

PROCEEDINGS OF THE TOWN OF VERNON PLAN COMMISSION

Thursday, January 26th, 2006

6:30 P.M.

At the Vernon Town Hall in the Meeting Room

W249 S8910 Center Drive

1. Call Plan Commission meeting to order with the pledge to the flag.
2. **Roll Call. Commissioners: Benkowski, Craig, Johnson, Bauer, Bartholomew, Supervisor Fieber, Chairman Kunert, Town Planner Brian Turk, Waukesha County Representative Jason Fruth, Deputy Clerk Stefanich, Town Engineer Tom Ludwig and Fire Chief Phil Buchholtz.**
3. **NOTICE IS HEREBY GIVEN** that a Joint Public Hearing will be held by the Town of Vernon Plan Commission and a Staff Representative of the Waukesha County Department of Parks and Land Use on Thursday, January 26, 2006 at 6:30 p.m., at the Vernon Town Hall, located at W249 S8910 Center Drive, Big Bend, WI 53103, to consider the rezoning request of **Harmony Homes, 2727 N. Grandview Blvd., Suite 100, Waukesha, WI 53189 (CZ-1601)**, to amend the District Zoning Map of the Waukesha County Zoning Code, from the A-5 Mini Farm District, the RRD-5 Rural Residential Density District 5, and the R-1a Residential District to the R-1 Residential District on the property described as follows: Part of the NW ¼ and NE ¼ of the NE ¼ of Section 3, T5N, R19E, Town of Vernon. More specifically, the parcels are located south of Townline Road and west of S.T.H. 164 in the vicinity of the intersection of Townline Road and Elder Ayre Drive. The parcels in question contain 42 acres.

Chairman Kunert called the public hearing to order at 6:35 pm and read the published notice.

Waukesha County Representative Jason Fruth stated the rezone before the commission does include 3 zoning designations and the proposal is to rezone to the R1 district which allows for 1 acre lot sizes. He also stated the subject parcel contains 42 acres and is in Big Bend's extra territorial land use plan area and the Village has already amended their land use plan to show low density residential in September of 2005. Waukesha County Representative Jason Fruth stated Waukesha County automatically incorporates municipality's land use designations and the density is appropriate in that regard. He also stated the Town approved an amendment to low density residential as well in late 2005. The proposal is in conjunction with a proposed preliminary plat and that plat contains 11 lots and several out lots, the largest of which is to be dedicated to the Town of Vernon for future Town Park purposes. He stated the County has been working with developer on the stormwater management and high groundwater conditions and some hydric soils that needed to be taken into consideration. He stated the acreage proposed to be dedicated to the Town does contain wet soils and is a concern. He stated the guidance available from the NRCS does state there are limitations of hydric soils on site for future park facilities.

Waukesha County Representative Jason Fruth stated the matter was discussed with the development review team a few months ago and the Town Planner indicated that the Town is aware of that situation, and he thought it should be part of public record tonight. He stated in addition to the concerns of the hydric soils another issue is the stormwater management and the approach being utilized includes a stormwater management pond in a separate out lot immediate adjacent to the acreage to be dedicated to the Town. He stated the County feels it would be a good idea for the developer to work with the Town on sizing the stormwater management facility to accommodate future build out of any park facilities and it may be premature, but there may be some benefits to jointly working together on the stormwater management sizing. He stated if the subdivision is built out and the stormwater is built only to accommodate the 11 lots, the county would like to see a build out plan for how the transfer of out lots would work in the future.

Waukesha County Representative Jason Fruth stated there is a stormwater easement on one of the out lots and some special provisions may have to be drafted. He stated one other issue, is in order to clear groundwater on this development with basement construction, the developer has provided a detailed grading plan showing proposed basement elevations and raised floor plans. He stated there won't be conventional eight foot basements on this development and some lots are show as having drain tile systems that will assist in moderating the effects the seasonal high ground water. Waukesha County Representative Jason Fruth stated the land resources division of the County is going to require that at least for the two lots that do discharge in the vicinity of the proposed right of way a system to be built and maintained by the developer and the other 3 lots with drain tile systems may be constructed by private lot owners and something that may be discussed at a later date.

Planner Turk stated there is a 12 lot correction. He stated there is some existing agricultural accessory structures on the property for any of those structures that are proposed to remain that are over 900 square feet the Town requires them to be deed restricted against commercial or industrial uses. He also stated for any of those that are

with in 75 feet of the adjacent lot line, the Town would require that they be deed restricted to no longer be able to house live stock. Planner Turk stated in addition to the other comments, this is being rezoned in conjunction with a preliminary plat which is on the agenda also for consideration.

PUBLIC COMMENTS: None.

Commissioner Benkowski questioned Waukesha County Representative Jason Fruth as to which 2 lots (lots 6 & 7) he had been referring to that would discharge into to right of way and why would a proposal been drafted, when there is no idea as to what will be there. Waukesha County Representative Jason Fruth stated for two reasons, a cost savings, and to minimize the amount of disturbance. He stated a third consideration is a stormwater management easement that is 10 acres plus and provides for an overflow outlet from the pond shown in out lot 3. Tim Styza verified that it is about 10 acres. Waukesha County Representative Jason Fruth stated the concern is that the easement is going to be placed in approximately half of the acreage that was proposed to be the Town's park and will cause a shifting of responsibility and a shifting of easement lines down the road. Chairman Kunert stated that the location, the north side of town, would be a desirable location for a park and that is why the concept was so readily accepted by the Park and Recreational department.

Planner Turk stated the piece of property is so flat that to get it to drain back to the south west to get to the pond and then to turn around to discharge east to get back to the drainage swale, on the east side of the property, is a round about way on a very flat property. He stated it may not even be practical at this point until the size of the parking lot and what type of facilities will be there are known. Commissioner Bauer asked if the soils were suitable a park. Planner Turk stated yes, for ball diamonds and surface facilities and he would not recommend, without further investigation, any type of structure. Engineer Ludwig stated that it should be noted that the area designated outside the immediate pond is overflow area. He stated the water ends up at the north/south ditch through sheet flow and pvc drain tile located mid point on the land. Planner Turk stated this property has an easement recorded with the neighboring property to the east to allow drainage to get to the stream channel. Commissioner Bauer agreed it was a very old easement and that the current drainage situation wasn't working. He asked if the intention was to clear out the drain tile so that it will it drain to the pond. Planner Turk stated it would drain to the drainage ditch. Commissioner Bauer stated that it isn't working and that the water is ponding. Engineer Ludwig stated if any improvements are done to the park that the issue would need to be addressed. Commissioner Bauer stated the standing water is affecting the farming to the south and to the east. Engineer Ludwig stated there is a detention pond proposed. Commissioner Bauer asked when the pond fills where will the water go. Chairman Kunert stated the surface water will sheet flow over the lot into the north/south ditch. There was discussion regarding where the water is going and Commissioner Bauer asked if now was the time to address this issue is. Chairman Kunert stated that drain tile is premature at this time, because it is unknown. Kunert stated water will not be added. The Commissioners discussed where the water is going, the drain tile and the easement.

Mr. Styza stated with the stormwater management plan that was put in place, the detention pond and berms are designed on the southeast corner. He stated the County was happy with the plan and that it would contain and keep the water to this site. He stated with the detention pond and berms, there would be less of a problem with water sheeting across the property to the neighbor than you do now. Planner Turk passed a preliminary site plan/grading plan, illustrating the location of the berms, to the Commissioners for their review. He stated this would alleviate the concerns of the Commissioners because the plan looks to channel the sheet flow to a specific point and then discharge across the property. Waukesha County Representative Jason Fruth stated in his conversations with land resources, the concept was to create a small berm at the far eastern portion of the property to prevent water from continuing to discharge. He feels evaporation will handle the shallow overflows you may get in a severe event. Waukesha County Representative Jason Fruth and Planner Turk stated grading would be a major factor to shape the land more so than a true berm. Commissioner Bauer questioned if any grading will be done. Planner Turk stated yes grading will be done and passed around a marked copy of the construction plan showing the shaping on the east end and how the topography creates the swale, he also clarified that the easement is all the way across the neighboring property from east to west.

Tim Styza helped explained the proposal to the commission as they reviewed it.

Commissioner Benkowski questioned the meaning of the numbers from the Stormwater evaluation. Waukesha County Representative Jason Fruth stated that the Land Resources Division does a detailed review of stormwater management and erosion control on all projects/plats and they have already recommended that there is adequate capacity being provided for in the out lots that are proposed for stormwater management. Engineer Ludwig stated there is some sheet flow that comes from the eastern side that goes to the western ditch line and some would be routed south.

