

PROCEEDINGS OF THE TOWN OF VERNON PLAN COMMISSION
Thursday, December 13, 2007
6:30 P.M.
At the Vernon Town Hall in the Meeting Room
W249 S8910 Center Drive

1. Call Plan Commission meeting to order with the pledge to the flag. The Plan Commission recited the pledge of allegiance.
2. Roll Call. Commissioners Benkowski, Johnson, Bauer, Bartholomew, Kunert, Chairman Paff, Town Planner Brian Turk, Deputy Clerk Stefanich, Town Engineer Tom Ludwig and Waukesha County Representative Jason Fruth. Commissioner Craig arrived at 6:50 p.m..
3. **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, December 13, 2007, 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 **James and Jody Hunn, S77 W25235 National Avenue, Waukesha, WI 53189 (CU-1421A)**, to consider a **Conditional Use Amendment** to allow for a gift basket business and membership food and wine club to occupy the first floor of the building that currently accommodates office space on the second floor and to allow for site plan changes to include the addition of a deck and a modification to the proposed parking area. The subject property is 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.

Chairman Paff called the public hearing to order at 6:36 p.m. and read the published notice.

Planner Turk stated in February, 2007 a Conditional Use permit was issued to the applicant to occupy the second floor of the structure for office purposes. That Conditional Use specifically prohibited occupancy of the first floor until a separate Plan of Operations and Conditional Use amendment is approved. The Plan Commission has already approved Site Plan amendments for the parking lot reconfiguration and exterior deck. The applicant is now seeking approval to operate a members-only / corporate gift basket business from the first floor. The applicant indicates that two part-time employees will operate from the first floor. Operations will be seasonal in November and December. Visitors or customers will be by appointment only. Deliveries and shipping will occur via UPS, FedEx, and similar vendors. No product inventory has been provided. The Town typically requires an inventory list as a part of any commercial Conditional Use. If the Plan Commission is satisfied with the public hearing results, that the Plan Commission continue the public hearing and direct the Town Planner to work with the County Zoning Agency staff and Town Attorney to draft appropriate conditions.

There was discussion regarding the purpose and reasoning behind keeping the public hearing open. Waukesha County Representative Fruth commented that his preference would be to close the hearing and draft the necessary conditions within 30 days. Planner Turk agreed and stated it would take approximately one week to draft conditions and that the public hearing could be closed. Waukesha County Representative Fruth stated the parking plan has changed slightly, adding one additional stall as well as the installation of the deck. He questioned how the area around the parking will be treated. Mr. Hunn stated there will be a concrete barrier for parking and sufficient room for snow removal. He also stated grass will be planted and screening will be provided. Mr. Hunn stated he anticipates paving the parking lot by June, 2008. Waukesha County Representative Fruth questioned any food preparation on site and Mr. Hunn stated there will not be any food preparation; only be creating gift baskets. There was discussion regarding the time period allowed for paving the parking lot and the sale of wine.

PUBLIC COMMENTS: None

Chairman Paff stated there are no further public comments and closed the public hearing at 6:40 p.m.

4. **Discussion and action** to consider the following items for **James and Jody Hunn, S77 W25235 National Avenue, Waukesha, WI 53189 (CU-1421A)**:
 - a. Conditional Use Amendment
There was discussion as to not making Mr. Hunn wait any longer and the desire to approve the conditions already drafted along with amendments. Planner Turk stated he could replace specific conditions.

MOTION Commissioner Bauer moved to table the Conditional Use Amendment for James and Jody Hunn, S77 W25235 National Avenue, Waukesha, WI 53189 (CU-1421A) to January 10, 2008 at 6:30, seconded by Commissioner Kunert. Motion failed due to lack of voice vote.

There was discussion regarding the conditions on the existing conditional use and not making the applicant wait any longer by tabling the Conditional Use Amendment, but to approve the amended conditions. Planner Turk stated the original conditions could be used as a starting point. He stated original condition, dated April 13, 2006, which read: New Era Marketing shall not occupy the first floor for any use until such time that the Plan Commission and Waukesha County Zoning Agency have approved a Site Plan and Plan of Operation and has amended this Conditional Use and that the Site Plan and Plan Of Operation and Conditional Use shall address the issues (a) through (g), could be replaced with an amendment allowing the occupancy of the first floor with no more than then two full time equivalent staff, the hours of operation as indicated, inventory list as indicated and subject to Town Attorney and Town Planner approval.

