifications.

There are some options with these overlay districts and possibly amending them.

- 1) Amend the district allowed uses and standards;
- 2) Amend the district boundaries. That would have some implications for each of the districts themselves; or
- 3) Removing the district boundaries in whole or part (staff is not recommending this option).

Staff would like to bring before the Plan Commission Option 1, amending the standards themselves. The City of Franklin has district language that Oak Creek does not have. They allow Plan Commission modifications with certain requirements. The other part to consider is amending the district allowing certain uses. One of the particular uses is an institutional (religious) use. That proposal is in an underlying zoning district identified for business use. The overlay district is also a retail district. A church use has not been identified as one of the allowable uses in that overlay district. Even if the underlying zoning were amended for that parcel, the overlay district would prohibit the use in that district.

Other considerations include specific building and site standards. The easiest thing that made the most sense was to try and align Oak Creek's standards with Franklin's. When comparing the two, there seems to be a lot that overlaps, but differences are due to the way Franklin's Code is organized - they have what is called a "unified development ordinance."

City Planner Papelbon stated that staff's recommendation would be to incorporate at least one of the sections that Franklin has. For example, page 3-96, Subsection C (2) includes a Waiver of Standards for non-residential buildings greater than 20,000 square feet. It states: *The Plan Commission may waive any of the following standards by a ¾ vote of members in attendance, but only if supplement design elements or improvements are incorporated into the project (over*

*and above those which are otherwise required) which compensate for the waiver of the particular standard. In support of the waiver 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 waiver is requested.* This is similar to Oak Creek's modification language, but it is specific to the overlay districts.

Commissioner Correll stated that based on the other development areas - the lakefront, Drexel Town Square - 27<sup>th</sup> Street overlay district modifications are needed.

Commissioner Dickmann stated that on Page 3-84, Section 4, of the Franklin ordinance it says, allow *"the Plan Commission to waive any of the South 27<sup>th</sup> Street Standards by 5 votes of all the members of the Plan Commission,"* whereas the section just referenced states  $\frac{3}{4}$  of the members in attendance. City Planner Papelbon responded that that is where the Franklin Code differs because they have this modification in their general standards. They had another modification under the buildings 20,000 square feet and above. City Planner Papelbon stated that her recommendation would be to have one modification standard language for basically any of the modifications that would be included.

Commissioner Chandler asked what the difference was between the two options. City Planner Papelbon responded that Option 1 is where staff believes the City should be going. Oak Creek should be looking at allowing another use to be added into the permitted or conditional use category for these district, and amending the standards to incorporate similar language to Franklin's ordinance. Amending the district boundaries is tricky, and City Planner Papelbon stated that she would not necessarily recommend doing it because then there are considerations of where that district boundary ends and begins. Those distinctions have already been made, and the overlay districts have been established since 2005. City Planner Papelbon stated her recommendation would be to not amend the boundary, but amend the regulations.

Commissioner Correll stated that Option 1, which he is in favor of, allows some modifications; whereas right now, there are no options for the other uses. City Planner Papelbon responded that when uses are brought up, they will be considered for inclusion on a case-by-case basis.

Alderman Guzikowski stated that if the City can take a look at this for a better opportunity, overall use or however it's going to be, he agrees that the City should look at Option 1.

Commissioner Dickmann asked will both Franklin and Oak Creek will bring different proposals to the discussion. City Planner Papelbon responded that she and Community Development Director Doug Seymour had an initial discussion with two representatives from the City of Franklin. Staff got an idea of how they were applying the 27<sup>th</sup> Street overlay district standards. Franklin has just one district for all of 27<sup>th</sup> Street. Oak Creek has four, plus the general overlay district. Franklin has also amended their district. Staff was trying to determine how Oak Creek could bring our standards more in line with theirs, addressing some of these issues, and also seeing how they went through the process to change their Code. Franklin was receptive to what staff was proposing. Staff did mention specifically that one of the requests received was for a church on 27<sup>th</sup> Street. Franklin did not really have much of an opinion one way or the other on including churches in the overlay district.

Commissioner Bukiewicz stated that it would be healthy to get back in contact with Franklin to make sure both communities are using the same standards and still going in the same direction. City Planner Papelbon stated that both communities adopted the 27<sup>th</sup> Street Corridor Plan and everyone is still moving forward with that. It is just the regulations that were adopted in compliance with that plan are a little bit different. Franklin's Unified Development Ordinance combines all regulations into one Code, so they don't have standards under each district like Oak Creek does.

Commissioner Bukiewicz stated that the plan was laid out. Oak Creek is a little bit more complicated. We do have different districts. Nobody could foresee some of the uses coming, particularly when existing businesses sit within that overlay and then change. Oak Creek has been able to change and adapt. It has been successful in the past and it can be in the future. Commissioner Bukiewicz stated that staff is going down the right path and has the right suggestions. Commissioner Bukiewicz stated he does not believe in removing the district boundaries or to amend them. Commissioner Bukiewicz wants to see the City having the most leeway to be able to make changes on a case-by-case basis.

Doug Seymour, Director of Community Development, stated that the road (27<sup>th</sup> Street) has taken quite a bit longer to complete than anticipated. They (WisDOT) will finish up next spring with some of the streetscape elements that were part of the 27<sup>th</sup> Street Corridor Plan. This was a contributing factor toward the lack of activity along the corridor, along with the economics, which have changed over the last decade. There have been opportunities for the City to focus elsewhere. Mr. Seymour stated that getting back to 27<sup>th</sup> Street is a good idea and there is a lot of potential there. There is still a really unique opportunity to shape that corridor, and using many of the same concepts in the corridor plan and streetscape plan in working with the City of Franklin.

Mr. Seymour stated that one of the "silver linings" of the slowdown due to the economic factor was that it allowed Oak Creek to hold those properties back until the market was ready for them. Now that the City has some developments like IKEA and Drexel Town Square, like NML and Wheaton on the Franklin side, there is the ability to move forward with maintaining those high standards. They are not the same standards as those back in 2005. He thinks a lot of things looked at in 2005 were very well thought out, but ignoring some market realities, particularly in terms of the amount of office space that was thought would be along that corridor.

Commissioner Bukiewicz thanked the Planning Department for putting this together in a form that the Plan Commission members could really understand (because the original plan is so large), and giving the members clear options so that this discussion could take place. He stated that a lot of work went into that. Mr. Seymour stated that City Planner Papelbon did a good job.

ATTEST:

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

1/24/2017

\_\_\_\_\_  
Date

OFFICIAL NOTICE

**NOTICE OF PUBLIC HEARING  
BEFORE THE OAK CREEK COMMON COUNCIL**

**PURPOSE:** The purpose of this public hearing is to consider a proposed amendment to Chapter 17, Section 17.03170 of the Municipal Code which would create the LM-1, Light Manufacturing Zoning District. Please note that the existing Section 17.0317 will be renumbered to Section 17.03171 (no other changes).

**Hearing Date:** Monday, April 3, 2017  
**Time:** 7:00 p.m.  
**Place:** Oak Creek City Hall  
8040 South 6<sup>th</sup> Street  
Oak Creek, WI 53154  
Common Council Chambers

**Proposal:** The proposed amendment would amend Section 17.0317 of the Municipal Code to create a new zoning district classification entitled LM-1, Light Manufacturing. If approved, the LM-1, Light Manufacturing district will be Section 17.03170, and the existing Section 17.0317 (M-1, Manufacturing) will be renumbered to Section 17.03171.