Commissioner Bartholomew asked if there has been enough work done in this area to accommodate a park. Engineer Ludwig stated if the Town does improve the park and increase the amount of prairies in the park, the County is saying to size the pond now to accommodate it. He feels the Town is guessing as to the future of the park. He stated that Staff is recommending enough room and that it is doable. Commissioner Bauer asked if there is an estimated amount of usable park area after this is done. Planner Turk stated to keep in mind the pond overflow is a 100 year overflow and he stated that the park is usable 100% of the time and that if you have a severe event and if you have ball fields down in the easement area they may be wet for a while. Engineer Ludwig stated that area may have to be tiled and that the Town will have to decide on appropriate use for this land. Commissioner Bauer questioned the un-platted land and if that is a Certified Survey Map and how that land is eliminated from the entire parcel. Planner Turk stated that is 20 acres that can be sold without any type of survey document. There was discussion on the out lots and where they come out and who would gain access to them. Commissioner Bauer questioned the setback of lot 12 and of the existing barn; Planner Turk stated the setback is non-conforming so the barn is allowed to stay. Mr. Styza stated in the end all the buildings on lot 12 will eventually be razed.

Commissioner Benkowski asked the location of the 10 acre stormwater easement and if it should be discussed at the allotment process. Waukesha County Representative Jason Fruth stated the designation of the large easement area and the Stormwater management plans have been reviewed by the land resources division for a couple of months and the first version did not show an easement and that may be why Commissioner Benkowski could not recall the location. He stated it is a new addition.

The commission discussed where the 10 acre easement is located and how much of the parcel would be disturbed and then proceed with plans as what to do with the area. Chairman Kunert clarified that stormwater plans were revised to correct sheet water flow and that a park or the concept of a park is not plan-able at this time. Commissioner Bauer stated his concern as to more of the Town's intentions for this area. Chairman Kunert stated he didn't believe it possible to plan for the next 30 years. He stated there has been land designated, for future devolvement of a park, by the fire station for some time now and that land is wet. He also stated that the Parks Department was excited because they had future plans for a park on the north side of town and it was a good fit. Chairman Kunert stated that Parks Department is aware of this new available area. Commissioner Johnson stated his concern for bogs, such as Heather Ridge Park and he stated that turned out to be a decent park, it just takes work. Chairman Kunert stated it may not be prime ag soils to build a park, but that it is free land available to the Town that they could work with. Commissioner Benkowski stated his concern for it to be written that the park will be dedicated to the Town. Planner Turk stated it will state so in the developer's agreement and on the face of the final plat. Commissioner Benkowski stated for the record that the park will be dedicated to the Town and not the County.

Chairman Kunert stated there are no further public comments and closed the public hearing at 7:12 PM.

4. Discussion and action to consider the rezoning request of **Harmony Homes, 2727 N. Grandview Blvd., Suite 100, Waukesha, WI 53189 (CZ-1601)**, to amend the District Zoning Map of the Waukesha County Zoning Code, from the A-5 Mini Farm District, the RRD-5 Rural Residential Density District 5, and the R-1a Residential District to the R-1 Residential District on the property described as follows: Part of the NW ¼ and NE ¼ of the NE ¼ of Section 3, T5N, R19E, Town of Vernon.

Planner Turk stated that the conditions in the staff report don't discuss grading or drainage, he confirmed that the commission has not yet approved them and they will need to be approved either prior to or at the same time as the final plat and developer's agreement and that those conditions will be reviewed at a latter date. Planner Turk stated

he is not recommending any modifications as a result of the public hearing comments and he read the conditions for the record. (*Clerks note: Planner Turk read the conditions a-f below.*)

MOTION Supervisor Fieber moved to recommend to the Town Board of Supervisors and Waukesha County Zoning Agency, approval of the rezoning request for Harmony Homes, 2727 N. Grandview Blvd., Suite 100, Waukesha, WI 53189 (CZ-1601), to amend the District Zoning Map of the Waukesha County Zoning Code, from the A-5 Mini Farm District, the RRD-5 Rural Residential Density District 5, and the R-1a Residential District to the R-1 Residential District subject to the following Planners conditions:

- a. The rezoning shall not be in full force and effect until the Town of Vernon Planning Commission and County Zoning Agency have approved and recorded the Final Plat of Maple Vista Subdivision, said final plat having no more than 12 residential dwelling units, in substantially the same form as the preliminary plat currently on file with the Town of Vernon.
- b. All parcels where an agricultural accessory building over 900 square feet is proposed to remain shall be deed restricted in a form as approved by the Town Attorney giving notice that the accessory building cannot be used for any commercial or industrial purpose.
- c. All parcels where an agricultural accessory building is proposed to remain shall be deed restricted to prohibit the use of the accessory structures for the housing of livestock.
- d. Professional Fees. Applicant shall, on demand, reimburse the Town of Vernon for all costs and expenses of any type that the Town incurs in connection with this development, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.
- e. Payment of Charges. Any unpaid bills owed to the Town of Vernon by the Subject Property Owner or his or her agents, tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of the conditional approval.
- f. Subject to the Developer satisfying all of the aforementioned conditions within one (1) year of granting this conditional approval.

Seconded by Commissioner Craig, carried by voice vote, one nay by Commissioner Bauer

5. Discussion and action of following items for Harmony Homes – Maple Vista Subdivision
 - a. Preliminary Plat Review Checklist

Planner Turk stated there where 10 items on the checklist that needed to be addressed as part of the corrections and is listed in the discussion portion of the staff report, prepared January 14th, 2006.

MOTION Commissioner Benkowski moved to approve the Preliminary Plat Checklist subject to the corrections required in the staff report dated January 14, 2005, for Harmony Homes, 2727 N. Grandview Blvd., Suite 100, Waukesha, seconded by Supervisor Fieber, carried by voice vote.

- b. Preliminary Plat

Planner Turk stated the applicants have submitted a preliminary plat of Maple Vista Subdivision, comprised of 12 residential lots and several out lots for park and stormwater purposes. They have previously been granted approvals for residential development permits (allotment), and cul-de-sac length waivers. The County had delayed its plat review and withheld the rezoning hearing until January 26, 2006,

as they were working with the applicant to resolve stormwater and high groundwater issues up-front (avoiding the conflicts faced by the Flemma development proposal). Planner Turk stated the plat is also subject to the 10 corrections. He stated the County has not taken action and his recommendation is the approval will not be final until the County also concurs. Planner Turk stated in discussions with the Town Attorney there were 2 issues he wanted to note for the record and resolve and these would be added conditions. #11 would be: The ownership of the outlots - the intension of the applicant and developer that outlot 1 and outlot 2 would be conveyed to the adjoining properties to square out lot lines and to include a condition of approval that the developers agreement and final plat indicate so in the event the transfers do not occur at the time of final plat recording that the developer be required to amend the deed restriction and plat to make them owned pro-rata share of the owners by lots in the subdivision. He also stated this would eliminate the possibility of lots becoming non-conforming parcels that are not tied to the subdivision. #12 would be: a note on the plat absolving the County of any tax liability in the event of default on the outlots and asked that the Town be included as indemnified on the tax liability.

MOTION Commissioner Craig moved to recommend to the Town Board of Supervisors approval of the Preliminary Plat for Harmony Homes, 2727 N. Grandview Blvd., Suite 100, Waukesha, subject to the following Planners 12 conditions:

1. **The applicant satisfying all comments, conditions and concerns of the Town Engineer, the Town Planner (including the 10 technical corrections noted in the staff report dated January 14, 2006) including but not limited to:**
 - a. **Preliminary plat is missing a graphic scale; a graphic scale is required.**
 - b. **Sheet numbers are required on all sheets.**
 - c. **Indicate right-of-way width for Maple Vista Drive and Town Line Road.**
 - d. **Indicate use of structures to remain that are 50 feet from the subdivision boundary. Accessory structures closer than 75 feet to a lot line must be restricted against use for housing animals.**
 - e. **Temporary turnaround easement and vision corner easements should be defined as to purpose, rights associated with the easements, who has the rights and who will maintain the easements. Furthermore, the temporary cul-de-sac easement should be widened to encompass the entire ditch section. The town's standard detail indicates a 66' radius for the easement.**
 - f. **It appears that Lot 8 does not meet the minimum average width. The numeric width reads 150' but the lot does not scale to this width.**
 - g. **The 20' strip of land between Lots 6 and 7 is intended for access purposes to Out lot 4. However, its eastern edge leads directly to the stormwater pond edge. The pond needs to be reconfigured to allow a footpath from the access strip to Out lot 4, or the out lot access needs to be relocated. Further, Out lot 3 will need to have an access easement added to the face of the plat.**
 - h. **The plat must show wells on adjacent lands to confirm that they will not be within 100 feet of septic or stormwater facilities.**
 - i. **The plat must indicate source information for contours and soils information.**
 - j. **The plat does not depict an acceleration lane that will be required along Town Line Road. Although the line work is not clear, it does not appear that there is enough right-of-way for the acceleration lane. If there is not enough right-of-way, it will need to be acquired from the neighbor to the east. Furthermore, the Town of Waukesha is requiring a passing lane. Proper right-of-way width will also be required for this improvement.**
2. **The applicant satisfying all comments, conditions and concerns of all reviewing, objecting and approving bodies, including, but not limited to, the State of Wisconsin Department of Commerce per ch. 236, Wisconsin Statutes and ch. Comm. 85, Wisconsin**