MOTION Commissioner Benkowski moved to approve the Conditional Use Amendment for James and Jody Hunn, S77 W25235 National Avenue, Waukesha, WI 53189 (CU-1421A), subject to the following Planner's conditions:

1. New Era Marketing is permitted to use the second floor for office purposes, subject to all of the following conditions:
 - a. Hours of Operation: Monday through Friday, 7:30 a.m. to 4:00 p.m..
 - b. No operations on weekends or holidays.
 - c. No more than four full-time equivalent staff.
2. New Era Sales LLC is permitted to use the first floor for corporate gift basket assembly and sales purposes, subject to all of the following conditions:
 - a. Hours of Operation: Monday through Saturday with seasonal variation of hours.
 - b. No operations on Sundays or holidays.
 - c. No more than two full-time equivalent staff.
 - d. Inventory shall be in compliance with the inventory list provided to the Plan Commission on November 29, 2007.
 - e. On site sales and retail orders shall be limited to "appointment-only" consumers. No general retail to the public shall be permitted.
3. Subject to the applicant satisfying all concerns of the County Environmental Health Division regarding the private on-site wastewater treatment system (POWTS) prior to issuance of the Conditional Use Permit.
4. Town Attorney Review. This approval shall not be in full force and effect until such time that the Town Attorney has reviewed the conditions and placed them in final form.
5. Petitioner 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.
6. 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.
7. 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.
8. 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.

9. Should the permitted Conditional Use be abandoned in any manner, or discontinued in use for twelve 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.
10. 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.
11. 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.
12. 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. All other terms and conditions of Conditional Use CU-1274B remain in full force and effect except as modified herein.
13. All other terms and conditions of Conditional Use CU-1046 remain in full force and effect except as modified herein.

Seconded by Commissioner Kunert, carried by voice vote.

There was discussion regarding parking overflow, the enforcing agent and a recommendation of a sign stating "Parking in Rear" to avoid traffic issues.

b. Site Plan and Plan of Operation amendment

MOTION Commissioner Kunert moved to approve the amended conditions of approval, Conditional Use amendment and Site Plan and Plan of Operation for James and Jody Hunn, S77 W25235 National Avenue, Waukesha subject to the following Planner's conditions:

1. New Era Marketing is permitted to use the second floor for office purposes, subject to all of the following conditions:
 - a. Hours of Operation: Monday through Friday, 7:30 a.m. to 4:00 p.m.
 - b. No operations on weekends or holidays.
 - c. No more than four full-time equivalent staff.
2. New Era Sales LLC is permitted to use the first floor for corporate gift basket assembly and sales purposes, subject to all of the following conditions:
 - a. Hours of Operation: Monday through Saturday with seasonal variation of hours.
 - b. No operations on Sundays or holidays.
 - c. No more than two full-time equivalent staff.
 - d. Inventory shall be in compliance with the inventory list provided to the Plan Commission on November 29, 2007.
 - e. On site sales and retail orders shall be limited to "appointment-only" consumers. No general retail to the public shall be permitted.
3. Subject to the applicant satisfying all concerns of the County Environmental Health Division regarding the private on-site wastewater treatment system (POWTS) prior to issuance of the Conditional Use Permit.

4. **Town Attorney Review.** This approval shall not be in full force and effect until such time that the Town Attorney has reviewed the conditions and placed them in final form.
5. **Petitioner 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.
6. **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.**
7. **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.**
8. **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.**
9. **Should the permitted Conditional Use be abandoned in any manner, or discontinued in use for twelve 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.**
10. **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.**
11. **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.**
12. **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. All other terms and conditions of Conditional Use CU-1274B remain in full force and effect except as modified herein.**
13. **All other terms and conditions of Conditional Use CU-1046 remain in full force and effect except as modified herein.**

Seconded by Commissioner Bartholomew, carried by voice vote.

