

PROCEEDINGS OF THE TOWN OF VERNON PLAN COMMISSION
Thursday, February 12, 2009 6:30 P.M.
At the Vernon Town Hall in the Meeting Room
W249 S8910 Center Drive

Pursuant to the requirements of Section 19.84, Wis. Stats., notice is hereby given of a meeting of the Town of Vernon Plan Commission, at which a quorum of the Town Board may attend in order to gather information about a subject which they have decision making responsibility. The meeting will be held on **Thursday, February 12, 2009**, beginning at **6:30 P.M.**, at Vernon Town Hall, W249S8910 Center Dr, Big Bend, WI 53103.

Notice of Town Board Quorum. (Plan Commission Chair to announce the following, if a quorum of the Town Board is in attendance at the meeting: Please let the minutes reflect that a quorum of the Town Board is present and that the Town Board members may be making comments under the Public Comments section of the agenda, during any Public Hearing(s) or if the rules are suspended to allow them to do so.)

1. Call Plan Commission meeting to order with the pledge to the flag. The Plan Commission recited the pledge of Allegiance.
2. Open Meeting Law Compliance Check. Deputy Clerk Mascione stated the Town of Vernon is in compliance pursuant to the open meetings law requirement.
3. Roll Call.
 - a. Chairman Paff, Commissioners, Benkowski, Craig, Johnson, Bartholomew, Town Planner Jamie Rybarczyk, Senior Land Use specialist Peggy Tilley, Deputy Clerk Mascione, Town Engineer Tom Ludwig, and Fire Chief Buchholtz. Commissioner Kunert is absent Supervisor Ludwig is absent.
4. **MOTION TO OPEN MEETING TO PUBLIC COMMENTS** MOTION TO OPEN MEETING TO PUBLIC COMMENTS (Please be advised per Sections 19.84(2) of the Wisconsin Statutes, Plan Commission will receive information from the public for a three minute time period, with time extensions per the Chairperson's discretion, per person; be further advised that after the public comments are completed, the Plan Commission Members may have limited discussion on the information received, however, no action will be taken under public comments.)

Please address all your comments to the Plan Commission as a body, any questions to an individual supervisor, commissioner or staff person will be deemed out of order by the Plan Commission Chair. As to whether a question will be answered will be determined by Plan Commission Chair if addressed to the body or individual by that individual. No response will be made until that individual has finished his or her comments and returned to their seat. Please present all comments, questions and concerns in a respectful manor.

Motion **Commissioner Johnson moved to open the meeting to public comments, seconded by Commissioner Bartholomew motion carried.**

No Public Comments.

Chairman Paff called the public hearing to order at 6:40 p.m. and read the published notice.

5. **NOTICE IS HEREBY GIVEN** that a Joint Public Hearing will be held by the Town of Vernon Plan Commission and a Staff Representative of the Waukesha County Department of Parks and Land Use – Planning and Zoning Division on **Thursday, February 12, 2009, at 6:30 p.m.**, at the Vernon Town Hall located at W249 S8910 Center Drive, Big Bend, WI, 53103, to consider the Conditional Use Amendment, Mario & Diane De Luca, W234 S6650 Big Bend Road, Waukesha WI 53189.

Senior Land Specialist Peggy Tilley stated the Deluca's are operating under an original Conditional Use permit. She gave a brief overview of the current Conditional Use issued in 1990. She stated the applicant is requesting an amendment to the existing Conditional Use (CU-749) that permits a landscaping and snow-plowing business. The proposed modifications include:

PROCEEDINGS OF THE TOWN OF VERNON PLAN COMMISSION

Thursday, February 12, 2009

6:30 P.M.