- Administrative Code; State of Wisconsin Department of Administration per ch. 236, Wisconsin Statutes; the Waukesha County Department of Parks and Land Use and the Waukesha County Department of Public Works.**
- 3. The applicant applying for and receiving from the Plan Commission for the Town of Vernon, the Town Board for the Town of Vernon, and Waukesha County all necessary waivers and modifications and/or variances (if any) to the Waukesha County Zoning Code, the Waukesha County Shoreland and Flood land Protection Ordinance, and the Town of Vernon Land Division and Development Ordinance.**
 - 4. Subject to Plan Commission approval of final Declarations of Restrictions prior to final plat approval and prior to the Town affixing any required signatures to any conditionally approved documents.**
 - 5. Subject to the Developer and Owner satisfying all comments, conditions and concerns of all rezoning ordinances, which have been approved in regard to the subject property.**
 - 6. All parcels where an agricultural accessory building over 900 square feet is proposed to remain shall be deed restricted in a form as approved by the Town Attorney giving notice that the accessory building cannot be used for any commercial or industrial purpose.**
 - 7. All parcels where an agricultural accessory building is proposed to remain shall be deed restricted to prohibit the use of the accessory structures for the housing of livestock.**
 - 8. Professional Fees. Applicant shall, on demand, reimburse the Town of Vernon for all costs and expenses of any type that the Town incurs in connection with this development, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.**
 - 9. Payment of Charges. Any unpaid bills owed to the Town of Vernon by the Subject Property Owner or his or her agents, tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of the conditional approval.**
 - 10. Subject to the Developer satisfying all of the aforementioned conditions within one (1) year of granting this conditional approval.**
 - 11. Ownership of outlots to be clarified by the Developers Agreements**
 - 12. Inclusion of the Town of Vernon in the tax delinquency note required by the County.**

Seconded by Supervisor Fieber, carried by voice vote.

The Commissioners questioned the deceleration lane and increased size of the detention ponds that were not shown. Planner Turk stated those issues will be addressed on the construction plans. Waukesha County Representative Jason Fruth stated the County's request was to get feed back from the Plan Commission as to considering Stormwater management accommodations at this time or to wait.

Commissioner Bauer stated his concern with the lack of a parking lot. The commission discussed how this issue should be addressed so the developer can increase the size of the pond now to accommodate a parking lot and both Planner Turk and Engineer Ludwig suggested at a later date when plans for a parking lot come up. They stated the peak flow is unknown and the idea is impractical at this time. Commissioner Benkowski questioned why approval is needed at this time. Planner Turk stated the information given, typically is not on the preliminary plat, and the Town's ordinance doesn't allow Mr. Styza to continue construction until he has the final plat, developers agreement and construction documents complete. He stated if the Plan Commission wants to require that information with the preliminary plat, then the ordinance will need to be amended and also to allow construction under the

preliminary plat, he stated right now it's only a waiver option. Commissioner Benkowski stated his concern to review this information at the time of construction plans.

6. **SUBSEQUENTLY FOLLOWING THE ABOVE NOTICED PUBLIC HEARING**, a second public hearing will be held to consider the conditional use request of **James and Jody Hunn, S77 W25235 National Avenue, Waukesha, WI 53189 (CU-1421)**, to change an existing non-conforming use from an antique shop and an apartment to office and retail space for the sale of frozen and dry food products on the property described as follows: Part of the SW ¼ of the SE ¼ of Section 9, T5N R19E, Town of Vernon. More specifically, the property is located at S77 W25235 National Avenue, Waukesha, WI 53189.

Waukesha County Representative Jason Fruth stated the subject property is zoned R1 and considered a legal non conforming use, which went before the Waukesha County Parks and Planning on December 15th. He stated this property has been used before for commercial use in the late 1800's as a general store and post office, grocery store and most recently an antique store. He stated the proposal now is to create office space in the upper level, previously used as an upper level apartment, and lower level would be retail sales space for frozen and pre-packaged dry foods. Waukesha County Representative Jason Fruth stated the business name is New Era Market and the structure is non-conforming in its relation to its lot boundaries, sitting approximately 7 feet from HWY ES right of way in Vernon center. He stated at present there are 4 parking stall stripes within the county trunk right of way. He stated the R1 district allows for the maximum of 10% floor area ratio and the structure is currently at 25% floor area ratio and the lot is just less than 10,000 square feet. He also stated he had spoke with Environmental Health Division indicating that prior to any improvement; they require a preliminary site evaluation and anticipate this property transitioning to a holding tank rather than the existing septic. He also spoke with Public Works Department and they have concern with the proximity to County HWY ES and would consider parking stalls to remain in the County Trunk right of way with special parameters in the form of new striping and permitting in addition to a revocable occupancy permit should the County need the right of way for future improvements. He stated the proposal before us shows 5 parking spaces in the back yard area as well as the septic field. He stated by County code there would be a requirement of 11 parking spaces, 7 for the retail component and 4 for the office component. Waukesha County Representative Jason Fruth stated an additional storage area to the rear of the structure and a 3rd story loft area that will be used as storage as well. He stated in order to proceed with this Conditional Use the County is requiring revisions to the site plan that show adequate parking facilities and that a variance could be acquired, but more than 5 parking spaces would be required.

Waukesha County Representative Jason Fruth stated code also requires adequate screening of parking areas and the existing solid wood fence would be sufficient and parking stalls can be no closer than 10 feet to the lot line and If possible additional parking was needed, and if a holding tank would be installed in the rear yard area, he was told parking could be placed over this area. He stated another area to consider would be a loading zone area, along the side and rear of the structure might be potential areas. Waukesha County Representative Jason Fruth stated a site plan requires dumpster location and enclosure and that hasn't been provided. He stated a lighting plan would need to be submitted and Environmental Health would require a food license for the sale of packaged foods. He stated the planning division's concerns with the traffic backing into ES, the only exit. He feels the site distance is undesirable and is marked at 35 miles per hour and therefore rear parking would be more desirable for accommodating parking.

Planner Turk stated the County did receive a revised site plan showing the 5 parking stalls to the rear and he didn't believe the Plan Commission had a copy in their packets and he passed the revised plan around. He also noted where the potential holding tank could be placed to acquire additional rear yard parking.

Planner Turk asked the petitioner to verify that the 2nd floor prior residence will not be used as a residence and only be used as an office and Mr. Hunn stated that was correct. Planner Turk asked the hours of operation being: upper office hours Monday-Friday- 7:30am – 4pm and 1st floor retail space Monday-Friday 11am - 5pm and on Saturday 11am – 6 pm. Planner Turk stated in addition to the food license required, any sale of liquor would require a liquor license from the Town of Vernon. He stated the other item the Attorney requested was a list of items to be sold, a possible inventory order sheet. Mr. Hunn acknowledged the request and stated he would submit a list. Planner Turk stated the reason the need for the list was not to have any questionable adult items for sale.

Planner Turk stated his main concern with the site, was with the parking and loading, and he feels with the new site plan the County is looking for, his concerns could be addressed. Planner Turk asked Mr. DesMonie if he had had any discussions with the County on the holding tank. Mr. DesMonie stated he had had a discussion with George Morris and he stated because this is a commercial property, the option to apply would exist. Mr. DesMonie stated he and Jim and Judy Hunn are aware that the holding tank may need to be addressed. Planner Turk asked Mr. DesMonie if it was no longer his intent to construct a garage that was proposed on the original site plan. Mr. DesMonie stated that was correct.

Planner Turk stated conditions of approval were not prepared because this was a discovery public hearing. He stated he wanted to hear feedback from the plan commission, hear public testimony then work with the Town Attorney and the County to jointly agree on the conditions.

Commissioner Benkowski questioned why this matter went to the County first. Planner Turk stated that if the Park and Planning Commission were not inclined to consider an expansion of a non-conforming use then it didn't make sense in the applicants spending the money to get that far. He stated that the County stated to apply for the hearing and they may be inclined to grant it. Commissioner Benkowski stated it seemed backwards to him. Planner Turk stated if this issue was a sure thing it would have followed normal procedure, the Town first and a public hearing with recommendations to the County. He stated because of the non-conforming and the serious issues of parking and access and expansion of use that the size of the property is non-conforming, the structure is non-conforming the use is non-conforming. Commissioner Craig stated Planner Turk thought the County may turn it down and thought the applicant should get a conceptual approval from the County first. Waukesha County Representative Jason Fruth wanted to clarify that the County has not yet considered this conditional use request and thus has not spent time reviewing this proposal.

Planner Turk stated this request went to the County Park and Planning Commission with a County staff recommendation for denial and had we had our conditions done it still would have gone to them for denial. He stated we were fortunate that he and the applicant went to the County and explained the situation and the County agreed to overturn their staff's recommendation and let it proceed to hearing. Commissioner Benkowski stated when it was under the proposal to change the Conditional Use before; it had come to the Town first, along with a staff planner.

