

PROCEEDING OF THE TOWN OF VERNON PLAN COMMISSION

Thursday, March 23, 2006

5:45 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. Chairman Kunert called the Plan Commission meeting to order with the pledge to the flag.**
- 2. Roll Call. Commissioners: Benkowski, Craig, Johnson, Bartholomew, Supervisor Fieber, Chairman Kunert, Planner Brian Turk, Deputy Clerk Stefanich, Town Engineer Andy Schultz. Commissioner Bauer has an excused absence. Chief Phil Buchholtz arrived at 5:53 pm. Waukesha County Representative Jason Fruth arrived at 6 pm.**
- 3. Discussion and action** on the rezoning request of Art and Patricia Doll, W174 S6876 Marybeck Ct., Muskego, WI 53150 (SCZ-1607), for the property owned by the Paschen Family Limited Partnership, 2219 Lincoln Wood Drive, Evanston, IL 60201-2019, to amend the District Zoning Map of the Waukesha County Zoning Code and Waukesha County Shoreland and Floodland Protection Ordinance, from the AD-10 Agricultural Density (requiring 10-acre minimum densities), A-E Exclusive Agricultural and C-1 Conservancy Districts to the A-3 Suburban Estate (requiring two acre minimum lot sizes) and the C-1 Conservancy Districts, on the property described as follows: Part of the SW ¼ of Section 34 and the E ½ of Section 33, T5N, R19E, Town of Vernon. More specifically, the parcel is located west of Center Drive and south of C.T.H. "L" in the area immediately west of the Reischl Lake development.

Chairman Kunert stated there have been concerns from the last open meeting that came to the Plan Commission in letter format. Planner Turk read a letter, dated March 14, 2006, from Kevin Mahony and stated his 4 specific conditions and the responses given by Planner Turk and Engineer Ludwig.

Deputy Clerk's Note: Letter from Mr. Mahoney, Planner Turk and Engineer Ludwig on file at the Clerk's Office.

Commissioner Benkowski questioned if a County Representative needs to be present. Chairman Kunert and Planner Turk stated the public hearing was closed. He stated in reviewing the audio tape of the last meeting, there had been some confusion as to the continuation of the Public Hearing or the closing the Public Hearing, therefore written comments were going to be accepted and placed into the record.

Commissioner Benkowski stated he visited the site and he had a concern with the south culvert that travels under the road and then down a creek or drainage path. He stated it was blocked by a load of dirt, eliminating the water from being unable to travel to the Clark Farm. He also stated it impossible for the water to exit into the ditch because of cement 6" pipe. He questioned what could be done to rectify this problem. Planner Turk stated that will be addressed at the construction plan review. He stated if this is in the right of way, it can be altered. Commissioner Benkowski questioned whether the neighbor to the south couldn't dam that up or create a blockage. Planner Turk stated if in the right of way they shouldn't be able to do that. Commissioner Benkowski questioned whether it was in the right of way and if Planner Turk had visited the site. Planner Turk stated he had not been that far south on the site.

Commissioner Johnson stated he did visit the site after the 2" rain fall and he stated there wasn't much water going through the culvert at that time. He stated he did notice it was contained in the swale along the property line. He stated he saw limbs and leaves blocking the drainage within the right of way. He stated with a gush of water he felt the water would spread out rather than staying in the swale.

Commissioner Benkowski stated whether the issues will be corrected/addressed by Stormwater management and the construction plans. Engineer Schultz stated anything that is in the right of way

is fair game but for anything outside of right-of-way on downstream private property, the Town's hands are somewhat tied.

Chairman Kunert stated to read the conditions or to have Planner Turk read the conditions into the record.

Mr. Zanon, representing the Dolls, stated his concern regarding the location of the area in question. Planner Turk stated the south end where the culvert crosses. There was discussion as to the area and that it was indeed Norris's property. He stated how one can prevent the water from flowing where it normally goes. Planner Turk stated if someone is harmed by that they would have to file civil suit against that individual. Commissioner Benkowski stated if one sees the cement culvert in the ditch, couldn't you ask it to be moved rather than file a suit. He stated his concern for the location of the ditch and if it goes to the lake or to a farm field. An audience member explained the ditch and dam location. Commissioner Benkowski stated water has been seen flowing very quickly and with the dirt trenching was done. He also stated the dirt and blocking of the cement culvert drives the water in another direction. The audience member explained that the culvert was to be extended under the road because it is now damming the water rather than helping the flow. Mr. Zanon asked for a revised copy of the conditions for the Dolls.

Mr. Zanon questioned Item (e)- that all accessory buildings over 900 square feet and Planner Turk stated this is already a Town Ordinance.

MOTION Commissioner Fieber moved to recommend to the Town of Vernon Board of Supervisors and the Waukesha County Zoning Agency approval of the rezoning request for Art and Patricia Doll, W174 S6876 Marybeck Ct., Muskego, WI 53150, to amend the District Zoning Map of the Waukesha County Zoning Code and Waukesha County Shoreland and Floodland Protection Ordinance, from the AD-10 Agricultural Density (requiring 10-acre minimum densities), A-E Exclusive Agricultural and C-1 Conservancy Districts to the A-3 Suburban Estate (requiring two acre minimum lot sizes) and the C-1 Conservancy Districts, on the property described as follows: Part of the SW ¼ of Section 34 and the E ½ of Section 33, T5N, R19E, Town of Vernon. More specifically, the parcel is located west of Center Drive and south of C.T.H. "L" in the area immediately west of the Reischl Lake development, subject to the following Planner's 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 Creekside Estates, and said final plat shall have no more than 19 residential dwelling units, in substantially the same form as the conceptual drawings used to award Residential Development Permits, currently on file with the Town of Vernon. No assurance of said final plat approval is included herein.
- b. Any deviation in the development pattern deemed by the Plan Commission to be a substantial change from the conceptual drawings used to award Residential Development Permits, currently on file with the Town of Vernon shall require a new rezoning approval including a new rezoning application and public hearing in accordance with Wisconsin Statutes 62.23.
- c. The plat shall be deed restricted against any further division of any lot or outlot. Said deed restriction shall be in a form as approved by the Town Attorney.
- d. The plat shall be deed restricted against the construction of any building or structure on any outlot. Said deed restriction shall be in a form as approved by the Town Attorney.
- e. All accessory building over 900 square feet 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.

- f. All accessory buildings are prohibited from housing livestock or poultry as defined in the Waukesha County Zoning Code or its successor Codes, and shall be deed restricted in a form as approved by the Town Attorney.**
- g. Prior to the rezoning being in full force and effect, the applicant shall obtain approval of soil boring logs and data from the County Zoning Agency and Town Engineer. Such borings and logs must demonstrate that the soil conditions on Lots 1-19 are suitable for residential development with approvable on site sanitation systems. Said soil logs and data must also demonstrate that there are no basement elevation restrictions caused by hydric soil conditions, seasonal high ground water conditions, or any other condition deemed unacceptable by the County Zoning Agency or Town. No assurance of sanitary systems or basement elevation approval is included herein.**
- h. Prior to the rezoning being in full force and effect, the applicant shall obtain approval of grading, drainage, erosion control and stormwater management plans for the plat, in accordance with the Waukesha County ordinances and regulations. In addition to compliance with said ordinances and regulations, said plans must, at a minimum, also address and correct:
 - i. Ditching and drainage within the Center Drive right-of-way and remedy of defect.**
 - ii. Cross culvert design and remedy of defect.**
 - iii. Retention of off site flow volumes passing onto the development site from other upstream properties, and retention of said flow volumes prior to controlled discharge to the east. No assurance of grading, drainage, erosion control and stormwater management plan approval is included herein.****
- i. Prior to the rezoning being in full force and effect, the applicant shall receive approval of street construction plans for the plat and for Center Drive reconstruction, in accordance with the Town of Vernon Land Division and Development Control Ordinance and applicable Town regulations. In addition to compliance with said ordinances and regulations, said plans must, at a minimum, also address and correct:
 - i. Width of pavement from the centerline of Center Drive to the west shoulder, and remedy of defect.**
 - ii. Ditching and grading along Center Drive, and remedy of defect.**
 - iii. Acceleration and deceleration lanes at proposed intersections.**
 - iv. Boulevard entrance features for new streets intersecting the west right-of-way line of Center Drive. No assurance of street construction or reconstruction plan approval is included herein.****
- j. Prior to the rezoning being in full force and effect, the applicant must provide the Town Planner and County Zoning Agency written evidence that the Wisconsin DNR has waived the requirements to provide public access to navigable waters, more specifically being the drainage canals which are within the plat boundaries. No assurance of DNR waiver is included herein. If said evidence of waiver is not received, this rezoning will only be in full force and effect upon the final plats compliance with the DNR provisions regarding public access to navigable water ways.**
- k. Prior to the rezoning being in full force and effect, the Town of Vernon Master Plan must be amended under Wisconsin Statutes 62.23 to depict the property as Rural Residential, 5 acre density, and no assurance of Master Plan approval is included herein.**
- l. 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.**

- m. **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.
- n. **One year to satisfy conditions.** The force and effect of the zoning conditionally approved herein shall be 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.

4. Adjourn

MOTION Commissioner Bartholomew moved to adjourn, seconded by Commissioner Johnson, carried by voice vote.

Meeting adjourned at 6:16pm

DEPUTY CLERK'S NOTE: The Town Board of Supervisors called their meeting to order to act on the above rezoning request. The Town Board then adjourned their meeting, and the Plan Commission then called their meeting back to order to attend to the regular agenda items.

