

**DRAFT MINUTES OF THE
OAK CREEK PLAN COMMISSION MEETING
TUESDAY, SEPTEMBER 12, 2017**

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

Minutes of the August 22, 2017 meeting

Commissioner Dickmann moved to approve the minutes of the August 22, 2017 meeting. Commissioner Siefert seconded. On roll call: all voted aye, except Commissioner Chandler, who abstained. Motion carried.

**CONDITIONAL USE PERMIT
JT PETROLEUM, LLC
9502 S. HOWELL AVE.
TAX KEY NO. 907-9027-000**

Planner Papelbon provided an overview of the request (see staff report for details.)

Commissioner Chandler asked if this property is presently under a Conditional Use Permit since it is already a service station. Planner Papelbon responded that a Conditional Use Permit was not issued for this property. The historical use of the property has been for a gas station. When the Code was changed over the years, it became a "conforming conditional use" while it was still being used as a gas station. The property owners were granted the ability to keep operating as a gas station until such time as it ceased. There was a period of time where that use ceased and the Code requires the property owner to come back to the City for a Conditional Use Permit. Because of the length of time that the property had historically been used for gas station purposes, it wasn't required at the time.

Commissioner Chandler asked about the setback requirements. Jaspal Dhaliwal, 12929 N. Wauwatosa Road, Mequon, WI, responded that all of the setback requirements are met and are on the new survey that was provided earlier in the day. Planner Papelbon stated that the original survey that was provided did not include the setback, so it could not be determined whether or not setback requirements were being met. The new plat of survey shows all setbacks being met. Planner Papelbon stated that all setbacks are met for the canopy, the fuel pumps, the existing store and the parking. The existing pole sign does not meet requirements and will be replaced.

Commissioner Siefert asked if the existing road leading to the carwash has to be blocked off. Planner Papelbon responded that that road is going to remain, so there will be two curb cuts on Howell Avenue and one on Ryan Road. That is a shared access point. The carwash is not part of this review, but they will still have access to the carwash.

Commissioner Dickmann stated that he likes the fact that they are taking out the diesel fuel tanks so that truck traffic will not be a concern. Mr. Singh stated that there are so many truck stops up the road (Ryan Road) and that is not something he wanted to compete with.

Mayor Bukiewicz stated that he is looking forward to a nice-looking higher end gas station in the area. Mayor Bukiewicz asked the applicant to work with staff with regard to road closures and being able to meet the greenspace requirements.

Mayor Bukiewicz asked the applicant to be in contact with the Oak Creek Police Department with regard to security issues.

Commissioner Siepert moved that the Plan Commission recommends that the Common Council approves a Conditional Use Permit for a gasoline service station with convenience store and two (2) underground fuel tanks on the property 9502 S. Howell Ave., after a public hearing and subject to conditions and restrictions that will be prepared for the Commission's review at the next meeting (September 26, 2017). Alderman Guzikowski seconded. On roll call: all voted aye. Motion carried.

**CONDITIONAL USE PERMIT AMENDMENT
NICK AND ASHLEY TIMBER (CITY 13)
6925 S. 6TH ST.
TAX KEY NO. 735-9045-000**

Planner Papelbon provided an overview of the request (see staff report for details.)

Commissioner Dickmann stated he is pleased that the hours of operation will not result in parking congestion.

Commissioner Dickmann asked what the party area of the facility will be used for. Nick Timber, 9415 S. Kinney Lane, Oak Creek, WI responded that the space will be divided into two areas; a lobby area and a warehouse area in the back. The back area will be divided into the different escape rooms, and front area will be used for birthday parties or corporate events so that they can generate revenue.

Mayor Bukiewicz asked how many people typically go in a room at a time. Mr. Timber responded usually 8 to 12 people are in one of the escape rooms at a time. All exits will be clearly marked and there are no ceilings on the escape rooms. There will be 12-foot-high walls. The rooms will be 16 feet x 12 feet. They will be decorated according to a specific theme with props that involve the puzzles themselves.

Asst. Fire Chief Kressuk stated that he did meet with the applicant, and he feels he has an excellent grasp of the codes and requirements. He did talk about all the safety features he already referenced. The Fire Department is comfortable with their plan.