Commissioner Bauer asked the applicant to explain his business further. Mr. Hunn stated he is a food broker, since 1990, not buying food or storing food, but selling to the food service community, the country clubs and the high end market. He stated he has access to quantities of food that he may offer to the public, keeping the old world charm and offer recipes and wines, a very finite market and the value would be passed on to the public. Mr. DesMonie stated Mr. Hunns plan of operation has two parts to it, an on going viable business in the sense that there are 3 food brokers working together. Mr. DesMonie went on to explain what Mr. Hunn is proposing to do with retail and that it is tentative and what Mr. Hunn wants to build on. He stated Mr. Hunn would like permission to proceed to offer this retail to the public, and in time apply for a liquor license because of his access to special quantities and types of fine wine. Supervisor Fieber stated the neighbors would look forward to see this type of unique store. Commissioner Bartholomew asked if parking would need to expand for business and if the market would allow it. Mr. Hunn stated he had inquired about the lot behind the site and to purchase it if expansion was a possibility. Mr. DesMonie stated the parking as it is now is dangerous and needs to be addressed. He stated he would prefer parking to be in the lot and not on the street he also wanted to clarify that the driveway is not a shared driveway with the neighbor to the west.

Commissioner Benkowski stated the need to preserve the building, he stated he spoke with the owner and he is very happy with the building as it is. Supervisor Fieber stated he agreed that the building should be kept as a landmark and preserved also. Mr. DesMonie stated the building does carry the old world, 19th century look. Commissioner Benkowski stated his concern with parking if the business would take off and if there would be a way to limit the use, if parking did become a real problem. Waukesha County Representative Jason Fruth stated he believes 7 spaces/per 1000 for this type of business may be overkill, however 5 spaces isn't adequate. He stated the County is more than willing to assist the applicant with direction on a parking plan in the rear yard area.

Mr. DesMonie stated the owner is aware of the parking problems and he does want to accommodate for parking issues.

Supervisor Fieber questioned if shielding was needed behind the building to the neighbors in the back. Mr. Hunn stated there is nothing behind the site.

Planner Turk stated the business hours are, more so, off peak traffic times for National Avenue. Planner Turk stated in his site visit with the applicant, what types of delivery trucks they could expect. Mr. Hunn had told him mostly UPS or Federal Express, smaller delivery trucks. Commissioner Johnson stated the bad part of delivery trucks to the west is that the traffic is stopped from going through and he stated it would be better to eliminate the front parking spots all together. Mr. DesMonie stated, after observation, that the UPS truck would park parallel close to the building.

Waukesha County Representative Jason Fruth stated a minor challenge being the proposed freezer on the back side of the building being too close to the lot line, although could be adjusted, and the construction of additional improvements would also create additional floor area on the property and if the applicant is perusing a parking variance they would also need to pursue a variance for floor area ratio as well as open space. He also stated his concern regarding the process of the zoning code. He stated the County did follow the zoning code section 3.17 on legal non-conformities specifically section 3.17 2 b 2 (**Clerk note: Waukesha County Representative Jason Fruth read the section of the zoning code.**) and he believes it was appropriate for the Park and Planning Commission to hear this request.

Supervisor Fieber stated his concern of the freezer location and that it could be an eye sore. Mr. Hunn stated the freezer would abut the building with an inside entrance and therefore would not be unsightly from the outside. Commissioner Craig stated the freezer would be considered a structure and Waukesha County Representative Jason Fruth agreed it would be an improvement and an expansion of floor area on the property. Mr. DesMonie stated it would have a concrete base and it would be a walk in freezer put together in sections. Commissioner Bauer questioned where the compressor would be and what the noise level might be. Mr. DesMonie stated the compressor could be placed inside the building. The Commissioners discussed the location of the compressor/freezer and canopy.

PUBLIC COMMENTS:

Laura Lyon of S77 W25225 National Avenue, she stated she is a resident directly east of the store and her house is 10 feet from the property line and 25 feet from the road. She stated she has serious concerns with the traffic and has witnessed 3 accidents, one involving Mrs. Hunn where she was stopped in the middle of the street waiting to turn into her drive and was rear ended. She feels 3 accidents within 2 years are significant. She stated coming down the hill a 35 mile an hour speed limit is posted and most vehicles, including semis, are driving faster than that, she feels 45 – 50 mph. Ms. Lyons feel there is not enough room to stop when a vehicle is turning into a drive at the bottom of the hill. She stated the house directly across from her has in home daycare and she has adolescent children playing in her yard in the summer and with the excess traffic feels it unsafe. She also stated a significant amount of motorcycles traveling National Avenue and feels there is a great deal of confusion as to what is happening. She stated her concern for overflow parking and that the overflow would be right in front of her home. She also stated a concern for parking in the back with regards to environmental issues and privacy issues, she cannot converse in her bedroom or have her windows open on nice days, she doesn't want to hear people in the parking lot conversing or car starting, hearing their radios and exhaust seeps into her bedroom. She stated she strongly opposes this business. She stated a concern for the offering of evening cooking classes and she feels they will disturb her. She enjoys her back yard in the summer and doesn't want the noise, and disturbance. She stated her lot is a down slope from the proposed business and she stated she would have runoff of oil and fuels and carbon into her back yard and garden. She has a concern for light pollution and doesn't want to hear the freezer noise and salt and chemicals from the parking lot that will wash into her yard. Ms. Lyons feels this business devalues her property. She stated there are 3 homes behind the store and she feels more research needs to be done and more questions need to be asked. She opposes the Liquor license having children in the area. Ms. Lyons stated she strongly opposes this store in this area.

Ken Kozerski of S77 W25225 National Avenue stated he has more concerns now then ever. He stated the noise, light, safety and environmental issues are all concerns that need to be addressed. Mr. Kozerski stated his property is at the lowest point and all drainage would drain into his property and he likes to garden. He stated he is more concerned with the safety and the speed limit, he stated police officers sit closer to Center than their area and feels traffic doesn't slow down at the bottom of the hill. He feels with the amount of children and families he is not comfortable with a new business at this time. He stated the hours of operation with the antique store (11am-2pm), there wasn't a significant amount of traffic and with the increased traffic, noise and smell, he stated he didn't move out in the country to contend with these issues. Ms. Lyons asked of the Hunns, if they would want to live next to this.

Mary Simon of S77 W25319 National Avenue stated she is one of the neighbors behind the new business and wanted the Hunns to realize there are neighbors behind them.

Planner Turk stated that it would not be appropriate at this time to provide staff directions to draft conditions of approval. Planner Turk stated the issues and concerns need to be reviewed and that the accident reports need be reviewed for the last 5 years and possible ways to minimize the concerns and then draft conditions to address the minimized or alleviated concerns. He also stated the applicant must do additional work with Waukesha County on the parking layout and septic issues and doesn't feel it possible to have that information by the February 9th meeting date so to adjourn to the February 23rd meeting and at that time all the following issues will be addressed: lighting, compressor, dumpster, freezer, liquor license, environmental issues, screening, cooking classes, exhaust, parking in rear, site lines, accident reports, traffic safety, signage and annual reviews of the operation.

MOTION Commissioner Bauer moved to adjourn the consideration of the conditional use request of James and Jody Hunn, S77 W25235 National Avenue, Waukesha, WI 53189 (CU-1421), to change an existing non-conforming use from an antique shop and an apartment to office and retail space for the sale of frozen and dry food products on the property described as follows: Part of the SW ¼ of the SE ¼ of Section 9, T5N R19E, Town of Vernon. More specifically, the property is located at S77 W25235 National Avenue, Waukesha, to February 23, 2006 @ 6:15 pm. seconded by Supervisor Fieber, carried by voice vote.

Waukesha County Representative Jason Fruth stated his concern for the applicant not being able to address all the concerns and that February 23 may be premature for the applicant to respond. The applicants stated they would be able to respond by the February 23, 2006 meeting date. Commissioner Craig stated he felt the business would not generate a great deal of traffic and his concern was the location.

MOTION Commissioner Bauer move to table item #8 to February 23, 2006, seconded by Supervisor Fieber, carried by voice vote.

7. Discussion and action to consider the conditional use request of **James and Jody Hunn, S77 W25235 National Avenue, Waukesha, WI 53189 (CU-1421)**, to change an existing non-conforming use from an antique shop and an apartment to office and retail space for the sale of frozen and dry food products on the property described as follows: Part of the SW ¼ of the SE ¼ of Section 9, T5N R19E, Town of Vernon. More specifically, the property is located at S77 W25235 National Avenue, Waukesha, WI 53189.

Planner Turk stated one employee is proposed to be on site. Additional sales staff is employed by New Era, but is mobile at all times, only occasionally returning for a staff meeting. Hours of operation for the boutique are Monday – Friday 7:30 AM to 4:30 PM. The County has indicated that no information is on file regarding the sanitary system. Further testing may be required prior to the County's release of sanitary permits.