PROCEEDINGS OF THE TOWN OF VERNON PLAN COMMISSION

Thursday, March 23, 2006

6:15 P.M.

At the Vernon Town Hall in the Meeting Room

W249 S8910 Center Drive

1. **Roll Call.** Chairman Kunert dispensed with roll call- stated all are present from the previous Plan Commission Meeting, including the Town Planner Brian Turk, Town Engineer Andy Schultz and Fire Chief Phil Buchholtz.
2. **NOTICE IS HEREBY GIVEN** that at 6:15 PM there will be a continuation of the joint public hearing held on March 9, 2006 by the Town of Vernon Plan Commission and a Staff Representative of the Waukesha County Department of Parks and Land Use at the Vernon Town Hall, located at W249 S8910 Center Drive, Big Bend, WI 53103, to consider the Conditional Use request of Flemma Development Group, LLC, c/o Nick Flemma, 1115 East Lexington Blvd., Whitefish Bay, WI 53217 (SCU-1424), for the property owned by Frances Vosberg, W256 S6680 Oakdale Drive (C.T.H. "XX"), Waukesha, WI 53189, for a Conditional Use to grade and fill in order to accommodate a subdivision development and preplanned house pads on the property described as follows: Part of the SE ¼ of the NW ¼ of Section 5, T5N, R19E, Town of Vernon. More specifically, the area in question is located on the west side of C.T.H. "XX" (Oakdale Drive), northeast of the Millbrook Village Subdivision and approximately 1/8 mile south of the Town of Vernon and Town of Waukesha Town lines.

Chairman Kunert stated Jason Fruth from Waukesha County Parks and Land Use is present also.

Chairman Kunert called the public hearing to order at 6:32PM and read the published notice.

Planner Turk stated the Plan Commission held the hearing and tabled the matter to the March 9, 2006 meeting in order to allow the applicant time to address staff concerns. He also stated on March 6th the County Zoning Agency, Town Planner and Town Engineer received a revised plan. Additional infiltration basins were added to address concerns of the County's Land Resources Division staff; however, the 9 concerns of the Town Engineer were not addressed. The Plan Commission tabled the matter to the March 23, 2006 meeting in order to allow the applicant time to address staff concerns. Planner Turk stated following discussion at the January 12, 2006 Plan Commission meeting, the applicant proceeded with grading and construction plan revisions to accommodate earth altering activities. The purpose was to ensure that the lowest floor of each proposed structure was at least 2 feet above the seasonal high ground water. The Plan Commission's directives at that time included:

Final street plan and profiles must be included with the grading plan.

No lot should have a driveway slope in excess of 4%. This may require deed restrictions requiring step-down garages. The applicant is to work with the Town Engineer on this matter.

The applicant, by separate correspondence to the County, should indicate additional waterproofing / flood proofing measures that will be voluntarily taken as an additional precaution.

Planner Turk stated the Town received a revised grading plan on February 16, 2006.

Planner Turk referred to the staff report. There were 9 items that remain unaddressed :

1. Plan and profile construction drawings were not submitted for review.
2. The garage slab elevations should be indicated on the grading plan for the lots that could produce extreme driveway slopes that would exceed 4%. It appears that this would apply to Lots 15 through 23.
3. The proposed waterproofing measures should be submitted for review.
4. It appears that the grading could affect some of the proposed septic field locations. Lots 8, 9, 11, 12, 13, and 19 must have the septic system installed prior to home construction. These areas must also be snow fenced prior to grading operations.
5. The legend indicates "Finished Floor Grades;" however, it appears that the grades provided are finished "yard" grades. This should be clarified.
6. Split yard grades should be provided for Lots 30 and 31.
7. A culvert should be provided under the decorative stone path.
8. A swale and easement should be provided between Lots 29 and 30.
9. The slope at the swale northeast of Lot 18 exceeds the maximum 4:1 slope.

He stated Town Engineer Schultz's will comment on the items not addressed at this time. Engineer Schultz stated the garage slab elevations should be indicated on the grading plan for the lots that could produce driveway slopes that would exceed 4%. It appears that this would apply to Lots 15 through 23. Engineer Schultz stated the petitioner did submit revised plans and this item is closely related to "Finished Floor Grades;" however, it appears that the grades provided are finished "yard" grades. This should be clarified. He stated the way it appears they changed the note in the legend to reflect that the grades that are shown for the building pads, one number shows proposed garage elevation and the other number is the rear yard elevation. He stated a clarification of both on the legend and in the drawing the actual elevations and possibly a third elevation. He stated the other item still outstanding is that the grading could affect some of the proposed septic field locations. Lots 8, 9, 11, 12, 13, and 19 must have the septic system installed prior to home construction. These areas must also be snow fenced prior to grading operations. Engineer Schultz spoke with the petitioner and they stated their intention is to construct those systems prior to the construction of the homes. He stated his concern lies with the actual physical drawing with contours and grading being

shown downstream of the proposed mound locations. He stated would not be acceptable to DNR or to Waukesha County Parks and Land Use as well.

Planner Turk stated an illustration would be lot #14 on the grading plan. He stated there are proposed grading lines that cross the mound system that should go around the mound system.

Waukesha County Representative Jason Fruth stated they have been working at the county level and are looking at the potential impacts of grading on the septic systems and overall stormwater management and erosion control. He stated in reviewing of the plan he sees detailed information lacking. He stated some proposed grade changes are shown on certain lots and on numerous lots they have no corresponding grade changes shown to reflect the raised elevation when the building pads were raised. He stated it is impossible for him to state whether the mound systems will work without a complete grading plan. Waukesha County Representative Jason Fruth stated the grades shown are not tying into natural grades and would need to see how those transitions are being made. He used lots 11, 12 and 14 as an example of this. He stated in other lots the proposed mound system runs perpendicular to the grade, and that this is unacceptable. He stated in conversations with the developer they are willing to take some special measures to protect these sites. He stated in some cases 6-8 feet is proposed on some mound sites and how will this work and how will the equipment negotiate the proposed building pads and stay clear of the mound sites. He stated on a larger scale he needs to know the source for the fill material, what quantity, and proposed schedule of trucking in the fill and the nature of the fill. He stated in some instances the septic sites are uphill from the proposed building pads and how will the pumping be achieved in those cases. He suggested discussing these issues with the Waukesha County Environmental Health Division regarding more appropriately sighting these mound sites. He stated this is a challenging site and other considerations need to be considered. He stated as of now, Waukesha County would not be able to recommend approval being that the plan is incomplete.

Public Comments: Nick Flemma He stated that some of the information has come to the County late and he was aware the initial plan did not address all the Counties concerns. He stated this is a difficult site and there are many moving targets and when one is addressed it affects another. He feels a closer look would have been needed to address the Town's comments first. These issues being: the plan of profiles, the driveway slopes, and waterproofing measures and he feels these issues can be addressed. Mr. Flemma stated regarding the counties issue of pre-installing the mound systems, he feels does happen quite often. He stated he received a memo from Michael Radomski stating there are 6 major concerns the County oversees with private sewage mounds on filled sites.

Deputy Clerk's Note: *A copy of the memorandum from Michael Radomski is on file at the Clerk's Office.*

Mr. Flemma stated he has pre-installed mound systems prior to this and the County was not involved, permits were still needed. He stated he spoke with Herr Environmental, they installed for him 3 times now, and they would also be the contractor for this site as well. Mr. Flemma stated because the lots, at the time of installation, are not sold you need to size the mound systems for at least a 4 bedroom or larger. He stated if a smaller home is built, the shaded area would then be smaller. He stated the mound system is the first thing done on site, before any fill is brought in. He did say contrary to what was said, fill can be done on all sides. He stated the system is installed the grading is completed and then the tanks are put in once the size of the home is determined. He clarified that pre-installing the systems is done at his cost and is the first thing done on the site, before any grading is done.

He stated the need for special measures for poured concrete vs. concrete block and that the source of fill will be imported in and from the closest location to keep the cost of trucking down. He also

stated the trucking of fill would be done within a 60 day window at the front end. He stated the number of sites in which these systems would be pre-installed would be 6 or 7 lots and the remainder would not be pre-installed. He then stated after the pre-installation the fill would be brought within a 60-90 day window and would be approximately 45 thousand cubic yards of fill for the proposed plan. He stated the County also mentioned with lot 30 going uphill and then would be a conventional system, possibly best suited in the front of the lot. He stated he would be willing to consider the best location for that lot, ideally it would be the back of the lot, sometimes the side lot can be considered. He stated this has been a challenging site and the time taken to address the Commission has been long. His concern is to move forward and get the County's approval for a rezone and feels based on these comments, forward movement is possible without delaying it or denying it tonight.

Planner Turk questioned if Mr. Flemma would be willing to have a limitation on the time for trucking. Mr. Flemma stated what ever would be typical for the construction in general; he would abide by the construction hours in the pre-development meeting.

Jason Fruth questioned the infiltration system not shown in lots 3, 4 & 6. He questioned how he anticipated the timing of the excavation for the stormwater infiltration basins, vs. the installation of mounds in that area. Mr. Flemma stated the house pads are proposed house pads they are 50X70 which is, 3,500 square feet. He stated the minimum house size is 2000 sq. feet. He stated if the mounds look tight, this would be a worse case scenario and it would vary depending on the how the lots play out. He stated the ponds would be done first and he stated the reason for a pre-install would be if grading is not being done around them all you're doing is creating a pool. Mr. Flemma stated there is a need to protect the site.