Page 2 of 13

1. Allowing the following outside storage on that portion of property having commercial use:
 - a. 20 vehicles (dump trucks, vans, pick-up trucks and vehicles under repair) in front of the existing garage;
 - b. 25 vehicles (pick-up trucks, dump trucks and other vehicles) be permitted in the rear of the existing building; and
 - c. Implementation trailers, accessories and equipment stored outside in the rear, including plows, salters and landscaping equipment.
2. That a new building be permitted to be built having a dimension of 90 x 80 feet for the purpose of inside storage of bulk salt and other materials and equipment (this building is in addition to the 100 x 100 foot building already approved), which would be built to the same specifications as the Town's salt facility at the Town Hall.
3. Existing buildings and facilities are approved.
4. That the conditional use permit is transferable.

Senior land Specialist Peggy Tilley stated in addition to the proposed modifications, the applicant is willing to make the following accommodations to obtain approval of the Conditional Use amendment. The accommodations may include the following:

1. The applicant will address noise by retrofitting offending vehicle(s) which have a backup beeper with an OSHA standard, lower volume beeper.
2. The applicant will eliminate burning on-site, except as may be necessary for the residential use.
3. The storage areas will be screened as necessary where visible from neighbors.
4. Salt storage will be inside the existing building until a new facility is built.
5. A DNR permit will be secured for the runoff associated with pressure washing of trucks.
6. The storage of chemicals in the building will be identified and storage will comply with environmental regulations.
7. The parking of vehicles other than utility vehicles (e.g. personal vehicles of office personal) will be in addition to the other vehicles.

Town Planner Jamie Rybarczyk stated the only comments in addition to the County he has are back In September of 2008, the Town of Vernon Plan Commission identified a list of issues and/or concerns, from a planning standpoint, they believed should be addressed in an appropriate manner if/when the applicant resubmits for a conditional use amendment. The issues and/or concerns are as follows:

1. Verify which of the Deluca and Hartman Construction businesses or portions of businesses utilize this site.
2. Identify the proposed outdoor storage area that will be regulated by the new CU application. How will this purposed outdoor storage area be screened from public view, especially the properties to the west?

3. Identify the maximum number of vehicles (i.e. dump trucks, panel vans, pickup trucks, trailers and tractors) to be stored on site. Of the maximum number of vehicles, how many will be stored inside vs. outside? Of the vehicles stored outside, where will they be sited within the proposed outdoor storage area?
4. Identify the maximum number of attachments to be stored on-site (i.e. implement trailers, snowplows & salt spreaders). Of the maximum number of attachments, how many will be stored inside vs. outside? Of the attachments stored outside, where will they be sited within the proposed outdoor storage area?
5. Identify any other items currently stored or proposed to be stored on site within the proposed outdoor storage area (i.e. mulch, bark, soil, tree plantings, etc.).
6. How do you plan to address the issues/concerns regarding burning of materials on site?
7. How do you plan to address the issues/concerns regarding traffic on Big Bend Road?
8. Identify the location, types and maximum quantities of chemicals that you are permitted to store on site per local, county, state and other governing agency requirements (this would include the storage of salt).
9. How do you plan to address the issues/concerns regarding noise of your equipment (i.e. reverse alarms on the tractors)?
10. Identify any changes to your hours of operation.
11. Identify the willingness to agree to monthly, bi-monthly, 6 month, etc., compliance reviews by Town and County staff.
12. How do you plan to address the issues/concerns regarding runoff into wetland & drainage easements as it relates to the winter salt usage and power washing of vehicles?

Attorney Macy stated anyone can speak at the public hearing even if they did not sign up. He also stated this is not a public hearing to terminate the original Conditional Use. He stated he encourages everyone to speak.

Richard Fredrick Attorney representing the Deluca's stated the representative of the County and the Town have stated the correct issue and Deluca's have tried to address all of the issues, some might not of been addressed, but can be easily solved. He stated there are compliance issues and they can negotiate to resolve those issues. He stated the Deluca's Engineer Group put together drawings for the salt shed, it is just conceptual ideas. The Deluca's have wanted to be good neighbors, and this is not an expansion, they want to address all of the concerns. He stated the Deluca's have eliminated burning but there are regulations for the backup noise but it can be brought down some disables. He stated the run off of pressure washing is a concern and there is a DNR Permit that the Deluca's will obtain. He stated the vehicles they are seeking are in addition to the employee vehicles that would be gone at night.