The property is approximately 9,687 square feet in size and approximately 56 feet in width. This limited parcel size limits the amount and availability of off street parking and loading. The Town Planner met the applicant on-site to review parking and delivery matters. The site currently has parking for 2-4 cars within the confines of the driveway. The applicant proposes to lengthen the driveway and construct parking for as much as seven vehicles. Under County ordinance, 13-15 stalls are required for retail use. The applicant is decreasing the degree of parking non-conformity. The driveway also crosses onto the neighbor's property to the west. A shared driveway easement should be secured. The Town Engineer should review the plans in detail, and the proposal may require stormwater

management features. Consideration should be given to widening the proposed 12' drive to allow for two way traffic. The applicant advised the Town Planner that deliveries will arrive by UPS or FED EX, and not by articulated semi-trucks. In any event, prior to any grant of approval, the Plan Commission should be satisfied that off-street parking and loading are adequately addressed. The only exterior change proposed to the structure is the installation of a freezer under the existing lean-to, at the south end of the building.

Clerk's Note: Please note, no action was taken as the public hearing was adjourned to February 23, 2006 & 6:15 PM.

8. Discussion and action on Site Plan and Plan of Operation for New Era Marketing for James Hunn, S77 W25235 National Avenue, Big Bend, WI.

MOTION Commissioner Bauer moved to table the Site Plan and Plan of Operation for New Era Marketing for James Hunn, S77 W25235 National Avenue, Big Bend, WI to the February 23, 2006 Plan Commission meeting, seconded by Commissioner Fieber, carried by voice vote.

9. Discussion and action on Conditional Use for New Era Marketing for James Hunn, S77 W25235 National Avenue, Big Bend, WI.

Clerk's Note: Not discussing this item as it was already on the agenda, item #7.

MOTION Supervisor Fieber moved to take a break, seconded by Commissioner Benkowski, carried by voice vote.

10. Discussion and action to approve 2 signs for Wayne's World of Recreation, S68 W22665 National Avenue, Big Bend, WI.

Planner Turk stated the Plan Commission originally approved the signs for the building and the stand alone signs. He stated at that time, there were needed variances for area and location. He stated Waukesha Plan Commission approved Site Plan and Plan of Operation and signs that were legal and denied signs that were not allowed. Planner Turk stated the denials were due to non-compliance with the dimensional standards found in the Waukesha County Zoning Code and in July of 2005, the applicants appeal to the County Zoning Agency seeking size and setback variances. He stated on July 27, 2005, the County Board of Adjustments denied the setback variances and approved the size variances. Planner Turk stated the applicants subsequently erected the signs without returning to the Town of Vernon Plan Commission and, apparently, without zoning permits. He stated upon noticing the sign placement, the Town Planner reminded the applicants that local approvals were still needed and on January 4, 2006, the applicants provided the Town of Vernon with the County Board of Adjustment's staff reports and decisions sheets. Planner Turk stated Waukesha County approved and denied variance requests and approved area denied setbacks from lot lines and that Waukesha County stated their approval is not a permit, and has to come back to the Town of Vernon for their approval process. He stated the signs were approved by Waukesha County with variance conditions. Planner Turk reviewed the conditions that Waukesha County put upon the signs. Planner Turk stated before occupancy is given, we make sure that everything constructed is as how it was approved. He reviewed his recommendation and conditions of approval with the Plan Commission.

Supervisor Fieber asked Planner Turk if the setback requirements on National Avenue have been met. Planner Turk stated yes. Chairman Kunert asked if anyone from Wayne's World was present. Commissioner Benkowski stated he wished the petitioners were present. Commissioner Benkowski stated when the temporary sign were installed by the freeway; he mentioned it at the next meeting that it advertised Longnecks, not Wayne's World. He feels the commissioner had approved Wayne's World not Longnecks. Planner Turk stated there was a separate Site Plan and Plan of Operation for Longnecks. Commissioner Benkowski stated the longnecks sign shows up more than Wayne's World. Chairman Kunert stated that Longnecks became the dominate sign. Commissioner Benkowski approved the Wayne's World sign. Planner Turk stated he felt it odd that the Conditional Use hearing was held a year before the Site Plan and Plan of Operation was approved, which is unusual. And they waited a year before they finalized their plans. Commissioner Johnson stated the lot line is 3 feet closer to the sign than the fence. He stated there is room to move it but can't see the point of moving the sign, because it will take a lot of

work. He stated he would like to see the signs stay as they are. They didn't have the right approvals and are not in the right spot. Planner Turk stated it's not our decision to force them to move the signs; it's up to Waukesha County.

MOTION Commissioner Bauer moved to approve the two free standing signs pursuant to the recommendations and actions of County Board of Adjustments actions described in the July 28, 2005 decision letter for Wayne's World of Recreation, S68 W22665 National Avenue, Big Bend, WI, subject to the following Planner's conditions:

- 1. Professional fees. Applicant shall, on demand, reimburse the Town of Vernon for all costs and expenses of any type that the Town incurs in connection with this conditional use permit, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of required Conditional Use Permit or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.**
- 2. Payment of Charges. Any unpaid bills owed to the Town of Vernon by the Subject Property Owner or his or her agents, tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of the conditional use permit.**

Seconded by Supervisor Fieber, carried by voice vote.

11. Discussion on revised conceptual land division for Alioto / Breen / Mainwaring properties, located in Section 1 (Garret Drive extended).

Planner Turk stated the Plan Commission has previously reviewed conceptual plans for the development of the westerly portions of the Breen, Alioto, and Mainwaring properties. The Plan Commission provided feedback regarding density and lot sizes, street configuration, and drainage. A revised concept plan has been submitted based upon feedback received. The parcels are adjacent to the easterly plat boundary of the proposed Rolling Meadows subdivision. The proposal involves the extension of Garrett Drive easterly from the Rolling Meadows plat boundary approximately 450 feet, terminating in a cul-de-sac. Eight new lots are proposed to be created fronting on Garrett Drive, ranging in size from 43,560 square feet (1.0 acre) to 90,733 square feet (2.08 acres). The three existing homes remain on remnant parcels of approximately six acres each. The RDD-5 District permits development at densities of one unit per five acres, but allows individual lots to be created down to one acre in size. A goal of the RDD-5 District is to retain prime agricultural lands in 20-acre contiguous tracts, but permitting separate ownership within the contiguous tracts. The proposal does not conform to the density or open space goals of the RDD-5 District, and would require rezoning action. The proposed parcels to be developed would require rezoning to R-1, which permits individual parcels to be one acre in size and 150 feet in width. The remnant parcels containing the existing residences could remain in the RDD-5 District. The Master Plan was amended in 2005 to permit development at low density residential. The proposal conforms to the amended plan. Proposed parcels 1 and 2 contain wetlands; proposed parcels 5, 6 and 7 contain isolated natural resource areas and shoreland flood lands, and were field located and mapped in conjunction with the 1992 survey of the property. Wetland delineations are only valid for five years, and new delineations will be required in conjunction with any development petition.

Planner Turk stated the soils are largely Hockheim series and should be capable of supporting on-site sanitary systems. However, no soil testing data has been provided to date. An out lot for stormwater management has been shown. No details have been submitted at this time. Planner Turk stated the applicants have addressed all the concerns with stormwater management and lot sizes. He stated one matter that has come up through the Town Attorney was owner of Rolling Meadows subdivision has not yet offered the dedication of the improvements to the Town and therefore, the Town does not own the public street, just the right of way. He stated the way the

Developer's Agreement is structured, until the improvements are tendered to the Town and the Town accepts the improvements, any adjoining properties cannot connect to them. He stated the Attorney noted that the second lift of asphalt was to be on before winter and has not and will be pursued again in the spring. Chairman Kunert questioned if a certain amount of homes need to be built before the second lift of asphalt is applied and Engineer Ludwig stated he could have gotten acceptance, with 80% of accepted households. Planner Turk stated acceptance and dedication are two different issues he stated one starts the warrantee period. Chairman Kunert stated it's too early and that 50% of the permits have not been released as of yet. Engineer Ludwig stated an extension of the Developer's Agreement would be appropriate here and Chairman Kunert agreed. Planner Turk stated that would be the only outstanding issue left to be addressed. He stated the Town of Vernon and Village of Big Bend have both amended their land use plans to accommodate these density classifications and the property is now in 2 owners names.

Commissioner Benkowski questioned if Breen was no longer an owner and the applicant stated that was correct. Planner Turk stated the petitioners want to move forward with the allotment process and preliminary plat. Commissioner Craig stated some of the lots look small and include wetland. Commissioner Bauer stated there would be enough room for a home. Commissioner Benkowski stated his concerns with the drainage. Engineer Ludwig stated that earlier in the process it was suggested that the two developers work together and the applicant stated he had tried and they found it difficult to work with the owners. Engineer Ludwig stated that ideally one larger pond would be the most cost effective to the developer and the owners.

Chairman Kunert stated that it is agreed that the commission would like to see more. The applicants indicated that they would proceed with their allotment application.