Commissioner Correll moved that the Plan Commission recommends that the Common Council approves an amendment to the existing Conditional Use Permit for an indoor commercial recreation facility ("escape room") within the existing multitenant building on the property at 6925 S. 6th St., after a public hearing and subject to conditions and restrictions. Commissioner Siepert seconded. On roll call: all voted aye. Motion carried.

**CONDITIONAL USE PERMIT
OLD FOREST STUDIO
8660 S. MARKET PL.
TAX KEY NO. 823-0029-000**

Planner Papelbon provided an overview of the request (see staff report for details.)

Commissioner Dickmann stated he is pleased that the applicant is going to make this space a more refined salon atmosphere, and he does not think it will be a bad addition.

Commissioner Dickmann moved that the Plan Commission recommends that the Common Council approves a Conditional Use Permit for a licensed tattoo and/or body piercing studio on

the property at 8660 S. Market Pl., after a public hearing and subject to conditions and restrictions that will be prepared for the Commission's review at the next meeting (September 26, 2017). Commissioner Siepert seconded. On roll call: all voted aye. Motion carried.

OFFICIAL MAP AMENDMENT

PORTION OF THE NORTHEAST ¼ AND SOUTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 21

9349 S. NICHOLSON RD, 1200 E. RYAN RD, 9211R S. NICHOLSON RD AND 9025 S. NICHOLSON RD

TAX KEY NOS. 873-9998-002, 873-9006-006, 873-9012-000, 873-9999-001

Planner Papelbon provided an overview of the request (see staff report for details.)

Commissioner Chandler asked if any comments have been received from the property owners in the area regarding these changes. Planner Papelbon responded that her understanding was that the applicant has had conversations with the two affected property owners. The two properties that will be affected are on the northern part that directly abuts the proposal, and the remnant parcel labeled as "Outlot 1."

Dave Tanner, Korndoerfer Homes, 175 N. Corporate Drive, Brookfield, WI, stated he is co-developing this land with Kaerek Homes. They have renamed it East Brooke Preserve from the previous name per the Plan Commission.

Mr. Tanner has been able to explain the proposed plan to the two property owners via phone call. They tried to lay out the property in a way where it fits the landscape, tree lines, storm water, geometry, access and suitable building pads. He feels he has accomplished this with the current layout. They were not aware of the official map amendment being needed until they received their staff report for the preliminary plat approval. It would be very difficult to make those changes for a couple of reasons. Staff mentioned the road to the south adjacent to wetlands. They tried to create a nice curve lineal layout that lends itself to a nice neighborhood. As far as the cul-de-sac to the north, they felt that the owner to the north still has access along Nicholson Road. There is a pond planned in that little area adjacent to the property. The subject property has some power lines there and it is irregular. It just looked like there was minimal potential for subdividing that, so they tried to find the balance in laying it out in a way where it seemed to make sense for a future neighborhood. He does realize there is a conflict with the official street pattern at this time.

Commissioner Chandler asked if the two property owners he spoke to were in agreement. Mr. Tanner responded that one owner wanted to study it and hire an attorney. The other owner preferred to have it changed to have the cul-de-sac moved. He feels there is adequate access along Nicholson. He stated that he found out at the meeting regarding the preliminary plat that the proposed road pattern did not coincide close enough with the official road map.

Commissioner Johnston stated that he did meet with a couple of residents, and the big issue that they have is that there is not access to the property to the north. Their frontage is 15 feet in the corner, so the cul-de-sac on the north end to tie into that property to the north is valid and is a necessity to keep that official mapped street pattern there. Regarding the other parcel that is the Outlot, the City's map shows that that parcel is ¾ of a potential wetland. The delineation that was done with the applicant's survey shows wetlands entering that property, whereas the City's map shows that there are wetlands there. Commissioner Johnston stated that there is a strong feeling that there are wetlands in there. Commissioner Johnston stated that he could push that back if it is not developable, but they still need to have some concurrence with that property as well. However, the property to the north does need to stay in and have access to Nicholson Road.

Mr. Tanner asked for clarification on the property to the north. Commissioner Johnston responded that Milwaukee County owns everything along Nicholson. Their only frontage is a 15-foot corner. The rest of the frontage is owned by Milwaukee County and is parkland. Their driveway actually crosses parkland. That is when their sanitary sewer was run in there. That is why it had to go to that location because that is the only frontage that they have to their parcel.