Senior Land Specialist Peggy Tilley stated the County would like a little more detail on the outside storage, an inventory of the equipment and the type of screening that will be used. Senior Land Specialist Peggy Tilley and Attorney Fredrick discussed the current building and the building the Deluca's would like to build. Senior Land Specialist Peggy Tilley asked how much salt is stored in the building currently and if there would be an increase in that amount. Mr. Deluca stated 400 ton and there would be no increase. She stated the County

PROCEEDINGS OF THE TOWN OF VERNON PLAN COMMISSION

Thursday, February 12, 2009

6:30 P.M.

Page 4 of 13

would want a self containment plan for the proposed building with the pressure washing of trucks unloading of the salt so there would be no contamination issues. She stated the county would like to see Environmental Health approval, Land Resources Division approval for the salt and any Storm Water issues. She stated the county and Town would like to see more details of the building, floor drains, storage of the vehicles verse storage of salt and chemicals. She stated the County and Town would like more details on the landscaping berm and the grating. Attorney Fredrick stated with the new salt shed, there would be more room to store the vehicles and equipment, there would be less noise and this would allow the Deluca's to get into compliance.

Town Planner Jamie Rybarczyk asked what businesses are operated under the Deluca/Hartman construction at this location. He asked how many acres are used for the business out of the 45 acres. Mr., Deluca stated it is about ten to twelve acres. Mr. Deluca and the Commission discussed the number of plows, trailers, salt spreaders and other equipment the Deluca's would like to have. Commissioner Bartholomew stated it would not be hard to know how many trailers because they need to be licensed like a truck. We need to know how much equipment you want so it can be put in the Conditional Use. Attorney Fredrick stated it was done. Commissioner Johnson stated the size of the vehicles needs a limit, whether it is a tri axles, quads etc.... Mario Deluca stated the heavy equipment is stored on Guthrie Dr. Commissioner Bartholomew stated you can categorize by weight. Mr. Deluca stated the Town wanted the amount of vehicles and now you want the size of the vehicles. Attorney Fredrick stated if he is given some direction on the vehicles, he can write something that will be acceptable. He said there is nothing devious, we just need to know what the County and the Town want. He stated if he could have sat down for a meeting prior to this hearing it would of been written the way it should have been written.

Commissioner Benkowski stated he was at the property today and the place is immaculate. Commissioner Benkowski, Senior Land Use Specialist and Attorney Fredrick discussed the building that is on the site and if there was another building approved. Senior Land Use Specialist Peggy Tilley stated the building on the property is the building that was allowed in 1990 and no other building was approved.

Commissioner Bartholomew asked about the petition to annex to Big Bend. Attorney Fredrick stated the petition is ongoing and even if the annexation was to happen the Deluca's want to be good neighbors and want to address the issues. Attorney Macy stated the Deluca's could not stop the annexation only the Village of Big Bend could. The Deluca's could ask the Village to say no but they can't withdraw the petition.

Mario Deluca stated he lives there also, so he wants the business run well. Commissioner Bartholomew asked if there are current plans for future development. Mr. Deluca stated there is no plan for development. Commissioner Bartholomew asked about the chemicals on the property. Mario Deluca stated weed killer and fertilizer are stored on the property.

Senior land Use Specialist Peggy Tilley asked if any vehicles will be stored in the salt shed, Mario Deluca stated there will be some vehicles stored. Senior Land Use Specialist Peggy Tilley stated the Deluca's should count those vehicles in the number they request. Commissioner Bartholomew stated they should put in for future growth also. Mario Deluca stated there is vacant land on Guthrie Drive for expansion. Planner Rybarczyk asked if there is bulk fuel stored on the property. Mario Deluca stated no there is not.

Public comments:

Don Senske W234 S6845 Millbrook Circle asked what the zoning is on this property. Peggy Tilley stated it is RRD5 Rural Residential Density Five. He stated when he purchased his property 30 years ago he thought he was building in a residential area. Mr. Senske stated the condition of Big Bend Road, and the leakage of vehicles. He stated to the Commissioners to vote no to anything the Deluca's are asking for.