Waukesha County Representative Jason Fruth stated Mr. Flemma mentioned a project in Summit. As a condition of approval, on that site, every system and every septic was required to be installed prior to conveyance of the lots. On this project Mr. Flemma mentioned 6-7 he selected as the tightest lots. He questioned how those lots were selected for installation. He stated about 2/3 of the lots are either mounds or A+4 mounds. Mr. Flemma questioned whether Waukesha County Representative Jason Fruth was speaking of the Stillwater. He stated Herr Environmental did the Stillwater subdivision in Summit. Waukesha County Representative Jason Fruth clarified he was speaking of ponds. Mr. Flemma is unaware if Herr Environmental constructed the ponds. Waukesha County Representative Jason Fruth stated there are far more than 6 or 7 mounds, and because the lots are dense, the protection of the mound sites will need to be precise. He stated a concern to install all the mounds A+4 or certainly more than 6 or 7. Mr. Flemma stated he wouldn't mind pre-install all of them. He stated his concern was to pre-install the only sites with grading activity on or over the systems. He stated in lots 8, 9, 11, 12, 13 and 19 there is grading on or over the mound. He stated as the plan changes to go around the mounds those would need to be pre-installed.

Waukesha County Representative Jason Fruth stated his concern to show front and rear yard elevation as well as a garage elevation. He stated that would certainly help and he would also need to know where the grading transition will be in the natural grade. He also stated more detail could show that some of the other mounds would not being at risk. He stated a need for a complete plan to know that.

Mr. Flemma stated the proposed grades could be shown.

Supervisor Fieber questioned how one controls the amount of fill. Mr. Flemma stated the fill is checked before it is delivered to make sure it is clean and that the requirements are met as to the County's verification of the compaction. He also stated compaction for the roadways need to be compacted in lifts, every 10 inches.

Supervisor Fieber questioned if there is good control of the quality of the fill. Mr. Flemma stated if the compaction is incorrect he ultimately would be responsible and it would need to be redone.

Commissioner Johnson questioned, are all the systems the same. Mr. Flemma stated yes they are all the same.

Commissioner Benkowski questioned the standard height of a mound. Mr. Flemma stated the width and the length is more important and the height doesn't vary. Commissioner Benkowski stated he was told the sides could be filled to where the mounds appear to disappear. He asked what happens if it is driven over. Mr. Flemma stated it could be ruined. He stated those areas are snow fenced off and the equipment doesn't go near the right of way. He stated it could ruin the system area and than that lot is shot. Chairman Kunert stated the reason why it would be ruined would be because of the compaction of the soil. Commissioner Benkowski questioned, wouldn't it be safer to install the challenged sites. Commissioner Benkowski questioned the cost of grading on a mound being \$10,000.00 for a full mound. Commissioner Johnson stated Mr. Flemma will take caution to protect that site.

PUBLIC COMMENTS: none.

Chairman Kunert stated there are no further public comments and closed the public hearing at 6:55 pm.

3. **Discussion and action** on the Conditional Use request of Flemma Development Group, LLC, c/o Nick Flemma, 1115 East Lexington Blvd., Whitefish Bay, WI 53217 (SCU-1424), for the property owned by Frances Vosberg, W256 S6680 Oakdale Drive (C.T.H. "XX"), Waukesha, WI 53189, for a Conditional Use to grade and fill in order to accommodate a subdivision development and preplanned house pads on the property described as follows: Part of the SE ¼ of the NW ¼ of Section 5, T5N, R19E, Town of Vernon. More specifically, the area in question is located on the west side of C.T.H. "XX" (Oakdale Drive), northeast of the Millbrook Village Subdivision and approximately 1/8 mile south of the Town of Vernon and Town of Waukesha Town lines.

Planner Turk stated the staff report drafted was not complete. He had recommended the hearing to be continued based upon the re-submittal and discussions tonight. Planner Turk stated he would like to write the conditions and review with them with the Engineer and the applicants and schedule for the April 13th Plan Commission Meeting and April 20th Town Board Meeting.

Planner Turk reviewed the draft conditions with the commission.

MOTION Commissioner Bartholomew moved to table the Conditional Use request of Flemma Development Group, LLC, c/o Nick Flemma, 1115 East Lexington Blvd., Whitefish Bay, WI 53217 (SCU-1424), for the property owned by Frances Vosberg, W256 S6680 Oakdale Drive (C.T.H. "XX"), Waukesha, WI 53189, for a Conditional Use to grade and fill in order to accommodate a subdivision development and preplanned house pads on the property described as follows: Part of the SE ¼ of the NW ¼ of Section 5, T5N, R19E, Town of Vernon. More specifically, the area in question is located on the west side of C.T.H. "XX" (Oakdale Drive), northeast of the Millbrook Village Subdivision and approximately 1/8 mile south of the Town of Vernon and Town of Waukesha Town lines to the April 13, 2006 Plan Commission meeting, seconded by Commissioner Johnson, carried by voice vote.

4. **NOTICE IS HEREBY GIVEN** that a Joint Public Hearing will be conducted by the Town of Vernon Plan Commission and a Staff Representative of the Waukesha County Department of Parks and Land Use – Planning and Zoning Division on Thursday, March 23, 2006, at 6:30 p.m., in the offices of the Vernon Town Hall, located at W249 S8910 Center Dr., Big Bend, WI, 53103, to consider a

request by Ronald Gasser, W224 S6390 Guthrie Rd., Waukesha, WI 53189 for an amendment to the Conditional Use (CU-1274B) for Superior Landscape and Supply Center on the property owned by RMG Properties, LLC. The petitioner is requesting to construct a poly-structure, an addition to the existing building, and a garage display building. The petitioner is also requesting to install additional outdoor lighting and lighted signage. The property is described as follows: The property is located in part of the NE ¼ of Section 1, T5N, R19E, Town of Vernon. More specifically, the property is located at S65 W22065 National Avenue and contains approximately 10.3 acres.

Chairman Kunert called the public hearing to order at 7:06PM and read the published notice.

Planner Turk stated the applicant proposes three free standing signs. Two are to be located on the National Avenue frontage. The first is located near the intersection of National Avenue and Crowbar Road, while the second is located near the entrance to the site. The third sign is depicted on the slope of the stormwater basin in the southwest corner of the property. He stated he has had additional discussions with the applicant, and that information is not found in your packets. He has worked with the County to redefine the location and setbacks and he does recommend approval of the two signs found on National Avenue. He stated he does recommend denial of the other sign, which was to be visible from the freeway; he feels if the applicant works with the Board of Adjustment he could achieve a better location and a more readable sign.

Planner Turk stated the applicant had indicated on the site plan a 60' x 60' building addition, or 3,600 square feet. He stated architectural elevations were unknown so there wasn't a full review on the staff report. He stated Mr. Gasser has since mentioned to him he had no immediate plans to build. He stated since the conditions of approval require completion within one year he recommends that item is to be withdrawn and recommend in part denial on the bases of the applicant decision not to construct.

Planner Turk also stated he was given some limited information on lighting fixtures and site plan of the locations, additional photometric data was requested and Mr. Gasser has provided that information, both for the wall packs and the free standing lighting and has also provided the photometric cut sheets and compared that to the site plan and it he is satisfied there is no trespassive light from the property and abided by recommended light fixtures, those being full cut off and zero cut off down cast tilt. He stated based upon those items, drafted conditions were prepared. Planner Turk stated based on these conditions, he is recommending the 2 signs along National Avenue and denial of the sign requested in the south/west corner of the property, which would cause the applicant to reapply with a proposal for a relocated sign position and seek any reasonable variances necessary. Planner Turk also stated he is recommending denial of the 60X60 building due to the fact that it is not intended to be constructed within the next 12 months, and approval of the outdoor lighting as submitted and then deferral of action on the non-agricultural poly structure a series of drafted conditions relating to the poly structure, if inclined to approve.

Waukesha County Representative Jason Fruth stated Mr. Gasser proposed a 110 X 165 poly structure; he has revised the plan to 100 X 150 and was petitioning the Board of Adjustments for a variance for the poly structure. He stated variances were requested for relief from the setback from the Crowbar Road right a way, a two foot setback was proposed, proposed, the Board of Adjustments decided to allow a reduction of a 50 foot setback from Crowbar Road to 40 feet. He stated Mr. Gasser was also petitioning for relief from the zoning height standard, he stated the principle structure height restriction in the district is 35 feet the request was 50 feet. He stated the Board of Adjustment heard the request and is looking to the Town of Vernon for an appropriate height determination, they felt a cap of 48 feet was appropriate, and is still deferring final approval action to the Town. He stated as far as the signage, as shown there was a need for variances for relief from setback and the Board of Adjustments made a decision to allow the westerly signage along ES to allow a 2 foot setback and plan to ask the public works division to review that location to

ensure no conflict with vision corners. He stated the other locations of signs- he felt Mr. Gasser would be able to further explain. He stated as shown the structure is located where grading was proposed for the addition that was completed previously, he stated part of the reason for the Board of Adjustments recommendation was take the building further to the west was to allow the drainage pattern to continue and out of concern for the culvert under Crowbar road. He also stated the County is looking to the Town for guidance as far as impressions of the appropriateness of the architecture.