Mr. Tanner asked what the City would be looking for to satisfy the requirements of Outlot 1. Commissioner Johnston responded that he has not met with that resident. However, the City's map shows that there are wetlands encumbering a significant portion of that property. He could see pushing that road away to the applicant's alignment and not meeting the official mapped street pattern at that location due to the significance of the wetlands that are shown on the City's maps.

Commissioner Correll asked where the Plan Commission is moving forward without that rectified or agreed upon.

Catherine Roeske, 9025 S. Nicholson Road, Oak Creek, Wisconsin, stated that she is the homeowner of 9025 S. Nicholson Road. Her entire property is not shown on the map. What is depicted on the map shown at the meeting is about half of the property. The only access she has to Nicholson Road is that 15 feet. It is very slim between the easement and the adjacent property. She has not been formally served in writing or requested via letter by the proposed developer for an exception to the map amendment. She has spoken to him a couple of times, but never received a formal request for any type of approval for Plan Commission to vote on. She does not agree with the statement that was made that this wouldn't be a detriment to neighbors to modify that map. She stated that Commissioner Johnston is correct and that it does landlock her. They have a very developable property. They have no wetland and are surrounded by parkland. If that cul-de-sac the way the City had originally envisioned it were to be developed, there could easily be dividable land within her property to incorporate into a subdivision and a neighborhood community. Once that map gets amended and her property becomes landlocked, it makes it extremely difficult for anything to happen on that property in the future. When she purchased the home many years ago, they were asked to combine the two properties into one property, which would help in future development. They did that and connected to City sewer as requested by the City and they had to go all the way out to that property. If this map were to be amended, it would be a shame for the subdivision and that Nicholson Road development; it is a waste of a beautiful property.

Ms. Roeske continued by stating that part of the reason why the developer said he wanted to push the cul-de-sac back was that it would maintain mature trees. Really, there are not mature trees along that line. They do have an apple orchard with mature apple trees, but it is not a wooded lot. The woods are on the back side of her property which borders Milwaukee County parkland. To develop the property that she owns into the subdivision actually maintains that beautiful park structure and makes the lots very desirable. Once they are landlocked, they don't have an option to develop that land whatsoever; either for single-family residential or any other purpose.

Commissioner Correll asked if there was interest in that land becoming part of this proposed subdivision. Ms. Roeske responded there is and she has expressed interest to the developer, however, they have not expressed an interest in purchasing the property. Commissioner Correll encouraged that to be figured out before he is comfortable moving forward.

Mayor Bukiewicz asked if using the City's officially mapped street pattern, how many lots can be made out of the cul-de-sac. Planner Papelbon responded that it depends on the size of the cul-de-sac and how much of it actually touches the property line; yes, it would be able to be used as

frontage. The concern with removing the cul-de-sac is frontage, not just for meeting Code requirements, but access in general.

Commissioner Correll asked how the neighbor's frontage issue would be solved if the developer uses the existing proposed roads. The neighbor wouldn't have much to say if they went with the proposed City road. Commissioner Johnston responded that the issue is how they built it. There wouldn't be enough frontage to get the lots on the piece to the north. The cul-de-sac would need to be extended onto that property if it going to be tied into this development. They would pull the lots off of that to get the required frontage. This would just be an access point so the property to the north would actually have legal frontage and be a conforming lot.

Commissioner Dickmann stated that he doesn't want to see a piece of property landlocked.

Mr. Tanner asked if the property is landlocked or not because currently there is access. Commissioner Johnston responded that there is 15 feet of access. It is not a conforming lot for frontage. Mr. Tanner asked if it was a non-conforming lot now as it stands. Commissioner Johnston responded yes, it is. Mr. Tanner responded that irrespective of his development, what could be done to that property. Commissioner Johnston responded, nothing, it would stay a single family home.