12. Discussion and action of the following items for Mike Doble for the property located at W249 S8910 Center Drive, Waukesha, WI
 - a. Waiver and Modification to Section 6.06(A) of the Land Division and Development Control Ordinance – lot lines
 - b. Waiver and Modification to Section 5.05(r) soil borings .
 - c. Certified Survey Map Checklist
 - d. Final Certified Survey Map

MOTION Commissioner Bartholomew moved to deviate item #13, seconded by Supervisor Fieber, carried by voice vote.

13. Discussion and action of following items for Jim Rozeski, Sandhill Ridge Reserve Addition #1, S107 W25620 Forest Home Avenue, Mukwonago, WI
 - a. Preliminary Plat Review Checklist

MOTION Commissioner Bauer moved to approve the Preliminary Plat Checklist for Jim Rozeski, Sandhill Ridge Reserve Addition #1, S107 W25620 Forest Home Avenue, Mukwonago, WI, seconded by Supervisor Fieber, carried by voice vote.

Tony Zanon of Jahnke and Jahnke and Ms. Rozeski were present. Mr. Zanon questioned item #4, with regard to language in the developer's agreement making the owner responsible to remove the temporary cul-de-sac and Planner Turk explained that it was in regard to the developer removing the existing temporary cul-de-sac on the east side. Planner Turk stated not the future cul-de-sac, but the one that had been previously constructed and the builder to the west would be responsible to take out. Mr. Zanon also stated his concern with out lots 1 and 2 to be owned by the sub-divider and Planner Turk stated to keep the out lots as part of the lot and in the future have the future owners agree to a conveyance, and ownership could be done by warrantee deed or quick claim deed. Mr. Zanon stated his concern with lot 5 being deed restricted against further division and the recommendation items #6, 7 & 8. He stated at a future date the Rozeskis would like to be able to do potential land division or to deed some of the land to lot 6. Planner Turk stated a lot line adjustment is not a land division.

Commissioner Benkowski commented that the Plan Commission is only looking at the 11 technical corrections and Planner Turk stated yes. Commissioner Benkowski stated that the drainage easement could be combined with the partial to the west in the future. Ms. Rozeski stated the owners stated they had no intention of doing anything with that land for 20 + years. Mr. Zanon stated that a pond has been proposed for outlot 3 and they have done analysis to make sure that water level during each storm didn't increase through the development and that it will basically function as it does today. He stated the size pond fits the lots.

Commissioner Benkowski stated the drainage ponds will end up abutting each other so there will be a 2 foot section between the ponds. Mr. Zanon stated outlot 3 will be a drainage easement which allows the Town to have maintenance ability. Engineer Ludwig stated the easement could be altered in the future.

- b. Waiver and Modification to Section 6.03(A) of the Land Division and Development Control Ordinance-cul-de-sac length

Planner Turk stated during the conceptual review there was a significant discussion with the applicants regarding the extension of Sandhill Ridge and the length of the existing cul-de-sac and at the time the discussion was that acceptable because it is in conformance with the Town's Planned Road Map. He stated since that time additional policy discussions have arisen for cul-de-sac lengths and that the applicants had gotten through the allotment process before those policy decisions. Planner Turk feels based on the current status, it is appropriate to grant the waiver modification.

MOTION Commissioner Johnson moved to approve the Waiver and Modification to Section 6.03(A) of the Land Division and Development Control Ordinance-cul-de-sac length for Jim Rozeski, Sandhill Ridge Reserve Addition #1, S107 W25620 Forest Home Avenue, Mukwonago, WI, seconded by Supervisor Fieber carried by voice vote.

Chairman Kunert questioned Chief Buchholtz as to any problems he may see with the length of the cul-de-sac. Chief Buchholtz stated he sees no problem and with the proposed bulb, he will be able to get the appropriate apparatus in and out of that area to be able to perform an operation if needed.

Commissioner Benkowski questioned why the bulb wasn't drawn on the plat. Mr. Zanon stated the actual pavement is not shown on the plat, on the conceptual the pavement was shown and on the construction plans the easement was shown.

- c. Preliminary Plat

Planner Turk stated applicants indicated that out lots 1 and 2 would be removed from the final plat and will be incorporated as parts of their abutting lots. He stated in addition the grading, stormwater and erosion control and street construction plans will be reviewed separately along with the final plat and will have the developer's agreement and letter of credit at that time and that construction will not start until that information is obtained.

MOTION Commissioner Craig moved to recommend to the Town Board of Supervisors approval of the Preliminary Plat for Jim Rozeski, Sandhill Ridge Reserve Addition #1, S107 W25620 Forest Home Avenue, Mukwonago, WI, subject to the following planners conditions including but not limited to:

1. The applicant satisfying all comments, conditions and concerns of the Town Engineer, the Town Planner (including the 11 technical corrections noted in the staff report dated January 16, 2006)
 - a. The environmental corridor line is shown; however it does not indicate whether it is primary or secondary and it does not clearly show which side of the line the corridor is located (checklist item 24).

application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.

10. **Payment of Charges.** Any unpaid bills owed to the Town of Vernon by the Subject Property Owner or his or her agents, tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of the conditional approval.
11. **Subject to the Developer satisfying all of the aforementioned conditions within one (1) year of granting this conditional approval.**

Seconded by Commissioner Johnson, carried by voice vote.

Ms. Rozeski stated in terms of conditions #6, 7 & 8; in condition #6 her concern was in needing a deed restriction for lot #5. She stated the property is zoned residential and zoning does not permit commercial use unless a conditional use permit was obtained. She stated if at such time the property owner would like to use an out building for commercial use they would need to obtain a conditional use permit. Planner Turk stated the reason is that the Town building code chapter 16 states any accessory structure on a residential property in excess of 900 square feet must have a deed restriction. Ms. Rozeski in condition #7, she verified in lot 5 there are 3 building with a 30 stall barn and that the deed restriction would not include those buildings because they are more than 75 feet and on a 15 acre parcel. Planner Turk stated only buildings within 75 feet of the side lot line have that restriction. Ms. Rozeski stated in condition #8 they would like to request more time than the allowed 12 months application, they would like 24 months. They would need to sell the property and then the new owners will need to apply for permits. Planner Turk stated it would be 12 months from recording the final plat and taking all matters into consideration it would be more like 24 months. He stated the marketing of the lot can happen now; the property can't be transferred until the property until the plat is recorded. Planner Turk reiterated that in giving the developer one year from final plat they are in turn giving them 2 years and the developer is asking for 2 years and in turn the Town would be giving them 3 years. Chairman Kunert stated the time to address this issue would be in the developer's agreement. Mr. Zanon stated his concern for getting a plat approval with this requirement and then not be able to negotiate when the time comes. He stated the said lot will need a specific buyer, because of the size and the barns on the lot. Chairman Kunert stated it is a 15 acre lot and according to the County code a total of 12 horses are permitted. Mr. Zanon stated the barn does have 30 stalls and would be able to have livestock, but with the lot being what it is, you will be limited to a specific buyer.

Ms. Rozeski stated again her concern to have enough time to find a potential buyer and the time needed to decide on the use of the property and to follow through on those decisions. Chairman Kunert stated that this could be addressed in the developer's agreement and Planner Turk stated the Plan Commission is setting the policy direction now. Commissioner Benkowski stated it should be left as is and if an extension is needed it can be addressed at that time. Planner Turk stated the County typically mirrors the conditions that the Town would apply and then adds any additional conditions they feel appropriate. He stated that the County could override the Town. Mr. Zanon stated that was his concern.

Clerk's Note: The Plan Commission continued to discuss the rest of the agenda items, skipping Mr. Doble until he was present. No motion to continue to deviate from the agenda was made.

14. Discussion and action on allotment for Art and Pat Doll, Creekside Estates, located in Section 33 and 34 on Center Drive.

Planner Turk explained the allotment process. Tony Zanon and Bradford Meyer from Jahnke and Jahnke were present and presented their development to the commission.

Engineer Ludwig stated a need for the developers to review the grading, drainage concerns and soil boring issues.

Mr. Zanon reviewed the status being a conceptual plan with 19 lots and a loop road with a cul-de-sac. He stated the next step after the allotment process is the rezone. He stated the area of development, having corridor and wet lands on the site and wet lands are all within the corridor. Mr. Zanon stated borings have been done on every lot and all systems are mound systems, lot 12 can be a conventional system. He stated the grading on the plan is the grading that would occur to construct the roads. Yard grades have been put on all the building pads. He stated the most fill on any of the pads will be approximately 2 feet. He stated 45 acres of ag land will be preserved and drainage plan have been submitted to the County for preliminary review along with submittal to Engineer Ludwig. It has come to their attention some issues along Center drive and they have currently showed a rework of the ditch. Currently all water on the site will be drained by ditches. He is in the process of obtaining borings for a stormwater pond. With discussions with the Engineer he has detected a culvert beneath Center Drive and the need to create a pond to hold a 100 year storm. The buildings will have all natural materials and a fire storage tank is located in the center of the development.