Rick Mueller W264 S7540 Mt. Whitney Ave stated 45 vehicles on the Deluca property would actually be 90 with employees. He stated it is not a bad company it is just in the wrong area. Mr. Mueller spoke of the safety of the road when the big trucks are driving on the road. He also stated the run off could be a safety issue. He stated the Deluca's have not complied to the current Conditional Use why would he comply with a new one. Mr. Mueller stated the Deluca's have out grown the area.

Jeff Raddatz W234 S6860 Millbrook Circle East stated it is not true that a landscaping business is just being run out of the area; the Deluca's are running an underground cable business from the property. Mr. Raddatz talked about the berm, the salt shed, drainage on the property and the amount of traffic from the trucks. He stated the Deluca's want to be good neighbors than they need to move because they have outgrown their area. He stated the Deluca drivers are courteous but the trucks are just too large for the road.

Gerald Delopst P.O. Box 511012 New Berlin asked what the salt building is going to be built out of. Chairman Paff stated it will be wood. Mr. Delopst stated the salt building will be noisy, and a berm will not matter.

Ty Barber W232 S6750 Millbrook Circle stated he is Deluca's neighbor to the north and he planted 100 trees so he does not have to look at the Deluca property. He stated the business is noisy and has not changed. He stated the annexation came up with some friends who know that Big Bend does not want to give the Deluca's a salt shed but if Vernon does they will accept it. Mr. Barber reviewed the history of when Mario Deluca Sr. first came to the Town to start his business. He stated it was suppose to be a small business, and the dump trucks were only suppose to be pickup trucks. He stated the business needs to be somewhere else. He stated the 46 acres, could become 40 if Deluca starts subdividing the property and building homes on it. Mr. Barber spoke of a mound system, the Conditional Use and who enforces the Conditional Use. He stated the Deluca's have a street sweeping business also.

Helga Hoffman W232 S6860 Millbrook Cir East stated she lives south of Deluca's and she is concerned about her property and she can't enjoy her property with all the noise. She stated she agrees with the other people who just spoke.

Richard Pudlitz P.O. Box 273 Muskego stated he agrees with what most of the people have said. He stated in Deluca defense he is a good business man and he might not be expanding but extending his business. He stated the salt is not appropriate even if guidelines are met. He stated Big Bend Road is a Class B Highway and the Deluca trucks are too heavy for the road especially when they are carrying salt. He stated the Deluca's should put the salt shed over on Guthrie Road, and Deluca can promise what he wants, but he can't make the noise quieter.

Bonnie Westfahl W234S6810 Big Bend Road she stated she has lived there for 30 years and this is a Class B Road and the road has not been that bad until Mr. Deluca opened his business. She stated she does not want to be forced to go on city water if the ground water gets contaminated. She stated Mr. Deluca should expand his business on Guthrie Road.

Fred Michalek S69W25205 Longview Dr. stated why would you reward someone with a new Conditional Use when they are not complying with their current one. Mr. Michalek stated the Deluca's need to give us the facts and not beat around the bush. He stated Mr. Deluca and his attorney are not well prepared tonight. He stated at the last public hearing Mr. Deluca stated he did not burn shrub from outside clients, but today he stated they have stopped burning. Mr. Michalek spoke of the misrepresentation the Deluca's did when they first started their business and the misrepresentation they are now doing by trying to get the salt shed before they get annexed. He stated this is a residential area and the Deluca business does not belong there.

Gary Wilde W234S6800 Millbrook Cir. stated he agrees with many of the issues the people before him have brought up. He spoke of all the violations that Mr. Deluca has, and why would the Town and County think his salt shed will be in compliance. He stated he is very concerned about his water supply and he no longer drives on Big Bend road, because the road is so bad. Mr. Wilde spoke of the customer parking that does exist, and he asked the Commission to think twice before they choose to amend the Conditional Use.