Carol Grundy, 9160 S. Nicholson Road, Oak Creek, WI stated that she is not really happy about where they are placing the driveway because it is almost in line with her driveway. She stated that where they are proposing a pond on the Outlot is high land. It doesn't make sense to put a pond right near that driveway. They project 300 some cars, almost 400, but she has seen a lot more than that coming out of there. She stated that there needs to be more work done in checking into this. Commissioner Johnston stated that the pond is south of the cul-de-sac and north of the proposed road coming out. That is where the retention pond is going. The reason for shifting the road to the north is so that they can get lots on the other side of the roadway. The pond drains the lots adjacent to the roadway. Runoff goes into that pond and then from there, it runs into a larger pond on the west side. There will be an outlet on that pond and that water will be conveyed to the next pond to the west.

Tony Zanon, Pinnacle Engineering, 15850 W. Bluemound Rd, Brookfield, WI stated that the area referred to is a dry pond. The only reason it is there is because of drainage issues; this area acts as a swale to prevent water runoff to Nicholson Rd. It is connected to a storm sewer pipe along the north line to the main storm water wet pond between the north cul-de-sac and flood plain. Mr. Zanon agreed with the lot layout on the north connection point to Nicholson Rd. but was concerned about how the Verhalen piece would be laid out. For instance, the layout of the north connection point to Nicholson did not allow for lots to the south. The second connection point to Nicholson on the south allowed for development of unused space there. The center cul-de-sac was pushed to the north to allow for the flood plain and use of land to the north for additional lots. The main focus was to fully utilize the land. Commissioner Correll stated that he likes the fact that the number of lots is being maximized by moving the road; his main concern is for the property owner to the north.

Debra Alfaro, 9175 S. Patricia Blvd, Oak Creek, WI explained that she and her husband are the owners of an Outlot, as well as a buildable lot on Nicholson Rd. The new proposal will result in the Outlot basically being landlocked. With the original proposal, they would have been able to create two parcels from the Outlot. She realizes that the developer's objective is to maximize their profit, but she would like the opportunity to maximize hers as well. Commissioner Johnston commented that this parcel potentially has wetlands on it. Ms. Alfaro stated that she grew up in the nearby area and is familiar with the layout of the Outlot, which is completely wooded. Her understanding is that the low-lying area is to the north of the Outlot. Commissioner Johnston pointed out a small triangular area on the adjacent outlot 3 which is delineated for wetlands, but

the maps show that the frontage of the Outlot and the whole southern border have the potential for wetlands. They cannot be certain that there are wetlands on the parcel without a delineation. If there are wetlands present, it would be very difficult to develop the land as a single-family lot. Ms. Alfaro inquired how this is determined. Commissioner Johnston indicated that a wetland delineation would be done either by SEWRPC or a wetland delineator who would be contracted by the property owner. Ms. Alfaro asked about several other lots proposed at prior meetings where there are wetlands, but it was determined that it would not be an issue. Commissioner Correll commented that Ms. Alfaro's parcel *may* have wetlands and it would be in her best interests to have a wetland delineation done to confirm whether or not the lot is buildable. Ms. Alfaro inquired whether the City would allow her time to make that determination. Commissioner Correll asked for Planner Papelbon's input, taking into consideration the two existing property owners who will be affected by the map amendment and questions they have that require an answer before moving forward. Ms. Alfaro interjected that it was her understanding this would be the second phase of the development. Commissioner Correll indicated that the planning portion would all be done now; it is not pieced together so the window of opportunity for any changes would be before the project gets started. Ms. Alfaro noted that she first became aware of the proposed change only a month ago and is requesting more time to determine how she will proceed.

Mr. Zanon commented that Pinnacle Engineering had the wetland delineated on their side and designed the layout around those wetlands. The DNR wetland inventory map shows the majority of that back lot as wetland which is usually the first indicator they look at when developing a property, so he recommends a wetland delineation on the outlot to determine exactly what the property owner has to work with. He added that since the Alfaros own both the frontage lot on Nicholson and the rear lot, they could potentially develop both without requiring access through the rear of the Outlot. Ms. Alfaro agreed, but stated that she would like to know what their best option would be without any decisions being made at this time.

Mayor Bukiewicz invited comments from the Commission.

Commissioner Dickmann stated that the rear lot has been incorrectly referred to as "landlocked" but is more correctly defined as "unbuildable." His concern is that the developer has moved the road to his advantage to make the best use of developing the available lands, but the existing property owners are not being given the same opportunity. Commissioner Carrillo reiterated that using the word "landlocked" to describe the Alfaro's rear outlot is incorrect, as they would still have access to Nicholson Rd. through the frontage on their adjacent parcel, it would just require a longer driveway.