Waukesha County Representative Jason Fruth stated he feels the poly structure is very large and at a highly visible location. He asked Mr. Gasser to address how the building would be sited in relation to the road grades on Crowbar Road. He also questions the color and materials of the poly structure also that salt storage was proposed that there may be potential pollution that might occur due to salt run off. He felt a concrete slab would also be required under the building accommodating salt storage and any areas where loading and unloading would occur. He stated the detention basin that was provided was sized to handle a build out of this nature however, he felt the detention basin is not able to handle contamination that may occur with salt. He also questioned the side of the building the location of the door would be and where would he be coming and going with the equipment in relation to the bins. He also stated with the landscape plan approved as part of the past addition in the last year, he feels the site work is ongoing as far as the grading and restoration, but the landscape plan did include landscaping along Crowbar Road and there has been some work in the right a way, and the County would be looking for that landscape plan to be complied with as well as some decent sized landscaping around the perimeter of the building, if approved.

Waukesha County Representative Jason Fruth stated, finally there was a garage display building indicated and no such garage display shown on the site plan and the applicant would need to address his intention of that proposal and if he has plans and a site plan to submit.

Planner Turk stated one of the reasons for the request to allow a 50 foot maximum building height was to accommodate the tip-box vehicles to enter the building and no loading and unloading would take place outside the building. He stated salt storage is regulated by the DNR and our requirement would be to comply with all local and state and regulations related to salt storage. He stated Mr. Gasser did provide some photo simulations as to the relation to the surroundings. He stated Mr. Gasser indicated it would be white and with a green trim.

Commissioner Bartholomew clarified the size variance was needed because of the need to load and unload salt inside the building and he questioned if the trees were not meant to be a barrier as to not be able to see the building but to break up the large white area. He also stated that the doors are on the North and South ends, but stated again the evergreen trees are just to break up the white area. Commissioner Bartholomew noted that this building does sit low it was described to be equal to height to the top of the barn or slightly higher, about 3 feet. He stated it is a large building. Planner Turk stated the tree removal work is in the City of New Berlin right-of-way and Mr. Gasser has all the appropriate permits for the removal of those trees. Commissioner Bartholomew stated he felt if the addition was put more on an angle, drainage wouldn't be less of a problem, and will allow more room for the addition. Commissioner Benkowski questioned if this would be the tallest building in the Town of Vernon. The Commissioners agreed it would except for the silos. Commissioner Benkowski questioned why Mr. Gasser would need such a sizable amount of salt. Mr. Gasser explained his need first of all to put salt into this building. He stated he spoke with Waukesha County Representative Jason Fruth and wanted to clarify if the Town was to allow him to have bulk salt storage on his property first, which would dictate the size of the building and the economic impact for him. He stated if the bulk storage of salt is not allowed, the height of the building does not become a concern. He stated his proposal was to dump inside the building as well as load inside the building. He is trying to provide a controlled climate which is the reason for the height of the building. He stated his concern is not himself loading and unloading salt, but other contractors and he felt if necessary to have a cushion when it came to the height of the building. He stated it is difficult to

police other drivers. Commissioner Benkowski questioned the size of the building. Mr. Gasser stated the pictures the commissioners have been superimposed to show the size of the building in relationship to the existing barn. Mr. Gasser stated much care was taken to make this superimposed picture as realistic as possible and will be constructed to pass snow and wind load by state engineering standards. Commissioner Bartholomew stated the building would now be 40 feet over from the proposed location. He questioned the grade change if any between the building as proposed and the 40 feet. Mr. Gasser stated the front of the building he would like closer to the lot line, after fill, there won't be as drastic of a drop-off behind the culvert.

Commissioner Benkowski stated his concern with the amount of salt that is to be stored.

Mr. Gasser stated salt, topsoil and sand will be stored in this building. He explained the need for salt and when the reserve runs short the private industries loses out. He stated he wants to distribute to other landscape companies as well. He stated he is trying to create a environmentally safe storage of salt.

Commissioner Bartholomew questioned Planner Turk of the DNR conditions, Planner Turk stated he couldn't say for sure. He did state that distance from streams and waterways are a concern as well as containment issues. He stated he is not concerned because if Mr. Gasser complies with all state and local and federal regulations on bulk storage of salt and the Town of Vernon having the ability to police the storage, he sees no immediate issues.

Commissioner Johnson questioned the hauling of the salt and who will be doing the majority of the hauling. Mr. Gasser stated he would be doing the majority of the hauling if his truck isn't busy. Commissioner Johnson questioned why the height is needed, when 90% of the trucks used are tri-axel and quad-axel trucks and not semi-trucks, for an occasional larger truck. Mr. Gasser stated to keep his options open and in June truck availability is a concern.

Chairman Kunert questioned the difference in height between the trailer and quad-axel truck. Mr. Gasser explained a quad-axel truck is approximately 22'-25' in height and a trailer is 34'-36' in height. He also stated his trailer will haul 4-5 ton more and is a lighter weight and with the cost of fuel it is more economical.

Supervisor Fieber question the aesthetics of this building and possibly building it more like his barn. Mr. Gasser stated the issues become the corrosiveness and the salt. He stated his building is zinc coated and white to match the existing building with a green trim.

Commissioner Benkowski stated his dislike for the look of the building and how it may be referred to in the Town of Vernon. Commissioner Johnson questioned Mr. Gasser in regards to the grade of Crowbar road and the proposed building pad. Mr. Gasser didn't have that information. He stated when traveling east going northwest all that is visible is his silo top. He stated elevation could be looked at, but he honestly didn't have that information.

Planner Turk stated he drives by often and stated the elevation of Crowbar does mask the site. He stated Northbound is screened well also.

Engineer Schultz stated the salt DNR regulations would need to be looked at before proceeding.

Waukesha County Representative Jason Fruth stated if grading is done adjacent right of way, that would certainly help the issues.

Chief Buchholz stated the building would melt.

Commissioner Craig stated the building is new technology and feels it's sometimes hard for the majority to accept. He stated it would be beneficial to have a salt storage close by at a better cost and less pollution.

Commissioner Benkowski questioned the amount of lighting. Mr. Gasser stated he was being conservative and is basically for safety reasons and if need be the number could be less. He was impressed with Wayne's World lights in the area and wanted to duplicate that type of lighting. All the lights will not be lit all at once depending on where he is working at the time.

Planner Turk stated there are 9 poles on a 10 acre site and it won't be as bright as Wayne's World.

Commissioner Benkowski questioned if this building is approved would it be limited to only commercial and other residents may want to duplicate it. Mr. Gasser stated any individual would need to come before the plan commission for approval of their building. He also stated other building like this one has gone up for other reasons, horse riding rinks and WI Dells has a 160X280 sized structure. He also stated the snow load and wind load is down to a science and we'll be seeing more of these structures.

Commissioner Benkowski questioned if a false front could added. Mr. Gasser stated if Crowbar wasn't there you would notice it more. He stated the need to use his natural buffer to screen the structure. He stated he is open for suggestions on colors to make it more appealing. The commissioner's discussed the color options and what may look better.

Dave Polzin, from Cover All, stated the color could also give the visual appearance of a smaller building and that could be a possibility. The Commissioner's discussed the locations of the existing structures and there sizes.

Commissioner Benkowski questioned any known contamination with salt storage of this size. Chairman Kunert clarified the storage materials being sand, topsoil and salt, and the amount of salt being approximately 15-1800 tons of salt. He stated Department of Public Works, Doug Salentine, compared the Town's salt storage to his and Mr. Gasser's storage allows more room and he will be able to load and unload inside. Mr. Gasser stated there will be bins inside for the salt storage.

Engineer Schultz questioned how the poly is anchored on the sides at the base of the structure. Mr. Polzin stated at every bay has an independent piece of fabric from one another and at the bottom there is a welded loop, every 20 feet, and a heavy strap that would go around a pipe is winched to keep the structure tight. He stated the wall will then be attached to the concrete wall and fastened by an aluminum strip. He stated there will be a short wall around the perimeter of the structure. Engineer Schultz stated water would not have a direct path to the salt. Chairman Kunert questioned if an aluminum strip would be corrosive and if there might be a better way to attach the walls to the concrete. Mr. Polzin stated the salt will not have direct contact with the aluminum strip. The salt will meet the concrete wall and then will be piled up from there so it will not be in direct contact with top of the concrete wall or the fabric.

Planner Turk stated as a part of the clean water act, the EPA mandated the State update their regulations and enforce them. He stated the DNR spent the time to review all salt sheds bring them up to current clean water act standards. He reassured the Commission that this structure will be regulated and monitored by the DNR.

Commissioner Craig stated the first time this issue came to the Plan Commission it was turned down for pollution purposes. Planner Turk stated some municipalities needed to build new facilities to bring them up to standards. He stated these structures are being used and are meeting the standards.

Commissioner Johnson questioned the life of the poly structure. Mr. Polzin stated 22-27 years.

Chairman reiterated the issues. Mr. Gasser stated he agreed with the Board of Adjustments that the sign on Crowbar and National Drive would be placed 20 feet off the right of way. He also wanted to explain further the 24X24 display garage and that it will be a display garage for possible buyers for a contracting company he deals with. He stated the garage will only be a display no storage to take place. He stated then realized a building permit would be needed and that is why it wasn't on the Site Plan and Plan of Operation. It can be down sized and would replace a bin area and would match the existing building on his property.

Public Comments:

Alan Walter, S65 W22240 National Ave. He sees no problem with this building and once constructed it will be viewed by many. He stated he will not have any run off from Mr. Gasser's salt storage. He has no complaints and stated he has silos that high and isn't concerned with the height.

James Hunn, stated his concern with 40-50 dump trucks disturbing the peaceful residents on National Avenue. Chairman Kunert questioned if trucking would be continual. Mr. Gasser stated he did a traffic count and it was no where close to truck traffic at the active quarry to the east of him. Mr. Gasser sees Mr. Hunn's concerns.