5. **Immediately following the above noticed public hearing, another Public Hearing will be held, at approximately 6:45 p.m. or immediately following the James and Jody Hunn Public Hearing, on December 13, 2007, by the Town of Vernon Plan Commission to consider the Hobby Kennel License request of Julie and Erich Acker of W256 S6800 Ridge Road, Waukesha, for three dogs, one English Pointer, one Labrador and one Labrador Retriever.**

Chairman Paff called the public hearing to order at 6:50 p.m. and read the published notice.

Commissioner Craig arrived at 6:50 p.m.

Planner Turk stated the applicants own three dogs, one English Pointer, one Labrador and one Labrador retriever. All dogs are vaccinated and licensed. The applicants do not have a fenced yard. All dogs are kept indoors. Waste control is managed via household garbage. Planner Turk stated he received one anonymous complaint letter regarding the applicant's dogs barking. Planner Turk reviewed the drafted conditions with the Plan Commission. There was discussion regarding the attached complaint letter, if the applicant hunts with his dogs and back yard access for the dogs. Chairman Paff questioned the applicant regarding where the dogs are kept during the day, the English Pointer running loose through the subdivision and nuisance calls to the Sheriff's Department. Mr. Acker stated he was unaware his dogs were barking during the daytime hours. He stated he could keep the dogs inside during the working hours.

PUBLIC COMMENTS: None

Chairman Paff stated there are no further public comments and closed the public hearing at 6:55 p.m.

6. **Discussion and action** to consider the Hobby Kennel request of **Julie and Erich Acker, W256 S6800 Ridge Road, Waukesha.**

There was discussion that if there were valid complaints on file there would be someone present to inform the Commission of any issues. There was discussion regarding the addition of a six month review condition added to the drafted conditions.

MOTION Commissioner Bauer moved to approve the Hobby Kennel request of Julie and Erich Acker, W256 S6800 Ridge Road, Waukesha, subject to the following Planner's conditions:

1. The license is valid for a maximum of three dogs, being the currently licensed dogs only.
2. The applicant annually obtaining and maintaining current dog licenses from the Town of Vernon.
3. The applicant annually providing the Town of Vernon Treasurer proof of all required vaccinations.
4. The applicant granting the Town of Vernon the right to inspect the premises at any time deemed reasonable for any proper purpose related to the hobby kennel approval and application for and receipt of a hobby kennel application shall be deemed to so authorize the Town to inspect as described herein.
5. 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 conditional use, 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.
6. Subject to review upon complaints by the Town Clerk or County and as well as a six month review.

Seconded by Commissioner Bartholomew, carried by voice vote.

7. **Discussion and action** for the following items for Joe Miller, for the property located at W231 S7880 Woodland Lane, Big Bend:
- a. Certified Survey Map Checklist

Planner Turk stated all checklist items are in order, with three technical corrections which will need to be addressed prior to receipt of signatures on the Certified Survey Map.

MOTION Commissioner Bauer moved to approve the Certified Survey Map Checklist for Joe Miller, for the property located at W231 S7880 Woodland Lane, Big Bend, subject to the following technical corrections:

1. On sheet 1 of 4, Soil borings must be numbered to correspond to the logs on file.

2. **A drainage easement must be provided at the northeast and eastern portion of the property for the existing swale and low area of the lot.**
3. **A note must be provided on the face of the CSM that states, in general, that the maintenance of the drainage easement is the responsibility of the landowner, and the Town reserves the right but not the responsibility to maintain the easements if necessary and to assess the property owner(s) for all associated costs accordingly.**

Seconded by Commissioner Kunert, carried by voice vote.

b. Final Certified Survey Map

Planner Turk stated the applicant has previously received a conceptual review for a two lot land division located at the northwest corner of STH 164, Cheri Avenue, and Woodland Lane. A Final Certified Survey Map was received November 12, 2007. He stated technical corrections will need to be addressed. The subject parcel is zoned R-1 Residential, permitting 30,000 square foot lots with 150 feet of average width. Both parcels conform to the zoning code. The parcels are Master Planned for medium density residential (.75 – 1.5 acre parcels). Both parcels conform to the Master Plan. The parcel is within the extraterritorial jurisdiction of the Village of Big Bend. Village approval is required and Village signatures must be received on the original prior to submittal for Town signatures. He also reviewed the drafted conditions. There was discussion regarding the extent of the drainage easement and maintenance of the easement.