Mark Verhalen, 1200 E. Ryan Rd., Oak Creek, WI, stated that he owns the property at 9340 S. Nicholson Rd., and added that the plan makes the best possible use of available land for the developer. Currently he is still the owner of all of the lands in question, but if the developer cannot make the project work with the proper lot count, his plan is to continue farming the land. Mayor Bukiewicz agreed with Mr. Verhalen's observations, but is concerned with what options are available to allow access to the north. Commissioner Correll also agreed with Mr. Verhalen's comments, adding that it is in the best interests of the City to be able to generate taxable income on the developed lots, but he, too, was uncomfortable moving forward without some kind of resolution on behalf of the two existing adjacent property owners. Planner Papelbon summarized the Commissioners' comments by stating that the item should be potentially held until it can be further discussed with the two affected land owners. She further inquired if the Commission is requesting alternate designs for modifying the official map pattern, or a detailed explanation of why that is not feasible. Mayor Bukiewicz stated that if it is not doable from a financial standpoint, that is understandable. However, if it is due to the wetland delineation, finding a resolution may take a much longer time. Several of the Commissioners stated that they would like to see the item postponed. Commissioner Correll inquired what impact it would have on the developer if

Commission decides to hold the item. Mr. Tanner indicated that the timing would affect their approvals and the feasibility study, which would have to be worked out with Mr. Verhalen as they did not factor in additional time for delays. If the decision is to table the item, the developer can talk again with the property owners, but the developer is already aware of what they would be asking for. Ultimately, the developer's stance is that the project will not be feasible if the number of lots is decreased. Commissioner Correll inquired whether the Outlot owned by the Alfaros would be of interest to the developer. Mr. Tanner replied that they are confident the parcel is wetland. He could request that they do a delineation of the parcel, but believes that they will accept wetland delineations for this year only up through the next two weeks.

Commissioner Chandler expressed concern that the Commission is just now hearing the adjacent property owners' opinions at this meeting. Mr. Tanner clarified that Korndoerfer Homes had discussions with the owners after the meeting two months ago. At that point, the owners asked for more time to discuss their concerns with staff. However, their preferences do not align with this development as the end result would be to eliminate lots. Commissioner Chandler asked why the road could not be shifted to allow the adjacent property owners additional options. Mr. Tanner explained that doing so would change the number of lots that could potentially be developed, which will affect the overall financial feasibility of the project. Commissioner Chandler asked if the developer has specifically evaluated moving the road. Mr. Tanner indicated yes, that Mr. Zanon has looked at that option. Mr. Zanon's understanding is that there was a different entity looking at developing this land a number of years ago. Their preliminary plat was the base point for Pinnacle Engineering to begin their layout of this proposed subdivision. The current plan shows a total of 73 lots being developed from the available land. The former developer's plan included 80 lots. Pinnacle did not feel that the 80-lot layout would provide lots large enough for a typical Kaerek or Korndoerfer home, so the number of lots was minimized and they added the half-moon cul-de-sac at the north end. Extending this cul-de-sac to the north would result in losing two lots. Shifting the road to the east toward the Alfaro's property would result in losing all of the lots on the east side. He could create a stub road to their property, which would also result in losing two more lots for a total of four. Mr. Zanon further explained that when they first began layout of the lots, they started with the preliminary plat which showed 69 lots, but there were several that had potential flood plain issues that needed to be resolved first. When they received preliminary plat approval two months ago, the total number of lots was 73. They were only made aware of the road a few days before that meeting, but attended the meeting anyway wherein Plan Commission approved the plat. After that meeting, they approached the two property owners who will be affected. One consideration would be to extend Road D north, which would eliminate lots 48 and 49. If they were to create a stub road connecting the north-south road to the Alfaro's rear property to grant provide from the west, it would eliminate lot 59, but lot 58 would also be affected as it would then become a corner lot that has different setback requirements. After looking at these alternatives, Mr. Zanon went back to the developer, but told them they would have four less lots available.