Chairman Kunert stated there are no further public comments and closed the public hearing at 7:55 pm.

Commissioner Craig questioned how high the salt is piled in the bins. Mr. Gasser stated he had been looking into a rubber conveyor belt. Mr. Gasser explained how the conveyor belt would work. Commissioner Johnson stated his concern for loading the salt to be taken out of the structure. Mr. Gasser stated he may set rubber performs before the concrete walls to become an extra containment for moisture he stated the concrete 3 foot wall would not be pushed on for loading purposes. Commissioner Johnson asked if moisture forms on the roof of the poly when cold salt is stored. Mr. Polzin stated it is controlled with venting on each gable end above the garage doors.

Supervisor Fieber questioned the green paint on the side of the walls and how wide or textured it may be. Mr. Polzin stated 8 feet of green paint. Mr. Gasser stated he will plant greenery around the structure. Supervisor Fieber stated the importance of softening the effect of the structure.

Waukesha County Representative Jason Fruth explained there was a landscape plan, but that was prior to the Plan Commission's approval. He stated the Board of Adjustments did request additional landscaping.

5. **Discussion and action** for the amendment to the Conditional Use (CU-1274B) for Superior Landscape and Supply Center on the property owned by RMG Properties, LLC. To construct a garage display building and install outdoor lighting.

MOTION Supervisor Fieber moved to table the amendment to the Conditional Use (CU-1274B) for Superior Landscape and Supply Center on the property owned by RMG Properties, LLC to construct a garage display building and install outdoor lighting, to the April 13, 2006 Plan Commission meeting, seconded by Commissioner Johnson, motion failed due to lack of voice vote.

Discussion to rescind the previous Motion.

MOTION Supervisor Fieber moved to rescind the previous motion, motion failed due lack of a second.

MOTION Supervisor Fieber moved to table the amendment to the Conditional Use (CU-1274B) for Superior Landscape and Supply Center on the property owned by RMG Properties, LLC to construct a garage display building and install outdoor lighting, to the April 27, 2006 Plan Commission meeting, seconded by Commissioner Johnson, carried by voice vote

6. **Discussion and action** for the amendment to the Conditional Use (CU-1274B) for Superior Landscape and Supply Center on the property owned by RMG Properties, LLC to approve signage plans for Superior Landscape and Supply.

DEPUTY CLERK'S NOTE: *Please see above motion.*

7. **Discussion and action** for an unspecified conditional use to construct a poly-structure for Superior Landscape and Supply Center on the property owned by RMG Properties, LLC. More specifically, the property is located at S65 W22065 National Avenue and contains approximately 10.3 acres.

DEPUTY CLERK'S NOTE: *Please see above motion.*

MOTION Commissioner Bartholomew moved to take a 5 minute break, seconded by Supervisor Fieber, carried by voice vote

8. **Subsequently following the above noticed public hearing**, a third public hearing will be held for the continuation of a public hearing and an expansion of the conditional use request for James and Jody Hunn, S77 W25235 National Avenue, Waukesha, WI 53189 (CU-1421), to consider the proposed change of 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. The request for Conditional Use was originally heard on January 26, 2006. The pending application for Conditional Use has been subsequently expanded to include additional acreage immediately adjacent to the subject property for the purpose of creating additional parking area. The subject properties are 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. The additional acreage being considered for inclusion as part of this request is described as follows, Part of Parcel 1 of CSM 8422, being a part of the SE ¼ of Section 9, T5N R19E, Town of Vernon. More specifically, the property is located at S77 W25323 National Avenue, Waukesha, WI 53189.

Chairman Kunert called the public hearing to order at 8:41 PM and read the published notice.

Planner Turk stated the applicant has purchased the former antique shop located at S77 W25235 National Avenue. Prior to his acquisition, the shop operated under a legal non-conforming conditional use, and included a second floor residence. Each floor is approximately 1,271 square feet in area. The County zoning staff indicates that it has been previously demonstrated under CU-1046 that the property has been in continuous retail use since 1885. The applicant proposes to convert the second floor to an office for New Era Marketing, a commercial food brokerage. In addition, the applicant proposed a retail boutique food operation on the first floor. Goods include pre-packaged dry and frozen menu items. No fresh produce, deli items, or prepared foods will be sold on premise. On December 15, 2005, the Waukesha County Park and Planning Commission reviewed the matter. The Commission determined that the new use was less conforming than the prior use, but did decide to allow the applicant to pursue a conditional use permit for the expansion of a legal non-conforming use, as permitted by the County Zoning Code. The County subsequently contacted the Town Clerk and scheduled the hearing for January 26, 2006. During the public hearing, a number of issues were

raised with regard to sanitation, parking, lighting, traffic safety, noise from mechanical systems, etc. The applicant was directed to work with County staff to address these issues. The public hearing was subsequently held open to February 23, 2006. No additional information was available by the February 23rd meeting, and the matter was tabled to the March 23, 2006 meeting.

Since that time the following supplemental items have been received:

Accident history for National Avenue (see attached map).

Correspondence from the County Environmental Health Division condemning the sanitary system and ordering holding tank installation.

DRAFT site plan to include additional land, parking, and stormwater treatment facilities (see attached site plan).

If the DRAFT site plan is acceptable to the County Zoning Agency and the Plan Commission, the applicant will need to provide additional site plan detail on the following:

Any proposed lighting

Topography and alterations to topography

Fence detail

Landscaping/screening detail

Drainage details

The entrance drive should also be widened from the 15' depicted to accommodate two-way traffic due to the increased amount of parking stalls. In addition, the applicant must still provide the inventory list requested at the first hearing date.

Commissioner Benkowski stated this would help rejuvenate this area. He also stated the parking has been taken care of and the amount of accidents is not as many as he had expected. He feels the amount of traffic will be less than previously discussed.

Supervisor Fieber stated he as seen the petitioner products, he stated the lighting is soft and he questions the freezer/compressor noise issue and how that will be addressed. Mr. DesMonie stated the size of the compressor is comparable to the noise of an air conditioner and doesn't see it being a problem. Supervisor Fieber questioned if there will be an enclosure around the freezer and stated a wall can be placed on the east side and that may be a way to combat some of the noise. He understood that the main concern from the neighbor was the lighting and he feels the lighting is soft enough not to create a problem. Commissioner Bartholomew questioned what the petitioner was expecting from the plan commission. Mr. Hunn stated he wants direction and to move slowly. He stated he has no business now and would like to create some. Mr. Hunn suggested possibly starting on the internet, by appointment only, to have customers come in to view their products. Mr. DesMonie clarified that Mr. Hunn's current business is restaurants, he stated the retail venture is what is new to him and Mr. Hunn is familiar with the food products.

Waukesha County Representative Jason Fruth stated his concern with the revised plan. He stated south of the property is a low area and the drainage tends to move toward the east and it becomes an issue especially if there will be an extended parking area. He stated the soils are likely hydric soils and are not suitable for infiltration. He stated the applicant would need to work closely with the land resources division to ensure the drainage situation is handled appropriately. He stated moving the infiltration to the west side of the site may be more beneficial. He stated if the infiltration stays to the east side of the site, berming may possibly slow the drainage. Waukesha County Representative Jason Fruth stated the parking is now suitable, he questioned the parking closest to the building and the convenience for a typical customer. He also stated the replacement of a septic with holding tank could create more parking spaces closer to the building. He stated the parking stalls shown are not up to code as far the proper set back of 10 off the property line and as shown now they are only 8.5 feet off the property line. He stated there would need to be limitations on the hours of lighting. It would be a Waukesha County Parks and Land Use condition that there would be no parking lot

lighting beyond 6 pm. He stated the compressor was another concern for noise issues and the proposed freezer was encroaching into the side yard setback and would be an easy modification. He also stated Mr. Hunn disliked the stalls out front and they would be eliminated, Waukesha County Representative Jason Fruth stated if that area remains paved that people will be inclined to continue to use them. He stated the asphalt would probably need to be removed and the Department of Public Works may be able to suggest stripping to discourage parking. He stated ideally the asphalt would be removed and curb and shoulder repairs made to match National Avenue. Finally, he stated the soils should be tested for wetlands present in the proposed parking area.

Planner Turk suggested additional public comment is needed and close the hearing and the applicants would have 30 days to take action. He stated he can bring draft of conditions to next meeting- not the final conditions but the conditions they work through on a time line. He stated in the conditions he would state: use of the office is legal, no operation of the retail until all conditions are met.

Public Comments:

Laura Lyon S77 W25225 National Avenue and Ken Kozerski same address. She questioned why Commissioner Benkowski described her area as run down. Commissioner Benkowski stated this property will rejuvenate the area. Ms. Lyon stated parking and water flow is a concern for her. Upon moving into her home in the Spring, she stated they experienced water in their basement and more than ½ of their yard was under water. She stated it was designed to accumulate into the Townships drainage system and the water runs down from 3 other homes into their area. She stated their septic system is directly across from the proposed parking area. Mr. Kozerski questioned the accident report and the “star” indicating the location of the Hunn’s property. Mr. Kozerski stated it is marked incorrectly, that Mr. Hunn is located east of Hi Lo and is marked west of Hi Lo and therefore the accident report is not accurate.

Waukesha County Representative Jason Fruth stated the report went from 2004 to present. Ms. Lyon also stated her concern with the traffic flow and stated contrary to what the Commissioner stated, you would want the traffic to increase for the business to be successful.

Mr. Kozerski questioned the Conditional Use, he feels the paved over parking lot is not a Conditional Use issue and it that will remain long after the business leaves.