Commissioner Bartholomew stated his concern with the drainage crossing the road and down to the south and into the ditch. Mr. Zanon stated the drainage will be drained to a pond and a road side culvert will take it across into Racine County. The commission discussed the location of the retention pond and ditches. Engineer Ludwig stated that going from cultivated land to the 2 acre lot density, according to the County Code, retention or detention ponds are not required, but there is a problem with the ditch along Center Drive not being able to handle the sheet flow from overtopping Center Drive and the downstream culvert under Center Drive. He stated the County has yet to do their review, they did verify the curve numbers going down from cultivated to 2 acre lots and there would be less run off so, therefore no pond would be needed. Engineer Ludwig stated the developer would eventually to do a pond for water quality purposes. Mr. Zanon stated there are 3 phases, quantity, quality and infiltration and although quantity wouldn't be an issue the remaining two items would need to be addressed. The commission discussed examples of run off in the Town of Vernon.

At this time, the Plan Commission reviewed the allotment points for the development. Please note the allotment worksheet is attached to the minutes.

Planner Turk stated Creekside Estates has reached the minimum required 12 points, they reached, 13.

MOTION Commissioner Benkowski move to approve The Allotment for Creekside Estates subject to the following Planners 7 conditions:

- 1. Prior to the approval of a final plat, the applicant shall enter into a Developers Agreement and tender a Financial Guarantee with the Town of Vernon pursuant to Section 5.02(A) and 5.02(B) of the Land Division and Development Control Ordinance.**
- 2. Plat Compliance Required. Upon submittal of a preliminary plat and / or final plat for the proposed development, the Plan Commission shall review the evaluation criteria and the score granted to the development at the time it received its allotment of Residential Development Permits. If in the opinion of the Plan Commission, a substantial change to the proposed development results in an evaluation totaling less than twelve (12) points, such findings shall be considered a substantial change to the preliminary plat and / or final plat and may require additional modification to the preliminary plat and / or final plat and related plans prior to the Plan Commission's grant of final approvals.**
- 3. Subject to the applicant applying for and receiving from the Plan Commission for the Town of Vernon, the Town Board for the Town of Vernon, and Waukesha County, appropriate rezoning prior to the Plan Commission's grant of final approvals.**
- 4. Subject to the applicant applying for and receiving from the Plan Commission for the Town of Vernon, the Town Board for the Town of Vernon, and Waukesha County all necessary waivers and modifications and/or variances (if any) to the Waukesha County Zoning Code, the Waukesha County Shoreland and Floodland Protection Ordinance, and the Town of Vernon Land Division and Development Ordinance, prior to commencing construction of any**

- improvement, whether public or private, or site development or approval of the final plat, whichever is earlier.
5. Subject to the applicant applying for and receiving from the Plan Commission for the Town of Vernon, the Town Board for the Town of Vernon, and Waukesha County all necessary waivers and modifications and/or variances (if any) to the Waukesha County Zoning Code, the Waukesha County Shoreland and Floodland Protection Ordinance, and the Town of Vernon Land Division and Development Ordinance, prior to commencing construction of any improvement, whether public or private, or site development or approval of the final plat, whichever is earlier.
 6. Professional fees. Applicant shall, on demand, reimburse the Town of Vernon for all costs and expenses of any type that the Town incurs in connection with this development, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.
 7. Payment of Charges. Any unpaid bills owed to the Town of Vernon by the Subject Property Owner or his or her agents, tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of the conditional approval.

Seconded by Commissioner Craig, carried by voice vote.

15. Discussion and action of following items for Jim Rozeski, Sandhill Ridge Reserve Addition #1, S107 W25620 Forest Home Avenue, Mukwonago, WI
 - a. Preliminary Plat Review Checklist

Clerk's Note: Please see above agenda items for discussion and action.

- b. Waiver and Modification to Section 6.03(A) of the Land Division and Development Control Ordinance-cul-de-sac length

Clerk's Note: Please see above agenda items for discussion and action.

- c. Preliminary Plat

Clerk's Note: Please see above agenda items for discussion and action.

16. Discussion and action on allotment for Art and Pat Doll, Creekside Estates, located in Section 33 and 34 on Center Drive.

Clerk's Note: Please see above agenda items for discussion and action.

17. Discussion and action on allotment for Yaggy Colby Associates, Fox River Woods Condominiums, Section 26 on CTH L.

Roger Dupler, from Yaggy Colby stated he attended the Counties DRT meeting and has received their input and has responded accordingly, and has received information from Planner Turk and Engineer Ludwig as well as the Fire Chief and has also responded to their recommendations. He reviewed the development concept and proposal plans with the Commission.

Chairman Kunert stated his concern for the land designated to the County. Mr. Dupler pointed on the map the area designated and stated it would be treated as prairie restoration. Chairman Kunert questioned why that area has gone to the County rather than the Town. Planner Turk explained that this area is identified in the green way plan as an area of acquisition. He stated the County has indicated their willingness to proceed with this type of development is hinged on the transfer of the density and dedicating of the park.

Gordy Barrington reassured the Commission that there would be no Town liability for maintenance on the sanitary system. He proceeded to explain the sanitary system to the Commission. He also stated a reserve fund will be set up by the owners to take care of any maintenance issues in the future. Planner Turk stated it is not the concern from the Town's stand point that a condominium association is incapable of the maintenance; the concern is that Waukesha County has a requirement that forces the Town to get into the maintenance chain. He also stated if the developer can get the County to agree to the Town not being involved with the maintenance, then it no longer becomes an issue. Planner Turk stated resources from the Town could be given as to keeping themselves out of the title chain.

Harry Butler explained the proposed system being a step system. He explained the system to the Commission. Engineer Ludwig stated this system prolongs the life of the field and keeps the fields smaller although the size can be adjusted as needed for safety. Mr. Butler stated a maintenance agreement, registered with the register of deeds, requires professional maintenance 2 times per year. Planner Turk stated the maintenance reports must be filed with the County and are assessable to the public. He explained the system and tanks per unit and the management of those tanks further to the Commission.

Chairman Kunert questioned the size of septic system based on the number of bedrooms. Mr. Butler stated the system would be based on the number of bedrooms. Engineer Ludwig stated the importance of one owner being responsible for the septic system alarm and not the Town. Commissioner Bartholomew questioned why the common system vs. the single system per unit was decided on. Mr. Butler stated the common system is professionally maintained and the average homeowner doesn't understand septic systems and in the long run this type of system will last longer and be a better system for this area. Planner Turk stated the Town of Delafield has been known to give bonuses for this type of system.

Commissioner Benkowski stated his concern for verbiage of who will be responsible for this system in the deed restriction. Mr. Butler stated it could be addressed as a condition of the Town's approval. Planner Turk stated the importance of convincing the County not to make it a requirement of their approval. Commissioner Benkowski questioned if these systems are capable of being pumped 1000 feet. Mr. Butler stated yes and even further. Commissioner Benkowski stated his concern for one mound being in the woods and would the woods need to be cleared for the proposed mound system. Mr. Butler stated an area 206' X 51' would need to be cleared. The Commission discussed what type of system, gravity feed or individual pump tank and pump would be suitable for that environmental area. Mr. Dupler stated there is flexibility as to the location of the mound and the percentage of clearing that can be done. Planner Turk stated his concern for this issue to be addressed at a later date.

Commission Benkowski questioned Fire Chief Buchholtz and his concern for servicing 6 units with the proposed road configuration. Chief Buchholtz stated it has been a concern from the beginning and the need to have adequate room for apparatus to pass in both directions. Planner Turk stated the Fire Department voiced their concerns and a possible reconfiguration. Mr. Dupler did receive the reconfiguration and showed on the map possible reconfigurations. Mr. Dupler also stated in necessary for the condominium association and a private contractor, to provide snow plowing and the need to designate where public access ends and private access begins. Planner Turk stated that designation would be at the first cul-de-sac and Mr. Dupler agreed. The Commission discussed the road layout and width. Commissioner Johnson stated his concern for allowing only 2 homes on a private drive, and now we are allowing more. Planner Turk stated condominiums have maintenance associations and agreements and private owners on an easement don't have any agreements. Planner Turk stated the difference is dramatic. He stated the legal obligations of a condominium are substantially greater than a private home owner's obligation to a neighbor on an easement. Chief Buchholtz asked distances between the loop and the buildings. Mr. Dupler stated the longest driveway would be approximately 240'.