The LM-1, Light Manufacturing District is intended to provide for a mix of low-impact (of a limited nature and size) manufacturing, industrial, wholesaling, limited warehousing, research and development, engineering and testing, and related service facilities and uses which occur within enclosed buildings, and which will not have an adverse effect upon the district in which the use is located.

The entire text of the proposed LM-1, Light Manufacturing District is available for review upon request. Any person(s) with questions regarding the proposed change may contact the City of Oak Creek at (414) 766-7000, during regular business hours (7:30 a.m. – 4:00 p.m.).

Date of Notice: March 2, 2017

CITY OF OAK CREEK COMMON COUNCIL

By: Stephen Scaffidi, Mayor

**PUBLIC NOTICE**

PLEASE NOTE: Upon reasonable notice, a good faith effort will be made to accommodate the needs of disabled individuals through sign language interpreters or other auxiliary aid at no cost to the individual to participate in public meetings. Due to the difficulty in finding interpreters, requests should be made as far in advance as possible, preferable a minimum of 48 hours. For additional information or to request this service, contact the Oak Creek City Clerk at 766-7000, or by writing to the ADA Coordinator at the Health Department, City Hall, 8040 South 6<sup>th</sup> Street, Oak Creek, Wisconsin 53154.

# City of Oak Creek Common Council Report

**Meeting Date:** April 3, 2017

**Item No.:** 10

**Recommendation:** That the Common Council adopts Ordinance No. 2848 creating Section 17.03170 of the Municipal Code to create a new LM-1, Light Manufacturing zoning district. (Note: Current Section 17.0317 will be renumbered to Section 17.03171).

**Background:** In November of 2016, a request for amending the B-4, Highway Business zoning district to allow self-storage facilities as Conditional Uses was reviewed by the Plan Commission. Staff presented analysis of the current Zoning Code (existing districts and their allowed uses and locations), a comparison to those of nearby municipalities, and an examination of how such a change would be consistent or not consistent with the Comprehensive Plan. Based on this analysis, and in consideration of the lack of Commission support to potentially amending the B-4 district during discussions of the Comprehensive Plan Amendment for the properties at College and Howell Avenues, staff recommended that the Commission not recommend amending the B-4 district. Rather, staff recommended that the Commission direct staff to research the potential for creating a new commercial or manufacturing zoning district.

Staff is presenting a new Manufacturing district: the LM-1, Light Manufacturing District. Drawing upon the recommendation within the Comprehensive Plan that Oak Creek “should consider creating a separate Business Park zoning district to accommodate a controlled range of uses compatible with the recommendations of this planning report,” staff determined that a category between the commercial B-4 district and the industrial M-1 district would be most appropriately served by the bridge Light Manufacturing district. As can be inferred from the suggested purpose statement, this new district can accommodate research and non-industrial business parks, limited commercial or office space, and small-scale production facilities.

With the creation of a new district, staff included some definitions for potential new users/uses that may be unfamiliar. Council will also note that a strict definition has been suggested for self-service storage/mini-warehouse. This is intended to accommodate small-scale facilities on a case-by-case basis via the Conditional Use process. Any self-storage facility that does not meet the definition and standards in this district would be directed to the M-1, Manufacturing district. Should additional clarifications be needed, staff is more than willing to expand the definitions section.

A list of suggested permitted and conditional uses are included in the LM-1 district. Some categories were derived from the M-1 district and grouped where similarities occurred. However, it is specified that “assembly, production, or manufacture” of the items under the Permitted Uses category must be “from previously prepared materials and packaging.”

This distinguishes, for example, assembling components of a book from manufacturing the paper. As with self-storage facilities, anything that does not meet the strict definition in the LM-1 district would be directed to the M-1 district.

Except where specified, the existing Code requirements for loading, parking, site plan and architectural review, landscaping, and buffer yards apply to all uses in the LM-1 district as proposed.

**Fiscal Impact:** The creation of the LM-1, Light Manufacturing district would allow for a new land-use category that has the potential to more appropriately site specific developments that are not consistent with or complementary to the allowed uses in existing districts. Implementation of the Comprehensive Plan, which recommends creating such a district, would potentially result in positive tax base and impact fees for the City.

Prepared by:



Doug Seymour, AICP  
Director of Community Development

Respectfully Submitted,



Andrew Vickers, MPA  
City Administrator

Fiscal Review by:



Bridget M. Souffrant  
Finance Director/Comptroller

ORDINANCE NO. 2848

BY: \_\_\_\_\_

AN ORDINANCE TO CREATE SECTION 17.03170 OF THE MUNICIPAL CODE  
WHICH WOULD CREATE THE  
LM-1, LIMITED MANUFACTURING ZONING DISTRICT

The Common Council of the City of Oak Creek does hereby ordain as follows:

SECTION 1: Section 17.03170 of the Municipal Code is created to read as follows:

SEC. 17.03170: LM-1, LIGHT MANUFACTURING RETAIL DISTRICT – The LM-1, Light Manufacturing District is intended to provide for a mix of low-impact (of a limited nature and size) manufacturing, industrial, wholesaling, limited warehousing, research and development, engineering and testing, and related service facilities and uses which occur within enclosed buildings, and which will not have an adverse effect upon the district in which the use is located.

(a) Definitions:

- (1) Business Accelerator. Organizations that provide cohorts of selected nascent ventures seed-investment, usually in exchange for equity, and limited-duration educational programming, including extensive mentorship and structured educational components. These programs typically culminate in “demo days” where the ventures make pitches to an audience of qualified investors (International Economic Development Council. Accelerating Success: Strategies to Support Growth-Oriented Companies (pdf). 2012, pg. 11.)
- (2) Business Incubator. A mechanism used to encourage and support young companies until they become viable. These are typically multitenant buildings developed by local economic development entities to help “grow” new businesses by providing them with inexpensive space and common business services (International Economic Development Council).
- (3) Incubator (alternate definition). A space, building, or facility dedicated for providing technical, financial, managerial, technological, legal, and other support or assistance to start-up and/or growing businesses.
- (4) Light Manufacturing. The manufacturing, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing and custom manufacturing, provided all manufacturing activities are contained entirely within a building and noise, odor, smoke, heat, glare, and vibration resulting from the manufacturing activity are confined entirely within the building.
- (5) Self-Service Storage / Mini-Warehouse. A facility consisting of a building or a group of buildings where individual units are leased or rented to the general public for dead storage. The use of the premises shall be limited to storage only, and shall not be used for any auction (except where required by law), sales (except as provided below), or any other commercial or industrial activity; for the assembly, fabrication, processing, servicing, or

repair of any vehicle, boat, trailer, appliance, or similar item; for practice (music) rooms, meeting rooms, residential purposes, or kennels; or for the operation of power tools, compressors, kilns, spray painting equipment, table saws, lathes, welding equipment, or other similar equipment. Limited sales to tenants of products and supplies incidental to the principal use (e.g., packing materials, identification labels, rope, locks, tape, etc.) may be allowed within the retail/leasing office as approved by the Plan Commission. The storage of combustible or flammable liquids, combustible or explosive materials, salvage or toxic/hazardous materials are expressly prohibited.