Planner Turk stated the applicants will have to meet all stormwater regulations. He stated if those conditions of approval are not met the Hunn’s will not be allowed to operate and put in a parking lot. Ms. Lyon stated upon moving in, the septic mound system was installed, the ground was wet, the water needed to be pumped for 3 days to remove it and when the hole was dug water needed to be pumped out for a week. She stated regardless of their retention area it is designed drain into their lot and into the drainage system.

Planner Turk stated that County Stormwater regulations will need to be met and one can’t change the existing drainage pattern where water is traveling downhill. He stated that Ms. Lyon and Mr. Kozerski did purchase a home at the bottom of a hole. He also stated it is the Plan Commission responsibility to eliminate the negative impacts regarding drainage. He stated the amount of water may not change, they are still downstream. Ms. Lyon’s stated by not approving the Conditional Use she can be reassured she won’t she any more water. Chairman Kunert stated it may help with the water issues also.

Waukesha County Representative Jason Fruth stated Waukesha County is well aware of the drainage problems and a great deal is coming off the highway and some grading work may help the situation or a pond or detention pond also.

Planner Turk reiterated that if the Plan Commission approves this Conditional Use to allow the operation it will be if and when they address all the issues and would be unable to operate until all issues are addressed. Mr. Kozerski stated the issues they need to see addressed are drainage, noise from freezer and the lighting. Mr. Kozerski stated if this Conditional Use is approved he would like to see low level lighting like Wayne's World. Ms. Lyon stated another concern is the resale of her home, resale of this operation and the surrounding homes.

Supervisor Fieber stated improving the drainage issues and landscaping around the parking lot might increase the property values in the area. Ms. Lyon's stated she stated she see trees coming down in the proposed plan. Mr. Kozerski stated this is a residential area and the proposed parking lot doesn't fit. Supervisor Fieber stated it has been a retail building for quite some time.

Chairman Kunert stated Waukesha County Representative Jason Fruth indicated this property has had a commercial occupancy since 1885. Ms. Lyon's questioned if it's progress to keep it commercial when it is surrounded by residential.

Rick Gillmore S77 W25170 National Avenue Mr. Gillmore stated his concern is the size of business and what kind of trucks will be coming in and out of the area. He stated the location is a blind spot traveling from the west. He stated the 55 speed limit is causing dogs, standing in their front yards, to get hit and also stated he stated he won't get his mail until it is light out because of the traffic. He feels the access is not conducive to large trucks.

Planner Turk stated the largest trucks will be UPS and Fed-ex trucks.

Mr. DesMonie stated the rebuild of National Avenue was the most expensive project in Waukesha County costing 13 million dollars. He stated the intersection of Center Drive and National cost $\frac{3}{4}$ of a million dollars and stated this was the best they could do. He stated public hearings were heard throughout the rebuild and the residents' needs were addressed and still the site line to the west is not very good. He stated there are always small issues, with every project; these issues can be addressed on a yearly basis with a Conditional Use permit. After today's meeting, Mr. Des Monie stated, he felt a little discouraged. He stated he hoped Waukesha County would agree with a couple parallel parking spaces. He stated he didn't know at this time how much walk in business Mr. Hunn will have. Mr. DesMonie also stated at some point Mr. Hunn would also like to apply for a liquor license. He stated a need to generate some revenue in order to comply with the issues. Planner Turk stated the Plan Commission is not authorized to issues liquor licenses. He stated a need for an inventory list. He stated if packaged alcohol was on the list, the Plan Commission would have to exclude its approval unless the Town Board issues the license. Planner Turk stated the dealing with alcohol would change the character of this business and the Plan Commission may want to reconsider. Chairman Kunert stated it was not appropriate to discuss the liquor license, because it wasn't on the agenda and not part of the Conditional Use. He stated a need to amend the Conditional Use in order to consider the liquor license. Mr. Hunn stated it was an initial consideration, and Chairman Kunert agreed, but that it wasn't a continued issue and wasn't placed on the public notice. Waukesha County Representative Jason Fruth stated he did recall Mr. Hunn mentioning of the offering of bottled wine. Planner Turk stated the need of an inventory list in order to amend the Conditional Use.

Chairman Kunert explained the Conditional Use permit would need to be obtained before the petitioner could apply to the Town Board for a liquor license.

Mr. DesMonie handed the inventory list to Chairman Kunert.

Chairman Kunert stated there are no further public comments and closed the public hearing at 9:16 pm.

Commissioner Craig stated the parking lot is 150-200 feet from the front door and the inconvenience to the potential customer. Chairman Kunert clarified the proposed business not being a retail business but to offer a small amount of retail and to have mostly online customers. Commissioner Johnson stated the parking plan is overkill. Waukesha County Representative Jason Fruth stated 11 spaces would be required. He stated the applicant has been given the option to seek a variance from the parking standards and seek a reduction. He stated in his opinion less than 7 or 8 would be too few. He stated the success of this business is unknown.

Mr. DesMonie stated if the property in the back is acquired the employees could use the back parking spaces and therefore the spaces closer to the road could be for customers. Commissioner Johnson stated he is against customer parking in the front, but could have delivery parking only in the front. Chairman Kunert stated there is options for parking and that they are all in agreement that parallel parking out front would be a mistake.

9. **Discussion and action** of the expansion of the conditional use request for James and Jody Hunn, S77 W25235 National Avenue, Waukesha, WI 53189 (CU-1421), to consider the proposed change of 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. The request for Conditional Use was originally heard on January 26, 2006. The pending application for Conditional Use has been subsequently expanded to include additional acreage immediately adjacent to the subject property for the purpose of creating additional parking area. The subject properties are 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. The additional acreage being considered for inclusion as part of this request is described as follows, Part of Parcel 1 of CSM 8422, being a part of the SE ¼ of Section 9, T5N R19E, Town of Vernon. More specifically, the property is located at S77 W25323 National Avenue, Waukesha, WI 53189.

MOTION Commissioner Bartholomew moved to table the expansion of the conditional use request for James and Jody Hunn, S77 W25235 National Avenue, Waukesha, WI 53189 (CU-1421), to consider the proposed change of 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 to the Thursday, April 13, 2006, Plan Commission meeting to allow the Planner to draft suggested conditions, seconded by Commissioner Johnson, carried by voice vote.

10. **Subsequently following the above noticed public hearings**, a fourth public hearing will be held to consider a request by Charles Leitermann, W25 S7950 Somerset Lane, Mukwonago, WI 53149 for an amendment to an existing conditional use (CU-167B) to allow for the sale of motorsport vehicles and related accessories and motorsport vehicle service for the property located at S90 W27545 National Avenue, Mukwonago, WI 53149. The applicant is requesting that the existing Conditional Use, which permitted automotive service and small engine repair, be expanded to allow a motorsports (motorcycles, scooters, ATV's and personal watercraft) sales and service operation. The proposed motorsports operation would occupy the tenant space that had been previously occupied by a pool service company and a beauty salon. The site also includes an existing gasoline service station and convenience store that are proposed to remain on the property. The subject property is described as follows: Part of the W ½ of Section 19, T5N R19E, Town of Vernon. More specifically, the property is commonly known as "Midway Market" and is located at S90 W27545 National Avenue, Mukwonago, WI 53149.

Chairman Kunert called the public hearing to order at 9:29 PM and read the published notice.

Planner Turk stated the applicant proposes to occupy retail and service space at the Midway Market property, located at S90 W27545 National Avenue. The tenant space includes approximately 2,850 square feet of space, consisting of 26' x 43' retail and office area, and a 36' x 48' service area, which would also be used for display. Motor vehicle sales and service uses are permitted by conditional use in the B-2 District. On March 3, 2006, the applicant filed for a Conditional Use Amendment and Plan of Operations. Materials are attached for your review. The applicant proposed to operate a dealership for the sale and service of various brands of motorcycles, ATV's, scooters, snowmobiles, and personal watercraft. The operation would include the sale of related accessories. As with all retail plans of operations, an inventory list should be required as a condition of approval.

Hours of operation are proposed to be:

Monday – Friday	10:00 a.m. – 6:00 p.m.
Saturday	10:00 a.m. – 3:00 p.m.
Sunday	Closed

The proposed hours appear reasonable for the proposed use. The Town Planner has advised the applicant to be mindful of neighbors with respect to noise and hours, when permitting test drives of motorcycles and other recreational activities.

Planner Turk Stated no change in parking configuration, building exterior, or stormwater is proposed at this time. Three full time employees are proposed, with seasonal part-time help from time to time. Parking appears adequate to accommodate the operation. The property is served by a well and holding tank. Documentation as to their suitability has been provided with the application. The applicant has indicated that waste oil disposal is needed as a part of the operation. All waste, including waste oil, must be disposed of properly, and is included as a condition of approval. The applicant proposed to occupy a location on the existing ground sign. Proper zoning permits are required from the County Zoning Agency. Six outdoor display locations are requested. The Town Planner agrees that this request is consistent with past approvals of similar operations, and recommends that outdoor display be limited to the requested areas. He stated the site includes existing outdoor lighting. NO changes are proposed.

Waukesha County Representative Jason Fruth stated the counties concerns are the same and one change on the signage. The square footage should not exceed 40 square feet or 20 square feet if illuminated. He stated in visiting the site he did notice some illegal signs that will need to be addressed. He stated the variance granted for the large pole signage for the gas station sign and the applicants also proposed to replace the Dennis Pool service sign with the REV Motorsports verbiage. He also questioned if the applicant has been in touch with the fire inspector and complying with code in regards to the storage of gasoline on site. He also stated a concern to handle refuse and oil appropriately.