Commissioner Bartholomew stated his concern for the soils in the area. Mr. Dupler handed out aerial photos of the site for the Commissioners to review. Mr. Dupler stated the characteristics of the hydric soils and importance to have these soils reclassified. Planner Turk explained why this has become an issue. He stated Mr. Flemma was back before the Commission because of a substantial grading issue because the County found there were hydric elements in the soils and the need to elevate building pads to keep the basement elevations 3 feet above what was perceived to be seasonal high ground water on that property. He stated that caused him to redesign his plans and bring in 50,000 cubic yards of fill and alter the environment. He stated the area along the southern loop is of similar concern, there are hydric soils and the building pads will be on those soils and his concern is to avoid this development having to go through the same time deterrent as Pheasant Ridge. Planner Turk feels Mr. Dupler, by going to the soil classification service, will alleviate the concern. Although Engineer Ludwig scored favorably in this category, Planner Turk stated he did not at this time, but can see scoring them more favorably after more information is available and would award them higher points.

Mark Augustine stated he did tests on the site for determining the feasibility of the foundation designs. He stated he did find typically clay type soils with sand. He stated a low flow infiltration rate for these types of soils. He has found no permanent ground water in that area above 8 feet below existing grade. Mr. Dupler stated the wetland delineation done by an independent consultant by the previous developer and have been concurred with by the DNR and that is why they are confident the reclassification will proceed.

Planner Turk questioned whether the reclassification will remove the hydric designation and Mr. Augustine stated it would. Planner Turk stated the County would then be satisfied. Mr. Augustine stated the County would not address this issue in a former manner until a rezoning request is done and the zoning designation is for wet soils. He stated that they would naturally revert back to wetlands that are not currently being plowed. He stated County Staff would consider their petition for rezoning and stated they can't make that formal request until they receive the allotment approval from Town of Vernon.

At this time, the Plan Commission reviewed the allotment points for the development. Please note the allotment worksheet is attached to the minutes. Planner Turk stated Fox River Woods has not reached the minimum required 12 points, they reached, 8.29. The Commission discussed the compatibility of the allotment process and if the compatibility category would be applicable to this development. Planner Turk stated it was up to the Commission's discretion. Commissioner Benkowski stated he needed more information on the septic systems and felt points could be granted in various areas of the allotment process. The Commissioners agreed. The Commissioners stated they first needed to know where Waukesha County stands with the sanitary system, and then they are willing to back up this development and will grant the needed points. Mr. Dupler stated there are various developments in the surrounding area where this system is being used. Engineer Ludwig stated he knows from experience this system can work and be maintained properly. Chairman Kunert stated the need for the petitioner to work with the Planner and Engineer to bring this allotment back to the Plan Commission for another review. Commissioner Craig stated he does feel the allotment process has made for better developments.

MOTION Commissioner Craig moved to table the discussion and action on allotment for Yaggy Colby Associates, Fox River Woods Condominiums, Section 26 on CTH L to February 23rd, seconded by Commissioner Bartholomew, carried by voice vote.

18. Discussion and action of the following items for Mike Doble for the property located at W249 S8910 Center Drive, Waukesha, WI – did this last – before the minutes and before planner's updates.
 - a. Waiver and Modification to Section 6.06(A) of the Land Division and Development Control Ordinance – lot lines

Planner Turk stated the applicant seeks to construct a guest house on Lot 1 of Wildwood Meadows subdivision. The Plan Commission and County Zoning Agency have previously approved a zoning amendment and deed restriction amendments to allow him to proceed. However, due to complications with permitting, the applicant now chose to divide the property. A CSM is attached for your review.

A technical review of the CSM found the following items to be addressed:

1. Missing phone number for owner.
2. The bearing in the 7th line of the legal description should read 21', not 23'.
3. The surveyor should show the proposed survey monumentation along the common boundary between Lots 1 and 2.

Planner Turk stated the lots will have a shared access. In the event that Lot 2 is sold or transferred, there should be an agreement for rights, maintenance, etc., on file. On review, the Town Attorney does not believe the Town should make any requirements to this effect on the CSM, as Lot 2 has legal access to Wildwood Drive, and permanent access rights to Center Drive do not need to be secured. He also stated the original platted description of the original lot indicates a fractional share ownership in Outlot 1; the effect of this will be a 1/7 share in the outlot for each lot in Wildwood Meadows.

Planner Turk stated a survey closure computation was performed, and the CSM meets state requirements for closure. Attached hereto is a copy of Appendix F Review Checklist including the closure computations. The lot line between Lots 1 and 2 requires a waiver and modification to Section 6.06(A) of the Vernon Land Division and Development Control Ordinance. There should be an easement document for the shared septic that lays out the rights and responsibilities of the owners. The County Environmental Health Division must be satisfied with the condition of the system and the rights of use. A waiver and modification is required in order to omit soil borings for a new sanitary system. The CSM is within the extraterritorial authority of the Village of Big Bend. Village approval is required.

Commissioner Craig questioned what the problem was with permitting. Mr. Doble stated at the time of deed restriction amendment and rezoning he stated he wouldn't divide the lot and during that process he was instructed by Amy Barrows to add 80 square feet to his building. He stated he was told his building was too small to be a principle structure. He stated the County zoning code at the time read a guest house is considered a primary structure and not an accessory structure. He stated the County Ordinance was amended in May which allowed a guest house to be considered an accessory structure. He then was told the building was too big to be an accessory structure. Mr. Doble intends to split the lot and follow through on the proposal which brings him back to the Town of Vernon. He stated he doesn't intend to sell the lot.

MOTION Commissioner Benkowski moved to approve the Waiver and Modification to Section 6.06(A) of the Land Division and Development Control Ordinance – lot lines for Mike Doble for the property located at W249 S7180 Center Drive, Waukesha, WI, seconded by Commissioner Bartholomew, carried by voice vote.

b. Waiver and Modification to Section 5.05(r) soil borings

Planner Turk stated the staff recommends approval because the survey is showing a shared septic for the two properties. He stated the County Environmental Health will need to be satisfied with the condition and sizing for the use.

MOTION Supervisor Fieber moved to approve the Waiver and Modification to Section 5.05(r) soil borings for Mike Doble for the property located at W249 S7180Center Drive, Waukesha, WI, seconded by Commissioner Johnson, carried by voice vote.

c. Certified Survey Map Checklist

MOTION Commissioner Johnson moved to approve the Certified Survey Map Checklist for Mike Doble for the property located at W249 S7180 Center Drive, Waukesha, WI, seconded by Supervisor Fieber , carried by voice vote.

d. Final Certified Survey Map

MOTION Commissioner Bauer moved to recommend to the Town Board of Supervisors approval of the Final Certified Survey Map for Mike Doble for the property located at W249 S7180Center Drive, Waukesha, WI, subject to the following Planner's Conditions, including but not limited to:

1. The applicant satisfying all comments, conditions and concerns of the Town Engineer, the Town Planner and all reviewing, objecting and approving bodies, including the Waukesha County Environmental Health Division and Waukesha County Land Resources Division. Said Town Planner and Town Engineer required corrections include:
 - a. Include phone number for the owner on the CSM.
 - b. Correct the bearing in the 7th line of the legal description to read 21', not 23'.
 - c. The surveyor should show the proposed survey monumentation along the common boundary between Lots 1 and 2.
2. Receipt of all other required signatures being inscribed on the submittal, prior to the Town affixing any required signatures to the approved survey document.
3. County Environmental Health Division satisfaction with the condition of the sanitary system and the rights of use prior to issuance of zoning permits.
4. The applicant reimbursing the Town of Vernon for all costs and expenses of any type that the Town incurs in connection with this development, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.
5. The applicant paying any unpaid bills owed to the Town of Vernon for the Subject Property or by the applicant or his or her agents, tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of the conditional approval.
6. Subject to the applicant satisfying all of the aforementioned conditions within one (1) year of the Town Board granting this conditional approval

Seconded by Supervisor Fieber, carried by voice vote.

19. Planner's reports

- a. Smart Growth Plan
Planner Turk stated just a reminder to revise and mark up maps as the Commission see fit.
- b. County Development Plan
Planner Turk stated will address at next Thursday's meeting nothing to report other than that.
- c. Moeller Disposal Site Update
Planner Turk stated the County is stating the fill is incomplete
- d. Allotment ordinance revisions
Planner Turk stated the sub-committee will be meeting on February 8th

20. Motion to approve Minutes:

- a. October 27th, 2005

Commissioner Benkowski stated Page 11 of 17, paragraph 4 has typos on it. Commissioner Johnson stated Page 5 of 17 Paragraph 2 has typos also. Deputy Clerk Stefanich stated she will correct the minutes.

MOTION Commissioner Benkowski moved to approve the October 27, 2005 minutes, with corrections, seconded by Supervisor Fieber, carried by voice vote.

b. January 12, 2006

MOTION Commissioner Benkowski moved to approve the January 12, 2006 minutes, as printed, seconded by Commissioner Bauer, carried by voice vote with one abstention by Commissioner Bartholomew.

21. Next Meeting: February 9, 2006

22. Adjourn

MOTION Chairman Kunert moved to adjourn, seconded by Supervisor Fieber, carried by voice vote.

Meeting adjourned at 11:15 pm.

Christine Stefanich, Deputy Clerk
Town of Vernon
Waukesha County

APPROVED:

As printed ()
With corrections ()

Alan Kunert, Chairperson
Town of Vernon