(b) Permitted uses

- (1) Assembly, production, or manufacture, from previously prepared materials & packaging, of the following:
  - a. Apparel, buttons, findings, fabrics, footwear, and related products.
  - b. Blank books, loose-leaf binders, binding devices, envelopes, greeting cards/stationery, packaging products.
  - c. Brooms and brushes.
  - d. Canvas, flags/pennants, and related products.
  - e. Communications equipment.
  - f. Dental, ophthalmic (including lenses), orthopedic, prosthetic, and surgical instruments/equipment and supplies.
  - g. Earthenware, table, and kitchen articles (excluding appliances or electrics).
  - h. Electric lighting and wiring equipment.
  - i. Engineering, laboratory, scientific, and research instruments and related equipment.
  - j. Furniture.
  - k. Garage doors.
  - l. Handbags and other personal leather goods (excluding hide processing and dyeing).
  - m. Jewelry.
  - n. Lamp shades, venetian blinds/shades, curtains, and draperies (excluding dyeing).
  - o. Luggage.
  - p. Measuring and control devices.
  - q. Musical instruments and parts.
  - r. Pens, pencils, and other office and artist materials.
  - s. Photographic equipment and supplies.



- t. Printing, publishing, silkscreening, signs, advertising display products.
  - u. Toys, amusement, sporting, and athletic goods.
  - v. Watches, clocks, clockwork operated devices and parts.
- (2) Establishment/location of:
- a. Laboratories (research and product development, engineering and testing).
  - b. Office (professional, administrative, computing).
  - c. Photography – studios and developing.
- (c) Permitted accessory uses:
- (1) Garages used for storage of vehicles used in conjunction with the operation of the business.
  - (2) Off-street parking and loading areas used in conjunction with the operation of the business.
  - (3) Solar collectors attached to and serving only the principal structure.
- (d) Conditional uses:
- (1) Animal hospitals and boarding kennels, provided that any outdoor animal facilities are located not less than 300 feet from a residential district.
  - (2) Breweries, distilleries, wineries that meet the following:
    - a. Maximum building size – 20,000 gross square feet.
    - b. Maximum retail / tasting area - 50% of building.
  - (3) Business parks (excluding manufacturing, distribution/freight/shipment terminals/depots/yards, and outdoor storage).
  - (4) Commercial bakery/food production (excluding animal processing).
  - (5) Commercial greenhouses.
  - (6) Commercial service facilities, such as restaurants, financial institutions, and clinics.
  - (7) Contractor's offices and shops without outdoor storage.
  - (8) Flavor extracts and syrups.
  - (9) Hotels and motels.
  - (10) Incubator or accelerator facilities.
  - (11) Indoor commercial recreation facilities.

- (12) Light manufacturing parks (excluding distribution/freight/shipment terminals/depots/yards, and outdoor storage).
- (13) Pharmaceutical processing.
- (14) Research/Science Parks.
- (15) Retail or wholesale operations.
- (16) Self-service storage facilities (mini-warehouses) that meet the following:
  - a. No outdoor storage, including, but not limited to vehicles, trailers, retail merchandise.
  - b. No units are used for
    - i. Assembly, fabrication, processing, servicing, or repair of any kind, including, but not limited to vehicles, boats, trailers, appliances, and items for sale.
    - ii. Service or sale of any kind, including, but not limited to auctions, retail sales, flea markets, or commercial or industrial activity.
    - iii. The establishment of a transfer and storage business.
    - iv. Practice or meeting spaces.
    - v. Residential or living spaces.
    - vi. Kennels or animal daycare/recreation facilities.
    - vii. Storage of combustible/flammable, explosive, salvage, or toxic/hazardous materials.
    - viii. The operation of power tools, compressors, kilns, spray painting equipment, table saws, lathes, welding equipment, or other similar equipment.
  - c. Limited sales to tenants of products and supplies incidental to the principal use (e.g., packing materials, identification labels, rope, locks, tape, etc.) may be allowed within the retail/leasing office as approved by the Plan Commission.
  - d. Except where approved as part of an overall redevelopment project for a parcel, no existing multitenant commercial/retail building shall be used for self-service storage (mini-warehouse) facilities.
  - e. Overhead/storage bay doors shall not face any abutting residential property / residential zoning district line. The Plan Commission may allow overhead/storage bay doors to face a public street or right-of-way as a modification ONLY:
    - i. If a  $\frac{3}{4}$  majority vote of those Commissioners present at a meeting approves of the orientation; AND
    - ii. If it is proven to the satisfaction of the Plan Commission that no practical alternative exists; AND
    - iii. if screening through vegetation, architectural walls, fencing, or a combination thereof is approved; AND

- iv. If supplemental design elements or improvements are incorporated into the project which compensate for the modification.
- f. All other applicable requirements as defined in the Municipal Code.
- (e) Lot area and width. Lots shall have a minimum area of 1 acre (43,560 square feet), and shall not be less than 150 feet in width. Lots shall provide sufficient area and width for the principal structure(s) and its accessory structures, off-street parking and loading areas, required setbacks and buffer yards, and minimum green/open space areas.
- (f) Building height and area:
  - (1) No principal building or parts of a principal building shall exceed fifty (50) feet in height. No accessory building shall exceed seventeen (17) feet in height, subject to regulations and permitting requirements under the jurisdiction of the Federal Aviation Administration and Milwaukee County.
  - (2) The sum total of the floor area on all floors of the principal building and all accessory buildings shall not exceed sixty (60) percent of the lot area.
- (g) Building setbacks and yards:
  - (1) There shall be a minimum front setback of thirty (30) feet from the right-of-way of all public streets.
  - (2) There shall be a side setback on each side of not less than fifteen (15) feet.
  - (3) There shall be a rear setback of not less than twenty-five (25) feet.
  - (4) Side and rear setbacks shall not be less than thirty (30) feet to a residential, institutional, or park district line, and subject to buffer requirements in Section 17.0205(d).
- (h) Loading. All provisions of Section 17.0402 of the Municipal Code are applicable to this subsection.
- (i) Parking. In addition to the provisions of Sections 17.0403 and 17.0404 of the Municipal Code, the following shall apply in the LM-1, Light Manufacturing District:
  - (1) Setbacks as established for the M-1, Manufacturing District shall apply.
  - (2) Buffers, landscape areas and screening for parking lots shall be approved by Plan Commission.
  - (3) Parking for self-service storage/mini-warehouse premises shall be in accordance with the following:
    - a. (1) space per employee;
    - b. (1) space per 1,000 gross square feet of retail/leasing office space;

c. (1) space for every 10 units for interior/controlled-access buildings. Units accessed via exterior overhead/roll-up doors may count one (1) space in front of each unit as a parking stall. All travel aisles and emergency access areas shall remain completely unobstructed at all times.

(4) The Plan Commission may modify these requirements in accordance with Section 17.0404.

(j) Site plan and architectural review. All provisions of Section 17.1009 of the Municipal Code are applicable to this subsection.

(k) Landscaping. All provisions of Sections 17.1010 and 17.0205 of the Municipal Code are applicable to this subsection.

SECTION 2: All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

SECTION 3: This ordinance shall take effect and be in force from and after its passage and publication.

Introduced this 3<sup>rd</sup> day of April, 2017.