Commissioner Johnson stated Mr. Cerney has had a number of businesses there, and he does a good job policing his area and won't allow anything to reflect poorly on his business. Supervisor Fieber stated he agreed and is a good neighbor. Mr. Leitermann stated his concern to compliment Mr. Cerney's business with his and feels this would be a good mix. Mr. Leitermann's proposes a small family owned business one which keeps him close to his children will teach them as well. Chairman Kunert asked the Waukesha County Representative Jason Fruth for prior problems with this establishment. Waukesha County Representative Jason Fruth stated some possible signage issues but other than that nothing else.

Public Comments:

Phil Mainwarning, Gutherie Road. Mr. Mainwarning questioned if Jamie's Customs and if Road and Track has the same outdoor display restrictions. Planner Turk and Chairman Kunert both stated yes they do.

Ken Cerney, S90 W27545 Hwy ES. Mr. Cerney stated Charlie Leitermann stated he will restrict his outdoor display to the areas designated for them, because other business have overstepped their bounds. He stated in order for a business to succeed and survive, outdoor display and signage is needed. He stated signage has been a problem with previous tenant and all signs issues would be taken care of. Mr. Cerney questioned Waukesha County Representative Jason Fruth of the signs he had spoken of that were illegal and unapproved.

Ron Gasser, 6390 S. Guthrie Road

Mr. Gasser stated he would like to invite another business in the town of Vernon and wished Mr. Leitermann luck.

Chairman Kunert stated there are no further public comments and closed the public hearing at 9:35 pm.

11. **Discussion and action of the amendment** to an existing conditional use (CU-167B) to allow for the sale of motorsport vehicles and related accessories and motorsport vehicle service for the property located at S90 W27545 National Avenue, Mukwonago, WI 53149. The applicant is requesting that the existing Conditional Use, which permitted automotive service and small engine repair, be expanded to allow a motorsports (motorcycles, scooters, ATV's and personal watercraft) sales and service operation. The proposed motorsports operation would occupy the tenant space that had been previously occupied by a pool service company and a beauty salon. The site also includes an existing gasoline service station and convenience store that are proposed to remain on the property. The subject property is described as follows: Part of the W ½ of Section 19, T5N R19E, Town of Vernon. More specifically, the property is commonly known as "Midway Market" and is located at S90 W27545 National Avenue, Mukwonago, WI 53149.

MOTION Supervisor Fieber moved to amend the existing conditional use (CU-167B) to allow for the sale of motorsport vehicles and related accessories and motorsport vehicle service for the property located at S90 W27545 National Avenue, Mukwonago, WI 53149, subject to the following Planner's conditions:

A. The Site Plan and Plan of Operation as conditionally approved by the Town of Vernon Plan Commission on March 23, 2006 shall be incorporated into the Conditional Use herein by reference along with the conditions of approval that were imposed. The applicant shall be entitled to amend or change any plan contemplated herein and subject to the Town of Vernon and County Zoning Agency approval without hearing, if such amendments and / or changes is not a substantial change from the original plan as approved and as allowed herein. Any amendment or change in any plan contemplated herein that the Town of Vernon or County Zoning Agency finds, in their sole discretion to be substantial, will require a new hearing and permit, and all procedures in effect at the time must be followed.

B. All other terms and conditions of Conditional Use CU-167A remain in full force and effect except as modified herein.

C. No outside storage shall be permitted until such time that the applicant receives a waiver and modification to the Town of Vernon non-residential building and development ordinance, and no assurance is provided that said waiver or modification will be granted.

D. Outside display of motorcycles, ATV's, scooters, snowmobiles, personal watercraft, and related products shall be limited to the display areas identified on the approved site plan attached hereto.

E. Service shall be limited to motorcycles, ATV's, scooters, snowmobiles, personal watercraft, and related products of similar character to the items sold on the premises.

F. Test drive and service activities shall not result in unnecessary noise that may disturb neighboring property owners. Any complaint received regarding excessive noise may be cause for amendment or termination of this Conditional Use pursuant to Section 3.07(4) and / or 3.08(6) of the County Zoning Code.

G. Prior to this Conditional Use and Site Plan and Plan of Operations being in full force and effect, the applicant shall submit a Retail Sale Item Plan to the Town Planner for review and approval. This Conditional Use and Site Plan and Plan of Operations shall not be in full force and effect until such time as the Retail Sale Item Plan is approved in writing by the Town Planner, and no assurance of the same is provided herein.

H. Prior to this Conditional Use and Site Plan and Plan of Operations being in full force and effect, the applicant shall submit an inspection approval letter from the Fire Inspector to the Town Planner.

I. Prior to erecting any sign on the existing ground sign as hereby authorized, the applicant shall apply for and be in receipt of an approved zoning permit from the Waukesha County Zoning Agency.

J. Presentation Compliance. Subject to the Petitioner's operation of the premises being at all times in substantial conformity with the presentation made to the Plan Commission at their meeting of March 23, 2006, except as further restricted herein, and as modified and further restricted by the comments and concerns of the Plan Commission at the hearing and in their meeting(s) following the public hearing.

K. This approval does not include authorization to lease any other tenant spaces to additional commercial tenants. Any such lease / tenancy request, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises, structures, lands or owners, is prohibited.

L. At all times, the subject property shall be in full compliance with the provisions of Section 3.04(3) of the Waukesha County Zoning Code, including any amendments and renumbering that may be made of said section.

M. At no time shall the applicant, tenants, or employees of the applicant store any materials on-site, in violation of Section 3.04(3) of the Waukesha County Zoning Code or bury or dispose of refuse on the subject property.

N. All waste, including waste oil, must be disposed of properly.

O. Except as described herein and in the approved Building Plans and Site Plan and Plan of Operations and Conditional Use Permits issued for the property, no additional uses of the subject property are permitted even if described as permitted uses in the applicable Zoning District regulations of the Waukesha County Zoning Code.

P. Petitioner and Owner Agreement. As a condition precedent to the issuance of the Conditional Use Permit, the Petitioner is required to accept the terms and conditions of the same in its entirety in writing, and the Owner of the subject property is required to approve to the issuance of the Conditional Use Permit in writing to the terms and conditions described herein.

Q. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to the classification of use, the question shall be submitted to the Plan Commission for determination.

R. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the municipal governing body, the County of Waukesha, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Town ordinance or other law.

S. This Conditional Use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Plan Commission as being in compliance with all pertinent ordinances.

T. Should the permitted Conditional Use be abandoned in any manner, or discontinued in use for twelve (12) months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to municipality, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the Conditional Use may be terminated by action of the Plan Commission, pursuant to the enforcement provisions of this Conditional Use Order.

U. Any change, addition, modification, alteration and/or amendment of any aspect of this Conditional Use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises, structures, lands or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.

V. Unless this Conditional Use Permit expressly states otherwise, plans that are specifically required by this Conditional Use Order may be amended upon the prior approval of the Plan Commission if the Plan Commission finds the plan amendment to be minor and consistent with the Conditional Use Permit. Any change in any plan that the Plan Commission feels, in its sole discretion, to be substantial, shall require a new permit, and all procedures in place at the time must be followed.

W. Should any paragraph or phrase of this Conditional Use Permit be determined by a Court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the Conditional Use and the remainder shall continue in full force and effect.

X. If any aspect of this Conditional Use Permit or any aspect of any plan contemplated and approved under this Conditional Use is in conflict with any other aspect of the Conditional Use or any aspect of any plan of the Conditional Use, the more restrictive provision shall be controlling as determined by the Plan Commission.

Y. Professional Fees. Petitioner 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.

Z. 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 Bartholomew, carried by voice vote

12. **Subsequently following the above noticed public hearings**, a fifth public hearing will be held by the Town of Vernon Plan Commission to consider the Waiver/Modification request of Ryan Romboy, W232 S7860 Woodland Lane, Big Bend, to approve the size of an accessory building 60X80.

Chairman Kunert called the public hearing to order at 9:45 PM and read the published notice.

Planner Turk stated on March 10, 2006, the applicant requested a waiver and modification to Section 125-10(E)(2) of the Town of Vernon Building Code to permit a 4,800 square foot accessory structure. The property is 4.65 acres in area, allowing 3,000 square feet by right, and up to 3% of the lot area (6,076 square feet in this instance), subject to Plan Commission approval. The application materials are attached for your review.

The ordinance allows the Town Plan Commission to review matters on a case by case basis and make a determination which includes the consideration, but not necessarily an affirmative finding, of the following factors:

- (i) Whether the request for the waiver or modification, if granted, would be consistent with the general intent of the ordinance.
- (ii) Whether the request for the waiver or modification, if granted, would adversely affect property owners in the surrounding area.
- (iii) Whether the request for the waiver or modification, if granted, would benefit the petitioner's project in a way that is not inconsistent with the Town's interests.
- (iv) Whether petitioner is in full compliance with applicable ordinances and agreements with the Town.
- (v) Whether, instead of granting the request for the waiver or modification, the ordinance itself should be changed to accommodate the kind of situation presented by the petitioner.

The structure meets the offset, height, and 3% size limitation of the County Zoning Code. The proposed structure is located over 58 feet from the Woodland Lane right-of-way, and approximately 300 feet from the STH 164 right-of-way. The architectural plans should be carefully reviewed by the Plan Commission to assure compatibility with the surroundings. The Town Planner believes the request is in character with the surrounding neighborhood.