Catherine Roeske, 9025 S. Nicholson Rd., Oak Creek, WI, stated that she is supportive of this subdivision being developed, understanding that it is a very positive thing for the City. Ms. Roeske's concern is that the developer stated they were caught off-guard by the map which showed how the City envisioned the development. She contends that this should have been requested up front prior to creation of the preliminary plat so that the developer was working in accordance with how the City had envisioned the development. She is sympathetic to the costs and the potential loss of profit to the developer, but urged the Plan Commission to consider, as stated in the staff report, the impact their proposal has on the ability to logically develop adjacent properties with the existing Official Map. Her concern is that the developer has not demonstrated that any adverse effects on the property owners involved would be offset by the benefit to the neighborhood, and in effect, has removed the ability of the adjacent property owners to develop their properties in a cost-effective manner.

Mayor Bukiewicz stated that he believes there are options for the Alfaro property; rather than creating the stub road previously mentioned, the owners have the ability to access the rear parcel through the frontage on Nicholson Rd. and depending on the wetland delineation, could draw up a CSM to develop those lots. His main concern is access to the north parcel.

Mr. Zanon inquired whether it would be possible to send this item through to Common Council without a recommendation from the Plan Commission. This would grant them more time to talk with the property owners. Mayor Bukiewicz stated that the item can be brought to Council with no recommendation from Plan Commission. Commissioner Correll felt that it should be the Council's decision if the City cannot resolve the issues with the property owners. Mayor Bukiewicz inquired if the item could be held for two weeks and still proceed to Council. Planner Papelbon indicated that this would push the public hearing to November, rather than the October 17th meeting. Commissioner Correll indicated this would push the developer out of his required time frame. He suggested having the item go to Council with no recommendation from Plan Commission to keep the developer timeline moving. Mayor Bukiewicz pointed out that there was a motion made to hold the item, but no second. Planner Papelbon stated that the Mayor can make the unilateral decision to hold the item, but there would need to be a motion in order to vote "yes" or "no" on an item before it could proceed to Council. Mayor Bukiewicz reiterated that there was a motion made to hold the item. Planner Papelbon repeated that it would be up to the Mayor whether or not to hold the item, which does not require a motion. Mayor Bukiewicz pointed out that the Council is ultimately going to make the decision regardless of the Plan Commission's recommendations. However, this would give the developer time to talk with the property owners and come up with a workable solution. Commissioner Dickmann inquired if someone makes the suggested motion, and no one seconds, whether the item would move forward to Council. Planner Papelbon stated that the correct procedure is to make the motion as stated, second the motion, and issue a vote of yes or no, which would move the item forward.

Commissioner Correll moved that the Plan Commission recommends to the Common Council that the Official Map for the a portion of the Northeast 1/4 and Southeast 1/4 of the Southeast 1/4 of Section 21 (mapped, unimproved right-of-way affecting the properties at 9349 S. Nicholson Rd., 1200 E. Ryan Rd., 9211R S. Nicholson Rd., and 9025 S. Nicholson Rd.) be amended as illustrated, after a public hearing.

Commissioner Dickmann seconded. On roll call: all Commissioners voted no. Plan Commission's recommendation is not to approve the proposed amendment to the official map as presented.

PLAN REVIEW

LORI KOPECKY, US CELLULAR OPERATING COMPANY, LLC

2330 E. RAWSON AVE.

TAX KEY NO. 731-9982-001

Planner Papelbon provided an overview of the request (see staff report for details).

Commissioner Chandler asked the applicant for more information regarding their plans to meet the setback requirements. Dick Rogers, 100 W. Henry Clay St., Whitefish Bay, WI replied that US Cellular has already spoken with Planner Papelbon and their intention is to provide one final revision of the plans to meet the 25-foot rear setback requirement and any other requirements.

In reference to the fencing around the tower, Mayor Bukiewicz stated that the one thing the area residents did not want to see is barbed wire. Planner Papelbon's recommendation was to extend the height of the fence to just under 10 feet. Mayor Bukiewicz liked the fact that the fence was entirely opaque.

Commissioner Chandler asked the applicant to elaborate on their landscaping plan. Mr. Rogers indicated that they were not sure landscaping would be required and therefore did not submit any landscaping plans. He further explained that the lot does not allow much space and the area is pretty rough which will make it difficult for anything to grow there (except on the west side), but they are willing to add landscaping if required. Commissioner Chandler asked Planner Papelbon to clarify the requirement. Planner Papelbon replied that the requirement is as established by the Plan Commission, usually a combination of landscaping and fencing, but it would be up to the Plan Commission to decide if they will be satisfied with landscaping just on the west side.