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
President, Common Council

Approved this 21st day of March, 2017.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

VOTE: Ayes \_\_\_\_\_ Noes \_\_\_\_\_

MINUTES OF THE  
OAK CREEK PLAN COMMISSION MEETING  
TUESDAY, NOVEMBER 22, 2016

**ZONING TEXT AMENDMENT**

**SECTION 17.0315**

**ALLOW SELF-STORAGE AS CONDITIONAL USES IN B-4, HIGHWAY BUSINESS DISTRICT**

Planner Papelbon gave a presentation describing/showing surrounding communities' approach to allowing self-storage (see staff report for details). Staff's recommendation is that the Plan Commission NOT recommend to the Common Council that Municipal Code Section 17.0315 be amended to allow self-storage facilities as Conditional Uses in the B-4, Highway Business district. That the Plan Commission directs staff to research and present options for the creation of a new commercial or manufacturing zoning district.

Commissioner Bukiewicz stated that he would support staff's recommendation to research and present options for the creation of a new commercial or manufacturing zoning district.

Commissioner Dickmann asked if Mr. Gallacher had not requested this change, would the City be looking at creating this zoning. Ms. Papelbon responded that at this time it is likely that they would not, but that is not saying anything regarding the validity of the proposal. It is not something that staff had considered simply because they have been focused on other developments in the City.

Commissioner Dickmann asked why Mr. Gallacher is requesting this be done. Attorney Brian Randall, Friebert, Finerty & St. John, S.C., 330 E. Kilbourn Avenue, Milwaukee, spoke on behalf of Kelly Gallacher. He could not be in attendance at this meeting, but Mr. Gallacher met twice with Mr. Seymour on a potential site.

Mr. Randall stated that Mr. Gallacher is looking at a site in the City, but the zoning does not fit. With the type of product that he is interested in presenting something more in line with the commercial use retail presentation, not the "old school" approach of outdoor storage of cars/boats on gravel surfaces. Many of those sites are not appropriate for the manufacturing district. The broader approach, if that is to be appropriate, is the way to go about doing it. While they prefer B-4 as the best of the commercial categories where this might find a home, they do support the staff alternate recommendation to take a deeper look at this; maybe find a way that it could work in another category or set of criteria that could be applied.

Commissioner Siepert stated that he concurred with staff on not changing the B-4, Highway Business to allow self-storage facilities as a conditional use.

Commissioner Dickmann moved that the Plan Commission NOT recommend to the Common Council that Municipal Code Section 17.0315 be amended to allow self-storage facilities as Conditional Uses in the B-4, Highway Business district, and that the Plan Commission directs staff to research and present options for the creation of a new commercial or manufacturing zoning district.

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

ATTEST:



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

12/13/16

\_\_\_\_\_  
Date

# City of Oak Creek Common Council Report

Meeting Date: 04/03/2017

Item No.: 11

**Communication:** Attached please find the summarized Treasurer's Report for the City of Oak Creek investment and banking accounts, for the month ending February 28, 2017.

**Background:** I have created a monthly Treasurer's Report for the purpose of providing the City of Oak Creek Common Council and the public with the current condition of the City's treasury, to be presented at their first meeting of each month. This report summarizes the investment and banking accounts end of the month balances. It is not intended to infer available funds for general purpose spending since some funds are allocated for specific uses such as Tax Incremental Districts, large projects, distribution of tax collection to other underlying taxing jurisdictions etc.

This monthly report, along with an additional comprehensive report, was reviewed by the Finance Committee to assist with investment decisions and other financial strategies. The attached report is for the month ending February 28, 2017 as highlighted below:

<u>Investment/Banking:</u>	<u>Beginning Bal</u>	<u>Ending Bal</u>	<u>Interest Earned</u>	<u>Rate</u>
• Tri City Bank	\$11,278,367.01	\$ 5,430,583.27	\$ 5,732.22	0.68%
• DANA Investments	\$ 6,664,014.44	\$ 6,661,086.59	\$11,270.86	0.89%
• BMO Global	*\$ 4,825,741.43	\$ 4,833,950.23	\$ 7,428.34	1.47%
• American Deposit	\$21,767,175.94	\$11,773,989.33	\$ 7,563.39	0.58/50%
• LGIP	<u>\$15,500,997.45</u>	<u>\$11,807,444.85</u>	<u>\$ 6,447.40</u>	0.58%
• Total Treasury/Change	*\$60,036,296.27	\$40,507,054.27	\$38,442.21	(\$19,529,242.00)

**\*Correction to BMO and Total Treasury beginning balances**

Tax Collections:

• Collections at City Hall (Tax Acct 2)	\$ 869,100.59
• Collections At Bank/Lockbox	<u>\$ 777,550.47</u>
Total Tax Collections	\$1,646,651.06 2.2% of Tax Levied

**Please note that approximately \$16,000,000 was paid out to the other taxing jurisdictions in February for the tax collections received in January.**

**Fiscal Impact:** Presenting the monthly condition of the treasury at an open meeting of the Common Council will provide additional financial data to decision makers while enhancing transparency to the public.

Prepared by:



Barbara Guckenberger, CMTW  
City Treasurer

Respectfully submitted by:



Andrew J. Vickers, M.P.A.  
City Administrator

Fiscal Reviewed by:



Bridget M. Souffrant, CMTW  
Finance Director / Comptroller

City of Oak Creek								
Treasurer Report on Investment and Banking								
Name of Account	Beginning Balance	Additions	Subtractions	Account Ending Balance	Actual Interest Earned	Interest Rate	Percentage of Total Invested	
<b>Tri City National Bank</b>	<b>11,278,367.01</b>	<b>23,927,076.97</b>	<b>(29,774,860.71)</b>	<b>5,430,583.27</b>	<b>5,732.22</b>	<b>0.68%</b>	<b>13.41%</b>	
General Fund	4,000,784.51	21,808,545.32	(22,064,069.18)	3,745,260.65				
0	-	-						
Title 125	62,011.52		(33,364.95)	28,646.57				
Police Credit Card	63,959.97	29,788.50	(39,384.91)	54,363.56				
Parks & Rec Counter Credit Card	9,640.32	4,596.42	(2,166.57)	12,070.17				
Tax Payment Account #2	4,001,887.95	876,164.86	(3,607,064.27)	1,270,988.54				
Parks & Rec Online Credit Card	7,670.31	2,989.00	(2,231.15)	8,428.16				
Health Insurance	12,622.42	340,340.57	(346,048.83)	6,914.16				
Tax Payment Account	2,875,831.71	785,717.39	(3,608,166.92)	53,382.18				
EMS	243,958.30	78,934.91	(72,363.93)	250,529.28				
<b>DANA Investment Advisors</b>	<b>6,664,014.44</b>	<b>11,270.86</b>	<b>(14,198.71)</b>	<b>6,661,086.59</b>	<b>11,270.86</b>	<b>0.89%</b>	<b>16.44%</b>	
<b>BMO Global Asset Management</b>	<b>4,825,741.43</b>	<b>15,788.42</b>	<b>(7,579.62)</b>	<b>4,833,950.23</b>	<b>7,428.34</b>	<b>1.47%</b>	<b>11.93%</b>	
<b>American Deposit Management (ADM)</b>	<b>21,767,175.94</b>	<b>7,563.39</b>	<b>(10,000,750.00)</b>	<b>11,773,989.33</b>	<b>7,563.39</b>	<b>0.58%</b>	<b>29.07%</b>	
*ADM General Account Balance	16,708,104.20	5,312.70	(10,000,000.00)	6,713,416.90	5,312.70	0.50%		
<b>Local Government Investment Pool (LGIP)</b>	<b>15,500,997.45</b>	<b>6,447.40</b>	<b>(3,700,000.00)</b>	<b>11,807,444.85</b>	<b>6,447.40</b>	<b>0.58%</b>	<b>29.15%</b>	
*LGIP General Account Balance	8,665,877.25	3,409.13	(3,700,000.00)	4,969,286.38	3,409.13			
	-	-					0.00%	
<b>Total Balance</b>	<b>\$ 60,036,296.27</b>	<b>\$ 23,968,147.04</b>	<b>\$ (43,497,389.04)</b>	<b>\$ 40,507,054.27</b>	<b>\$ 38,442.21</b>			
*General Account Balance shown separately and is also part of the total account listed above; although it is used for cash flow purposes, a portion may be allocated for specific purposes and not available for general purpose spending;								
Excludes Police Forfeiture Account;								
Tri City Interest is an analyzed credited from previous month earnings;								
Additions and subtractions on investment accounts may include market adjustments for realized and unrealized gains(losses) or change in accrued income, as well as interest, management fees, deposits, transfers, returned payments or withdrawals								
Tax Collection Deposits								
<b>Tax Payment Account #2</b>								
City Deposit (Counter, Drop Box, Mail)				766,021.54				
Gov Tech								
Credit Card				103,079.05				
<b>Total Tax Payment Account #2</b>				<b>869,100.59</b>				
<b>Tax Payment Account</b>								
Tri City Payments (At Bank, Lockbox)				777,550.47				
<b>Total Tax Collection Deposits</b>				<b>1,646,651.06</b>		<b>2.2% of Total Tax Levied</b>		
Please note the City uses two bank accounts for tax collection; one for payments processed by the City (account #2) and the other for payments processed by our bank								
Prepared for Common Council; cc Finance Committee								
Barbara Guckenberger, CMTW								
City Treasurer								