Section 125-10 (H)(i) of the Building Code requires that a deed restriction be filed to limit the structure to non-commercial and non-industrial use. This is included in the recommendation below.

The Town Engineer recommends that the building be moved northwesterly due to the presence of a shallow swale that drains from Woodland Lane southeasterly across the property. The applicant has agreed to this, however, the drawing should be changed to depict the new proposed offset.

Supervisor Fieber questioned the visibility of the building from the Woodland Road. Mr. Romboy stated it is visible from Woodland from the south.

Commissioner Benkowski stated the building will not be seen in the summer. Commissioner Craig questioned the use of the building. Mr. Romboy stated he wouldn't regret a larger building and that it would be used for personal use only he stated the price was right for the size.

Commissioner Benkowski stated he has no problem with this building. Commissioner Bartholomew questioned the size of the doors. Mr. Romboy stated 3-10 foot high doors.

Public Comments: None

Chairman Kunert stated there are no further public comments and closed the public hearing at 9:45 pm.

13. **Discussion and action** to consider the Waiver/Modification request of Ryan Romboy, W232 S7860 Woodland Lane, Big Bend, to approve the size of the accessory building 60X80.

Commissioner Benkowski questioned the color of the building and he also questioned the roof shingles. Mr. Romboy stated the color and shingles would duplicate his home. Planner Turk stated Building Inspector Budiac sent him here because of the size of the building.

MOTION Commissioner Craig moved to approve the Waiver/Modification request of Ryan Romboy, W232 S7860 Woodland Lane, Big Bend, to approve the size of the accessory building 60X80, subject to the following Planner's conditions:

1. The applicant receiving all required permits from the Building Inspector and the County Zoning Agency.
2. Town of Vernon Building Inspector shall withhold permits for the accessory buildings until a deed restriction is placed on the subject property in a form as approved by the Town Attorney giving notice that the accessory building cannot be used for any commercial or industrial purpose.
3. Professional fees. Petitioner 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.

4. **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.
5. **Subject to the Town Engineer's written approval of a revised building location to address slope and drainage concerns prior to issuance of Building Permits.**
Seconded by Supervisor Fieber, carried by voice vote

14. **Subsequently following the above noticed public hearings,** a sixth public hearing will be held by the Town of Vernon Plan Commission to consider the Waiver/Modification request of Norris Foundation, W247 S10395 Center Drive, Mukwonago, to approve the non-residential building standards to allow 100% metal accessory structure.

Chairman Kunert called the public hearing to order at 9:52 PM and read the published notice.

Planner Turk stated the applicant proposes to construct a 2,640 square foot building for storage purposes. The building measures 33' x 80' and has 10 foot side walls. The applicant proposes to construct the building with all metal siding and metal roof. Roof pitch is not depicted, but appears to be 2:12 or 3:12. No eaves are illustrated on the drawing provided. Material colors are not clear, but appear to be white sidewalls and a green roof. The Town Building Inspector has forwarded the matter to the Plan Commission for consideration of a waiver and modification to the Non-Residential Building Requirements, specifically to consider allowing an all-metal building.

Planner Turk stated the building is proposed to be located in a rather isolated part of the property, and is generally unobtrusive to the surroundings. The building appears to meet the location and dimensional requirements of the Zoning Code, and the applicant has already received approval (but not permits) from the County Zoning Agency. The proposed building site is near the top of the hill although the building elevation and resultant grading around the building must be constructed in a manner as to not block the drainage from the building site area to the west.

Commissioner Benkowski stated he doesn't know the location of the building and asked the property address. The commissioners discussed the location.

Public Comments:

Mr. Phil Mainwarning questioned the drainage to the south and if it will be a problem and Planner Turk stated it will not affect surrounding properties.

Chairman Kunert stated there are no further public comments and closed the public hearing at 9:50 pm.

15. **Discussion and action** to consider the Waiver/Modification request of Norris Foundation, W247 S10395 Center Drive, Mukwonago, to approve the non-residential building standards to allow 100% metal accessory structure.

MOTION Commissioner Johnson moved to approve the site plan amendment and architectural waiver for the construction of a 33' x 80' accessory structure at W247 S10395

Center Drive, for Todd Favell on behalf of Norris Foundation, with 100% metal surface area, subject to the following Planner's conditions:

- 1. The applicant receiving all required permits from the Building Inspector and the County Zoning Agency. However, the Town of Vernon Building Inspector shall withhold permits for any accessory buildings over 900 square feet until deed restriction is placed on the subject property in a form as approved by the Town Attorney giving notice that the accessory building can be used for storage, but cannot be used for any commercial or industrial purpose.**
- 2. Professional fees. Petitioner 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.**
- 3. 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.**
- 4. Subject to the use of the structure only for purposes of storage by the Norris Foundation, with no lease of space to third parties.**

Seconded by Supervisor Fieber, carried by voice vote

- 16. Discussion and action** of Fox River Woods Allotment, located at S95 W23645 Forest Home Avenue (CTH "L").

Planner Turk stated on January 26, 2006, the Plan Commission tabled this matter to allow the applicant's time to modify plans, in their attempt to reach the 12 points required for allotment. The Commission's action was specific to table the allotment until the February 23, 2006 meeting. He stated on February 16, 2006, the applicant's engineer advised that they need more time, and suggested they would be ready for a new allotment process at the March 9, 2006 meeting. No new information was received, and the matter was tabled to the March 23, 2006 meeting. As of the deadline for staff reports for March 23rd, no new information has been received.

Planner Turk stated the Town of Vernon received a request from Heather McGuire of Yaggy Colby to table this item to the April 13, 2006 Plan Commission meeting.

MOTION Commissioner Johnson moved to table the Fox River Woods Allotment, located at S95 W23645 Forest Home Avenue (CTH "L"). to the April 27, 2006 Plan Commission meeting, seconded by Supervisor Fieber, carried by voice vote

- 17. Discussion and action** on the Waukesha County Zoning Code Amendments.

Planner Turk stated for the past several months, Town Chairman Kunert and representatives of Waukesha County and the other three Towns under County Zoning have been meeting to reach consensus on several amendments to the code. Please review the draft Zoning Code amendments

dated 2/23/06, and correspondence from Attorney Macy dated 3/9/06. The County is in the process of "round 3" of amendments to the County Zoning Code.

These amendments:

- Create several new definitions
- Revise junk and undesirable structure provisions
- Amend PUD provisions
- Change references to reflect proper department names and titles, especially in regards to the Environmental Health Division
- Align terms and regulations with the Shoreland Zoning Code and Stormwater Code
- Clarify height and non-residential accessory structure size provisions
- Clarify that single family homes in the AD-10 district do not need a conditional use

On March 10th, the Town Planner met with the following people to review the revisions:

- Kathy Moore – Waukesha County Planner
- Sandy Scherer – Waukesha County Planner
- Debbie Pruess – Waukesha County Corporate Counsel
- Jeff Hermann – Towns of Oconomowoc and Genesee
- Walter Bade – Town of Oconomowoc / County Board
- Pete Feichtmeier – Colby Construction, representing the Metropolitan Builders Association (MBA)

Following our review, we recommended further consideration of the following:

Section 10 relating to junk – Add (E) to the effect that this subsection is not intended to regulate storage of construction materials, for the project at hand, on a site with valid permits. Section 15 relating to PUD – In subsection (f), add a special exception provision to be considered by the Zoning Administrator and Plan Commission. Section 15 relating to PUD – In subsection (i), the word "may" should be "made." In addition, the MBA expressed some concerns that I believe the Town should not take to task. For example, the definition of applicant requires the property owner to be signatory on all applications. It does not allow an agent to act on behalf of a project or proposed development. The Town already requires the property owner to sign all applications, so I take no position on this matter.

MOTION Supervisor Fieber moved to direct the Planner to prepare a written response for inclusion in the County public hearing record, Seconded by Commissioner Johnson, carried by voice vote

Mr. Gasser stated his concern with Waukesha County Zoning and how it has to be addressed.

18. **Discussion and recommendation** to Town Board of Supervisors to amend the Land Division and Development Control Ordinance relating to Street Standards.

Planner Turk stated the confusion without a color copy and the changes that were made. He asked to have this issue tabled until the next Plan Commission meeting, when he will then have a colored copy for the Commissioners to view.

MOTION Supervisor Fieber moved to table the recommendation to Town Board Supervisors to amend the Land Division and Development Control Ordinance relating to Street Standards to the April 13, 2006 meeting, Seconded By Commissioner Craig, carried by voice vote.

19. Discussion of Smart Growth Draft Chapters.

MOTION Commissioner Benkowski moved to table the discussion of Smart Growth Draft Chapter to April 13, 2006 meeting, seconded by Johnson carried by voice vote.

Commissioner Johnson questioned the cemeteries listed. Planner Turk stated 7 chapters are done and he will address this issue.

20. Correspondences:

- a. Atty. Macys Letter and Planner Turks revisions regarding Ralph Hibbard
- b. Waukesha County Department of Parks and Land Use Staff Report and Recommendation - Waukesha County Development Plan Amendments 2006

No comments made.

21. Motion to approve Minutes: None

22. Next Meeting: April 13, 2006

22. Adjourn.

MOTION Commissioner Bartholomew moved to adjourn, seconded by Commissioner Johnson, carried by voice vote.

Meeting adjourned at 10:07pm.

**Christine Stefanich
Deputy Clerk/Plan Commission
Town of Vernon
Waukesha County**

APPROVED:

**As printed ()
With corrections ()**

**Alan Kunert, Chairperson
Town of Vernon**

Date