Commissioner Correll commented that he is happy with the fence they proposed, but was concerned with what would grow there and who would maintain the landscaping. Alderman Guzikowski suggested a few arborvitae facing the neighbors. Commissioner Johnston pointed out that the current driveway is asphalt on the east side and gravel on the west side, so it would be difficult to landscape the area. In addition, the fence goes all the way to the north property line; however he is happy with the fence, provided the setback requirements are met. Commissioner Siepert agreed. Commissioner Dickmann was also in favor of the opaque fencing to minimize the possibility of children being enticed to play in the area.

Mayor Bukiewicz commented that the Plan Commission would not be making a motion as the setback requirements are currently not met. The applicant is aware that revisions are needed before the Plan Commission would make a motion. Mr. Rogers inquired if the process would be for US Cellular to submit a revised site plan showing the new setbacks. Planner Papelbon responded that those plans should be submitted to the Planning Department, and the item would formally be brought back before Plan Commission in two weeks for final approval.

Commissioner Johnston requested an aerial rendering of the parcel and indicated a small area that if dug out, could possibly be landscaped. Planner Papelbon indicated that the Plan Commission needs to decide if they will require landscaping. Commissioners indicated they would not require it. Planner Papelbon then stated that the Commission would hold the item until the applicant returns with a revised site plan that meets the setback requirements. Mayor Bukiewicz indicated that the item would be held until the September 26, 2017 meeting. Commissioner Correll inquired whether the Commission would require the applicant to appear at that meeting. Planner Papelbon responded that if the setback requirement is the only item the Commission is requiring to be changed, she would be fine with just presenting the item at the September 26th meeting and not require the applicant to be present. Mr. Rogers indicated that US Cellular would have been glad to show the required 25-foot setback in their presentation at this meeting. His understanding is that as long as they agreed to the conditions, the Commission would have approved the plan as presented; now they will be delayed another two weeks.

REZONE

JOHN THOMSEN, SOMERSTONE, LLC

7725 & 7869 S. 13TH ST.

TAX KEY NOS. 784-9019-000 & 784-9993-001

Planner Papelbon provided an overview of the request (see staff report for details.)

Mayor Bukiewicz read into the record a letter dated September 11, 2017, from resident Ken Wahl, 7811 S. 13th St., Oak Creek, WI. In his letter, Mr. Wahl expressed his support of the rezoning of his parcel and the other lots on the west side of 13th St. to B-4 Highway Business.

Linda Oelschlaeger, 7764 S. 13th St., Oak Creek, WI, stated that she feels the B-3 zoning designation will fit in better with the Mixed Use that was voted on in the last meeting. In her opinion, Mixed Use indicates some residential. B-3 would make it more likely that the existing property owners on the west side of 13th St. who have not already been bought out might stay

and stabilize the neighborhood. Her concern is that B-4 zoning will open up the area to uses that are incompatible with the neighborhood that has existed for over fifty years. Her home specifically has been there for 164 years. She does not feel that these long-standing residents should have their largest investment devalued by having B-4 zoning adjacent to or across the street from their homes.

Clarence Schmidt, 7842 S. 13th St., Oak Creek, WI, stated that he does not support the proposed B-4 zoning designation and feels that development of Oak Creek is moving too fast. His concern is the City approving the B-4 zoning before knowing exactly what type of business will be moving there. He inquired if Mayor Bukiewicz has received a lot of feedback from other residents about the City developing too quickly. Mayor Bukiewicz responded that he has received very positive feedback from residents about the progress in Oak Creek and he feels that the City is taking into account the needs of the residents through the Comprehensive Plan, while taking advantage of opportunities for growth to provide a long-term tax base.