# City of Oak Creek Common Council Report

**Meeting Date:** April 3, 2017

**Item No.:** 12

**Recommendation:** That the Council approve revisions to City of Oak Creek Hiring Policy as recommended by the Personnel Committee.

**Background:** It has become necessary to review the City of Oak Creek Hiring Policy (adopted June 4, 2013, attached). The elimination of the Civil Service Commission and the addition of a Human Resources Manager had provided us this opportunity. The Personnel Committee has reviewed and discussed existing policy and processes with city staff at its March 21, 2017 meeting and recommended the attached revisions to Common Council. The revised policy provides for a more consistent process to be used for internal and external candidates.

**Fiscal Impact:** No significant change in costs is expected if this policy is adopted.

Prepared by:



Becky Schermer, ABD  
Human Resources Manager

Respectfully Submitted by:



Andrew J. Vickers, M.P.A.  
City Administrator



# City of Oak Creek Hiring Policy

Approved by Common Council on June 4, 2013

## **CITY OF OAK CREEK HIRING PROCESS**

This process shall govern all hiring for employees of the City, except temporary and seasonal employees, Library employees, Utility employees, and Municipal Court employees, and employees hired under the rules of the Police and Fire Commission. The City Administrator, with the concurrence of the Personnel Committee, may waive any steps in this process when it is determined to be in the best interest of the City. Nothing in this policy creates a guarantee of employment.

1. When the Department Head determines that a vacancy or new position exists, the Department Head shall prepare a written request and submit it to the Personnel Committee for approval to fill the position.

2. The Department Head confers with the City Administrator and Personnel Specialist regarding the testing and interview process to be used. They will establish whether there will be a cut off for number of applications, where to advertise and for what period, whether a test will be administered, the testing instrument, the cut off score, the interview process, the interview panel, a timeline, and any other issues related to the process.

3. Internal Process

- Prepare job announcement.
- Announce position internally to allow current regular full time and part time employees who have worked for the City for at least six (6) months and who has held the same position for at least six (6) months to apply for the vacancy.
- Internal applications are screened for minimum qualifications by the Personnel Specialist.
- Qualified internal applicants are given a written test, if required for the position.
- All qualified applicants with a passing score on the written test will be interviewed by the interview panel, as determined when establishing the process.
- The Department Head may select a candidate for hire subject to approval by the City Administrator.

4. External Process

If no internal applicant is initially selected, the City shall advertise the position in an effort to broaden the applicant pool from which to select through an external hiring process.

- Prepare job advertisement and identify locations to advertise.
- Accept applications from external candidates.
- Screen applications for minimum qualifications.
- Qualified applicants are given a written test, if required for the position.
- Identify applicants for interviews.
- Interviews will be conducted by the interview panel.
- Civil Service Commission creates an eligibility list if there are acceptable candidates.
- The Department Head selects a candidate for hire, subject to medical exams, relevant background checks, record checks, education verification, employment verification, and reference checks.
- City Administrator approves the hiring.

# City of Oak Creek Hiring Policy

## CITY OF OAK CREEK HIRING PROCESS

This process shall govern all hiring for employees of the City, except temporary and seasonal employees, employees hired under the rules of the Police and Fire Commission, and individuals with a contract of employment. The City Administrator, with the concurrence of the Personnel Committee, may waive any steps in this process when it is determined to be in the best interest of the City. Nothing in this policy creates a guarantee of employment.

1. When the Department Manager determines that a vacancy or new position exists, the Department Manager shall prepare a written request and submit it to the Human Resources Manager and City Administrator. The City Administrator shall make a recommendation of the need to fill the vacancy or new position, and will forward the recommendation to the Personnel Committee for consideration.
2. In the event the Personnel Committee determines to fill the vacancy or new position, the Department Manager confers with the Human Resources Manager regarding the testing and interview process to be used. They will establish where to advertise and for what period of time, and will also determine the following: selection questions to be used in the job posting, whether a test will be administered, the testing instrument, the cut off score, the interview process, the interview panel, interview questions, a timeline, and any other issues related to the process.
3. **Internal Process**
  - The Human Resources Department will prepare a job announcement.
  - Announce position internally for at least five (5) business days to allow current regular full time and part time employees who have worked for the City in a regular position for at least six (6) months and who has held the same position for at least six (6) months to apply for the vacancy.
  - Internal applications are screened for minimum qualifications by the Human Resources Manager.
  - Qualified internal applicants are given a written test, if required for the position.
  - All qualified applicants with a passing score on the written test will be interviewed by the interview panel, as determined when establishing the process.
  - Interview questions must be approved by the Human Resources Manager.
  - The final candidates will be referred to the Human Resources Manager for appropriate reference, driving record, and background checks. This is done according to the current Reference and Background Check Policy.
  - The Department Manager selects a candidate for hire, subject to relevant background checks, record checks, education verification, employment verification, and reference checks.
  - Human Resources Manager approves the hiring and extends the offer of employment, conditional upon passing physical and drug screen.

#### **4. External Process**

If no internal applicant is initially selected, the City shall advertise the position in an effort to broaden the applicant pool from which to select through an external hiring process.

- The Human Resources Department will prepare the job advertisement and identify locations to advertise. Positions are typically posted for a minimum of two weeks.
- Accept applications from external candidates.
- The Human Resources Manager will screen applications for minimum qualifications.
- Qualified applicants are given a written test, if required for the position.
- The Human Resources Department will forward all qualified applicants to the Hiring Manager for interview screening.
- The Department Manager or designee will identify applicants for interviews.
- Interview questions must be approved by the Human Resources Manager.
- Interviews will be conducted by the identified interview panel.
- The final candidates will be referred to the Human Resources Manager for appropriate reference, driving record, and background checks. This is done according to the current Reference and Background Check Policy.
- The Department Manager selects a candidate for hire, subject to relevant background checks, record checks, education verification, employment verification, and reference checks.
- Human Resources Manager approves the hiring and extends the offer of employment, conditional upon passing pre-employment physical and drug screen.