MOTION Commissioner Benkowski moved to approve the Final Certified Survey Map for Joe Miller, for the property located at W231 S7880 Woodland Lane, subject to the following Planner's conditions:

1. **The Applicant satisfying all comments, conditions and concerns of the Town Engineer, the Town Planner and all reviewing, objecting and approving bodies, including the Waukesha County Environmental Health Division and Waukesha County Land Resources Division, and Waukesha County Zoning Agency.**
2. **Receipt of all other required signatures being inscribed on the submittal, including the Village of Big Bend and Waukesha County signatures, prior to the Town affixing any required signatures to the approved survey document.**
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 conditional use, 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 30 days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of the conditional approval.**

seconded by Commissioner Craig, carried by voice vote.

8. **Discussion** to consider the conceptual land division for Ronald Reinke, for the property located at S95 W23475 Forest Home Avenue, Big Bend.

Planner Turk stated the applicant owns approximately 53.4 acres of land on Forest Home Avenue, immediately east of the new Fox River Woods condominium development. The applicant proposes to divide the parcel to create one new 4.8 acre residential lot. The following points should be considered as a part of the Plan Commission's review:

- The property is zoned RRD-5, permitting 1 acre lots at 5 acre density, with deed restrictions. The applicant should consider increasing the lot size by 0.2 acres, and rezoning the property to A-5, which allows 5 acre lots without density deed restrictions.

- A portion of the property is in environmental corridor along the Fox River. County shoreland jurisdiction will apply, and delineations will be required.
- The property is within the extraterritorial jurisdiction of the Village of Big Bend.
- The Master Plan depicts the area for residential use with lot sizes from 1 to 5 acres.
- No soil borings have been completed at this time. However, soils appear suitable for on-site septic.
- The new lot will be a Lot Not Abutting a Public Road, as it is proposed to access the private road in Fox River Woods. Town and County approval will be required, and easement documents would be needed, if approved.

Planner Turk stated he recommends the Plan Commission provide feedback to the applicant. There was discussion regarding additional detail on the lot in relation to the road, any future roads and drainage pond location before any feedback could be given. Chairman Paff stated the Town Attorney had concerns with the lot in relation to future plans and future roads and stated a need to see complete plans in a conceptual format. There was discussion regarding driveway location, easements rights and Fox River Woods private and public road construction and their location. The consensus among the Plan Commission was that the applicant didn't have enough information and to have them come back with a more concrete, drawn out plan with driveway location in relation to future public roads in order to give the necessary feedback.

MOTION Commissioner Kunert moved to table the discussion to consider the conceptual land division for Ronald Reinke, for the property located at S95 W23475 Forest Home Avenue January 10, 2008 Plan Commission meeting and to allow the applicant to return without additional fees, seconded by Commissioner Johnson, carried by voice vote.

9. Waukesha County Outstanding Zoning Violations:
- a. Brott - Kelsey Drive
 - b. Schneider - Pheasant Drive
 - c. Hallada - Pheasant Drive
 - d. Greffer - National Avenue
 - e. Deluca - Big Bend Drive
 - f. Banaszak - Edgewood Avenue
 - g. RMG Properties LLC (Gasser) – CTH ES
 - h. Cantrell – Millbrook Circle West
 - i. Roth – Townline Road
 - j. Strasser, LLC (Jamies Customs) – CTH ES
 - k. Lucas – Vernon Hills Drive
 - l. Jentzsch & Jentzsch - CTH ES
 - m. Koehler- Lot 23, Major Manor

Chairman Paff reviewed the current violations and updates he received.

10. **Minutes for Approval:** November 29, 2007

MOTION Commissioner Bartholomew moved to approve the November 29, 2007 minutes as printed, seconded by Commissioner Craig, carried by voice vote.

11. **Next Meeting:** January 10, 2008

12. **Adjourn.**

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

Meeting adjourned at 7:40 p.m.

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

APPROVED:

As printed ()

With corrections ()

Brian Paff, Chairperson
Town of Vernon

Date

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