Commissioner Chandler requested that the applicant address the reasons for requesting the rezoning of the properties from Rs-3 and B-3 to B-4. John Thomsen, 1938 Deer Path, Waukesha, WI, explained that once these properties went into receivership, Somerstone was chosen by the receiver to acquire the property. They have been looking into several proposed commercial uses and site plans over the past year and have evaluated different scenarios that could be developed on the site. The Comprehensive Plan did not fit with the current zoning, so things have been put on hold during the process of amending the Comprehensive Plan. Staff has recommended the best use for this site which aligns with retail users that have expressed an interest. The B-3 zoning does not align with what they are trying to accomplish.

Planner Papelbon elaborated that the Comprehensive Plan was amended to allow for Mixed Use on the site. The existing zoning for the larger site is B-3 and the smaller site is Rs-3. The request is for both of those sites to be rezoned to B-4. With the PUD overlay, Residential would not be prohibited. Commissioner Correll commented that if the rezoning were to take place, there would still be four or five residential properties on 13th St. that would not be directly affected. Planner Papelbon explained that it would depend on potential acquisition of those properties. If acquired, those properties would become part of the PUD; if not they would have to be considered as part of the PUD planning.

Dennis Cieslak, 7781 S. 13th St., Oak Creek, WI, stated that he has lived in his home for 39 years but supports the rezoning of the properties.

Ms. Oelschlaeger responded to Mr. Thomsen's comments about the retail development interest they have received on the properties, inquiring who the requests have come from. Mayor Bukiewicz stated that if Mr. Thomsen is currently in negotiations, he may not be at liberty to disclose that information. Mr. Thomsen responded that he is in contact with various national retailers who are new to the local market, but is not able to divulge any specific information at this time. Once Somerstone finalizes plans, it will then become the Plan Commission's decision whether to approve the proposed business. They will work closely with the Planning Department to ensure that the proposed new businesses fit with the City's objectives.

Commissioner Correll summarized the history of the rezoning request, explaining that the properties were taken out of receivership because they couldn't be sold as is. In addressing the citizens' concerns, it is a choice between having a vacant piece of land, or shifting the zoning in an effort to control how that land is eventually developed. He asked how long the properties had been on the market prior to Somerstone taking ownership. Mr. Thomsen replied that the reason the properties sat for so long is that the previous buyer who was under contract with the receiver was pursuing a Mixed Use project over a two-year period, but could not get it to work, as it did not meet the density they wanted due to the amount of wetlands located on the parcels.

Somerstone has looked at Mixed Use, but it also is not workable for them. With so much retail interest in the site, they are ready to move ahead, contingent on the rezoning.

Commissioner Siefert asked if Planner Papelbon could give an example for the residents in the audience of what type of business might go into a B-4 zoning district. Ms. Papelbon responded that typically a variety of retail, office, and restaurant uses would be allowed. A Mixed Use PUD would potentially incorporate Residential, but if they are not part of the PUD, they would have to discuss buffer zones around those residential areas.

Commissioner Dickmann emphasized that the City would retain control over what businesses are located there, and they would be selective in choosing those businesses.

Ms. Oelschlaeger stated her understanding was that at the last Plan Commission meeting, the decision was to move forward with a Mixed Use designation. Planner Papelbon replied that the Comprehensive Plan does allow for a mixture of uses that would include the residential properties on 13th St. These properties would remain residential while allowing the subject properties to develop with additional uses such as restaurants, commercial, and retail. The area is appropriate for Mixed Use in the Comprehensive Plan. Ms. Oelschlaeger inquired what the difference is between B-3 and B-4. Planner Papelbon explained that B-3 is Office and Professional Business, and the property has been zoned that way since 2006. Commissioner Correll added that with the B-3 designation in place during that time, they were unable to sell the properties. With the proposed B-4 zoning, the properties will be much more marketable, as demonstrated by the increased interest in the area.

Hearing no other comments, Mayor Bukiewicz called for a motion.

Commissioner Dickmann moved that the Plan Commission recommends to the Common Council that the properties at 7725 & 7869 S. 13th St. be rezoned from Rs-3, Single Family Residential and B-3, Office and Professional Business to B-4, Highway Business after a public hearing. Commissioner Correll seconded. On roll call: all Commissioners voted aye, except Commissioner Correll who voted no.

Commissioner Carrillo moved to adjourn. Commissioner Siefert seconded. On roll call: all voted aye. The meeting was adjourned at 8:19 p.m.

ATTEST:



Douglas Seymour, Plan Commission Secretary

9/26/17
Date