#### **5. After an offer of employment has been extended**

- The Benefits Coordinator will coordinate pre-employment physical and drug screen, where appropriate.
- The Benefits Coordinator will prepare an offer letter and send to the applicant, once physical and drug test results have been confirmed.
- A start date is coordinated and the Hiring Manager will schedule the new employee for a New Employee Orientation with the Benefits Coordinator.

Updates:

Approved by Common Council on June 4, 2013

# City of Oak Creek Common Council Report

Meeting Date: April 3, 2017

Item No.: 13

**Recommendation:** That the Common Council approves payment of the obligations as listed on the March 28, 2017 Invoice GL Distribution Report.

**Background:** Of note are the following payments:


1. \$24,945.16 to Compass Mineral Company (pg #3) for salt inventory.
2. \$14,381.24 to Deere & Company (pg #4) for 2016 John Deere gator.
3. \$12,847.44 to Godfrey & Kahn S.C. (pg #6) for legal services regarding Drexel Town Square, Emerald Row, 6<sup>th</sup> & Rawson, and Lakefront.
4. \$10,856.76 to Kansas City Life Insurance Co (pg #8) for April disability insurance.
5. \$10,275.04 to MADACC (pg #10) for 2nd quarter animal control payment.
6. \$9,224.00 to Miller & Associates (pg #10) for 4 basketball packages: post, backboard, rim, and extension.
7. \$14,647.44 to Vandewalle & Associates, Inc. (pg #14) for TIF #13 creation and TIF #6 amendment.
8. \$56,776.77 to WE Energies (pgs #14-15) for street lighting, electricity and natural gas.
9. \$11,089.00 to Wheaton Franciscan Medical Group (pg #15) for nurse practitioner services and supplies.
10. \$15,606.58 to World Fuel (pg #15) for fuel inventory.

**Fiscal Impact:** Total claims paid of \$255,683.96.

Prepared by/Fiscal Review by:

  
Bridget M. Souffrant, CMTW  
Finance Director/Comptroller

Respectfully submitted,

  
Andrew J. Vickers, M.P.A  
City Administrator

# City of Oak Creek Common Council Report

Meeting Date: April 3, 2017

Item No: 14

**Recommendation:** Consider a motion to approve the Interim Health Officer, Jacqueline Ove, to complete an application for the Cultivating Healthy Communities grant program through the Aetna Foundation.

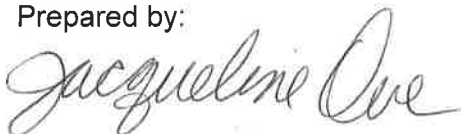
**Background:** This grant was developed by the Aetna Foundation to support communities in their efforts to be healthier. The Oak Creek Health Department has a Community Health Improvement Plan that includes Healthy Eating. One of the focus areas for this grant is to support projects that foster healthy behaviors. Activities that promote healthy home cooking or nutrition education classes, home or community gardening, urban farming, and to include increasing financial literacy and planning are all potential projects that we would propose to accomplish with this grant application.

The Health Department has reached out to the Oak Creek Library, and would include other partners such as a local author that has written a book on teen cooking, a master gardener, a master couponer, Milwaukee Area Technical College, Culinary Arts Department, and the Libraries and Health Departments in South Milwaukee and St. Francis to partner with us to replicate the programs in those communities.

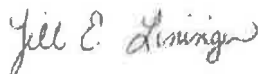
Here is a link to the Aetna Foundation Cultivating Healthy Communities grant program <https://www.aetna-foundation.org/grants-partnerships/grants/cultivating-healthy-communities-rfp.html>. The application deadline is April 14, 2017.

**Fiscal Impact:** If awarded the grant, the Aetna Foundation will fund an 18-24 month project up to \$100,000. The funding notification is scheduled for July 21, 2017.

Prepared by:



Jacqueline Ove  
Interim Health Officer



Jill Lininger  
Library Director

Reviewed by:



Andrew Vickers  
City Administrator

# City of Oak Creek Common Council Report

Meeting Date: April 3, 2017

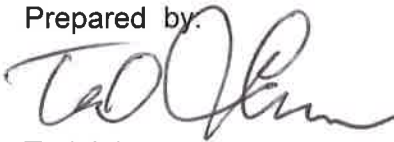
Item No.: 15

**Recommendation:** That the Common Council considers a motion to reject the bids for the 27th Street Tree Planting project, and direct a re-advertisement of the work. (Project No. 17020)

**Background:** It is staff's recommendation that the Common Council reject the bids for this project. When the bids were opened for this project, neither of the two bidders acknowledged the receipt of Addendum #1, which detailed the required WisDOT permit and related traffic control for the project. These requirements were provided to us by WisDOT after the project had been released for bid and were in conflict with the original bid package. It is our intention to rebid this project with all the updated information, and with hopes that we can attract additional bidders.

**Fiscal Impact:** None at this time.

Prepared by:



Ted Johnson  
Director of Streets Parks & Forestry

Respectfully submitted:



Andrew J. Vickers, MPA  
City Administrator

Fiscal review by:



Bridget M. Souffrant, CMTW  
Finance Director / Comptroller



# City of Oak Creek Common Council Report

**Meeting Date:** April 3, 2017

**Item No.:** 10

**Recommendation:** That the Common Council concur with the recommendation of the Director of Streets, Parks and Forestry and approve the purchase of an Avery Traffic Jet Street Sign Printer Package from Avery Dennison Reflective Solutions for a total of \$46,561.00

**Background:** This item would be purchased as a sole source package from Avery Dennison Reflective Solutions. After researching large format printers within our price range that had the capability to print on reflective sheeting, only Avery had the ability to print DOT approved colors. In addition, the Avery Traffic Jet offered the longest warranty for color retention and reflectivity, offering a twelve year warranty for standard traffic signs, and a ten year warranty for custom signs. The package includes an Avery Traffic Jet Street Sign Printer, TJ Laminator, and a Graphtec FC8600-130 54" plotter.

**Fiscal Impact:** The money to purchase this equipment would come from the 2017 CEP/CIP Capital Project #17015 totaling \$43,000, the additional funding would be taken from the departments sign materials budget.

Prepared by:



Ted Johnson  
Director of Streets, Parks & Forestry

Respectfully submitted,



Andrew J. Vickers, MPA  
City Administrator

Fiscal Review by:



Bridget M. Souffrant, CMTW  
Finance Director / Comptroller

# City of Oak Creek Common Council Report

Meeting Date: April 3, 2017

Item No.: 17

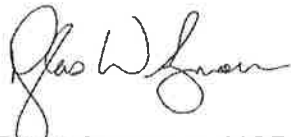
**Recommendation:** That the Council adopts Ordinance No. 2849, amending the Comprehensive Plan and Planned Land Use map for the property at 140 E. Rawson Avenue to reflect the change in land use from Planned Office to Planned Industrial.

**Background:** The City of Oak Creek is requesting the that Planned Land Use category and map in the Comprehensive Plan for the property at 140 E. Rawson Ave. are updated from Planned Business to Planned Industrial to reflect the existing zoning (M-1, Manufacturing) and the recently-approved multitenant office and warehouse development plans for the property. At the time the property was rezoned from B-4, Highway Business to M-1, Manufacturing in 2007, the Planned Land Use Map in the Comprehensive Plan showed this property in the Planned Business category. Although appropriate given the zoning, the Comprehensive Plan should have been amended simultaneously to reflect the change to M-1. Since this did not occur, staff is initiating the change to ensure that all plans are consistent.

The State of Wisconsin Smart Growth Law requires that all local land use decisions after January 1, 2010 must be consistent with the objectives, goals, and policies contained within the comprehensive plan. Approval of these changes to the Comprehensive Plan would bring the Comprehensive Plan up-to-date with the existing zoning classifications and approved development plans for the property at 140 E. Rawson Ave.

**Fiscal Impact:** The amendment to the Comprehensive Plan would reflect the proposed use of the property as manufacturing, resulting in additional local taxes and impact fees from that new development.

Prepared by:



Doug Seymour, AICP  
Director of Community Development

Respectfully Submitted,



Andrew J. Vickers, MPA  
City Administrator

Fiscal Review by:



Bridget M. Souffrant  
Finance Director / Comptroller

ORDINANCE NO. 2849

BY: \_\_\_\_\_

AN ORDINANCE ADOPTING AN AMENDMENT TO THE COMPREHENSIVE  
PLAN FOR THE CITY OF OAK CREEK, WISCONSIN

140 East Rawson Avenue  
(1<sup>ST</sup> Aldermanic District)

The Common Council of the City of Oak Creek does hereby ordain as follows:

SECTION 1: Pursuant to Section 62.23 of the Wisconsin Statutes, the City of Oak Creek is authorized to prepare and adopt a comprehensive plan and an amendment to a comprehensive plan as defined in Sections 66.1001(1)(a) and 66.1001(2) of the Wisconsin Statutes.

SECTION 2: The Common Council, by the enactment of Ordinance No. 2090, formally adopted the document titled "A Comprehensive Plan for the City of Oak Creek" on April 1, 2002.

SECTION 3: The City of Oak Creek published a Class 1 public notice on February 23, 2017 and held a public hearing before the Plan Commission on March 28, 2017.

SECTION 4: The Plan Commission, by a majority vote of the entire Commission at a meeting held on March 28, 2017 adopted Resolution No. 2017-01, amending the adopted Comprehensive Plan for the City of Oak Creek from "Planned Business" to "Planned Industrial" for the property at 140 E. Rawson Avenue, and recommending that the Common Council adopt the amendment to the Comprehensive Plan by ordinance.

SECTION 5: The Common Council hereby adopts the proposed amendment to the Comprehensive Plan for the City of Oak Creek from "Planned Business" to "Planned Industrial" for the property at 140 E. Rawson Avenue.

SECTION 6: Except as herein modified, the Comprehensive Plan dated April 1, 2002 shall remain in full force and effect.

SECTION 7: The City Clerk is directed to send a copy of this ordinance and the Comprehensive Plan amendment to the parties listed in Section 66.1001(4)(b) of the Wisconsin Statutes.

SECTION 8: This ordinance shall take effect and be in force from and after its passage and publication.

Introduced this 3<sup>rd</sup> day of April, 2017.

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Kenneth Gehl, Common Council President

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Daniel J. Bukiewicz, Mayor

ATTEST:

\_\_\_\_\_  
Catherine A. Roeske, City Clerk

VOTE: Ayes \_\_\_\_\_ Noes \_\_\_\_\_

**RESOLUTION NO. 2017-01**

**A RESOLUTION ADOPTED BY THE PLAN COMMISSION AMENDING THE ADOPTED  
COMPREHENSIVE PLAN FOR THE  
CITY OF OAK CREEK, IN MILWAUKEE COUNTY, WISCONSIN**

WHEREAS, Sections 62.23 and 66.1001 of the Wisconsin Statutes establish the required procedure for a local government to adopt a Comprehensive Plan; and

WHEREAS, the City of Oak Creek Plan Commission has the authority to amend the Comprehensive plan by resolution and also to recommend that the Common Council adopt the Comprehensive Plan; and

WHEREAS, the City of Oak Creek has proposed an amendment to the "2020 Vision – A Comprehensive Plan for the City of Oak Creek" designating the property at 140 E. Rawson Ave. as "Planned Industrial;" and

WHEREAS, the City has duly noticed a public hearing on the aforementioned amendment to the "2020 Vision – A Comprehensive Plan for the City of Oak Creek" and the Plan Commission has held the public hearing following the procedures in Section 66.0295(4)(d), Wisconsin Statutes.

NOW, THEREFORE, BE IT RESOLVED that the Plan Commission of the City of Oak Creek hereby adopts the amendment to the Comprehensive Plan designating the property at 140 E. Rawson Ave. as "Planned Industrial," recognizing that the Common Council must also adopt the amendment to the Comprehensive Plan for it to become effective; and

BE IT FURTHER RESOLVED that the Secretary of the Plan Commission certifies a copy of the amendment to the Common Council; and

BE IT FURTHER RESOLVED that the Plan Commission does hereby recommend that the Common Council adopts the amendment to the Comprehensive Plan by ordinance.

Passed and adopted this 28th day of March, 2017.

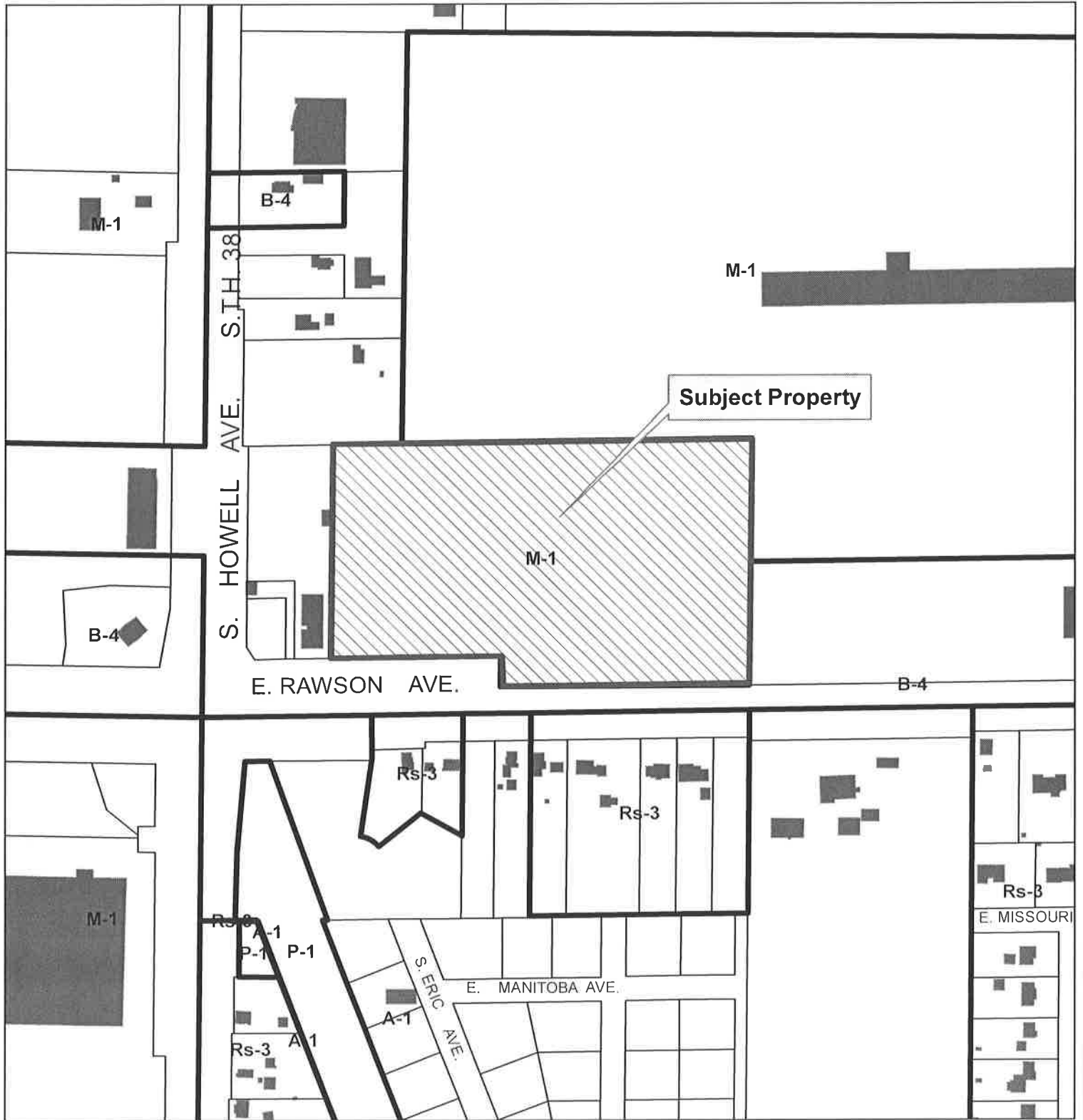
\_\_\_\_\_  
Plan Commission Chair

Attest:

  
\_\_\_\_\_  
Secretary of the Plan Commission

# Location Map

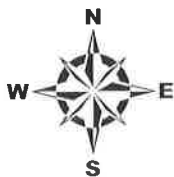
## 140 E. Rawson Ave.



*This map is not a survey of the actual boundary of any property this map depicts.*



Department of Community Development



### Legend

-  140 E. Rawson Ave.
- Zoning**
-  District

# City of Oak Creek Common Council Report

Meeting Date: April 3, 2017

Item No.: 18

**Recommendation:** That the Council adopts Resolution No. 11805-040317, approving the First Amendment to the Land Purchase Agreement with The Waters Senior Living Holdings LLC.

**Background:** At their meeting of June 7, 2016 the Common Council adopted Resolution No. 11714-060716 approving the land purchase agreement with The Waters Senior Living Holdings LLC for the property at 8000 S. Market Street.

Under the terms of that agreement the purchaser had 120 days from the date of Plan Commission approval (November 8, 2016) to design the project and prepare and submit the construction documents to the City.

The purchaser is requesting an amendment to the land purchase agreement that would replace that 120 period with a date certain (May 1, 2017).

**Fiscal Impact:** This minor amendment to the land purchase agreement does not impact the sale or development of this parcel. It remains on schedule for a closing and construction start this year.

Prepared by:



Doug Seymour, AICP  
Director of Community Development

Respectfully Submitted,



Andrew J. Vickers, MPA  
City Administrator

Fiscal Review by:



Bridget M. Souffrant  
Finance Director / Comptroller

RESOLUTION NO. 11805 - 040317

RESOLUTION APPROVING THE FIRST AMENDMENT TO THE LAND  
PURCHASE AGREEMENT WITH  
THE WATERS SENIOR LIVING HOLDINGS, LLC  
(2<sup>nd</sup> Aldermanic District)

BE IT RESOLVED by the Mayor and Common Council of the City of Oak Creek that the First Amendment to the Land Purchase Agreement with The Waters Senior Living Holdings, LLC be and the same is hereby approved.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized to execute the same in behalf of the City of Oak Creek subject to minor amendments or modifications that are approved by the City Administrator and City Attorney.

Introduced at a regular meeting of the Common Council of the City of Oak Creek held this 3<sup>rd</sup> day of April, 2017.

Passed and adopted this 3<sup>rd</sup> day of April, 2017.

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President, Common Council

Approved this 3<sup>rd</sup> day of April, 2017.

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Mayor, Daniel J. Bukiewicz

ATTEST:

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Catherine A. Roeske, City Clerk

VOTE: Ayes \_\_\_\_\_ Noes \_\_\_\_\_



**FIRST AMENDMENT TO**  
**LAND PURCHASE AGREEMENT**  
**(Oak Creek, Milwaukee County, Wisconsin)**

**THIS FIRST AMENDMENT TO LAND PURCHASE AGREEMENT** (this “**Amendment**”) is entered into this \_\_\_\_ day of March, 2017, by and among **CITY OF OAK CREEK**, a municipal corporation (to be referred to herein as either “**Seller**” or “**City of Oak Creek**”), and **THE WATERS SENIOR LIVING HOLDINGS, LLC**, a Delaware limited liability company (“**WSL**”).

**RECITALS**

**WHEREAS**, Seller and WSL are parties to that certain Land Purchase Agreement with an effective date of June 20, 2016 (the “**Agreement**”), whereby Seller agreed to sell, and WSL agreed to purchase, certain unimproved land located on South Market Street in the Drexel Town Square Development in Oak Creek, Milwaukee County, Wisconsin and more particularly described in the Agreement; and

**WHEREAS**, Seller and WSL desire to amend the Agreement as set forth herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and WSL hereby agree as follows:

1. **Recitals; Defined Terms.** The Recitals set forth above are true and correct, and are incorporated herein by this reference. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Agreement.

2. **Amendment.** Section 7(d) of the Agreement is hereby deleted and replaced with the following language:

Purchaser shall have until 5:00 p.m. Central Standard Time on May 1, 2017 to design the Project and to prepare all permit sets of documents (the “**Construction Documents**”) (the period ending on such date being referred to herein as the “**Construction Documents Period**”). Prior to the end of the Construction Documents Period, Purchaser shall submit the Construction Documents to the State of Wisconsin Department of Health and Services for review and approval (“**State Approval**”). Upon State Approval, WSL will submit all permit sets and Construction Documents to the City of Oak Creek for review and issuance of a final and unappealable approval of a building permit for construction of the Project (the “**Building Permit**”) (the date on which such approval is final and unappealable and the City of Oak Creek has issued to Purchaser the Building Permit is referred to herein as the “**Building Permit Approval**”).

3. **Ratification; Conflicts.** Except as expressly amended or modified herein, all other terms and conditions of the Agreement are hereby ratified and confirmed and shall remain and continue in full force and effect. In the event of any inconsistency or conflict between this

Amendment and the Agreement, the provisions of this Amendment shall control.

4. **Counterparts.** This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument.

(Signatures appear on following page.)

IN WITNESS WHEREOF, the parties have executed this Amendment as of the day and year first hereinabove written.

**WSL:**

**THE WATERS SENIOR LIVING HOLDINGS,  
LLC**

By: The Waters Senior Living Group, LLC  
Its Sole Member

By: \_\_\_\_\_ (SEAL)  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SELLER:**

**CITY OF OAK CREEK**

By: \_\_\_\_\_  
Name: Stephen A. Scaffidi  
Title: Mayor

**CITY OF OAK CREEK**

By: \_\_\_\_\_  
Name: Catherine A. Roeske  
Title: City Clerk