Gerry Krenke S63 W23155 Townline Rd. stated he would like to thank the Deluca's for stopping the burning.

Supervisor Reilly stated he would like to compliment every resident that came and spoke here tonight. He stated the people need to let the Town Board and Plan Commission know the predicament the Town was put in when the Deluca business was allowed. He stated the Town Government has to be sure this never ever happens again. He stated Commissioner Johnson did a good service in wanting specification of the type of truck, the weight, number of axels and license for their vehicles. Supervisor Reilly stated the Town Attorney stated two important things, in every Conditional Use you list what the applicant can't do with specificity so there are no loop holes you close it as tight as a drum. He stated to cap it off you include the black letter rule written by our own attorney and it reads "should a change in the character in the surrounding area or 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 the action of the Plan Commission perhaps Town Board pursuant to the enforcement provisions of this Conditional Use order" he stated that is how you protect the Town.

Jeff Raddatz W234 S6860 Millbrook Circle east stated if any of the salt or chemicals leak into the marsh, there is an underground stream and the water to my house would be contaminated.

Bonnie Westfahl W234S6810 Big Bend Road asked if the Plan Commission can just say no to anything the Deluca's want so that we don't have to keep coming back.

Chairman Paff, Town Planner Jamie Rybarczyk and Senior Land Use Specialist Peggy Tilley read letter from residents into the minutes. **Deputy Clerk note: letters are attached to the minutes.**

Commissioner Benkowski asked about the cable trucks and if there is a business why is it there, what is the largest truck that the Deluca's own, has there been water drainage testing and can it be done before anything is approved. He also asked how much land is owned on Guthrie Drive and he asked if the zoning was going to be changed if the property is annexed to the village. Senior Land Use Specialist Peggy Tilley stated the zoning would be up to the Village except for the shore land property, the County would be out of it, but the County Shore Land ordinance would still apply. Commissioner Benkowski asked if there is a specific list of violations besides too many trucks.

Commissioner Bartholomew asked if the county has any control of the truck washing. He asked if the current salt building is out of date is that why the Deluca's are asking for a new one.

Commissioner Johnson stated everyone who has been with the Deluca original Conditional Use since the beginning knows that the building was not built where it was originally planned. He stated Mr. Deluca has not abided by the rules since the beginning why should the Commission believe that he is ready to follow the rules now. He stated Mr. Deluca needs to assure the Commission that he will follow the rules, but he has not done that tonight.

Mario Deluca stated that he has expended his business into a utility cable business and it is run out of Guthrie Drive. The office is there and the workers get their orders there in the morning. He stated the equipment is stored at Guthrie Drive location. He stated he has seen

growth, 20 years ago it was a small business but he has done things right and does follow the rules so the business has grown. He stated he attributes the business to people in the area. He stated he has built another shop, and he feels amending the Conditional Use is a way of fine tuning the business and create less traffic and noise. He stated he does not just have a business there, he lives there also. He stated he is here to try and work with the people and work with what has to be done.

Attorney Fredrick stated he understands the issue of trust, because of the violation. The current Conditional Use, is not very well crafted, He stated the protection is there and things can be worked out with some communication. He stated the Deluca's are here and have made a good effort it would be in every ones best interest to appoint someone to continue negotiation. He stated even if the Deluca's annex they still live there and things do matter because they want to be good neighbors.

Senior Land Use Specialist Peggy Tilley stated she wanted to clarify, the Deluca's are in violation of the number of trucks and outside storage they were told to come into compliance or request an amended Conditional Use and that is why they are here today to try and get in compliance. She spoke of the sweeper business and asked about dumpsters. She asked about the area around the building and if it is paved. Mr. Deluca stated the northwest and southwest is paved. She asked how many loads of salt are delivered and if there are catch basins in the building. Mr. Deluca stated he is not sure of the amount of salt deliveries, and stated that there are catch basins that go into a holding tank.

Planner Rybarczyk asked how the storage of chemicals is regulated. Mr. Deluca stated the State of Wisconsin regulates it. Planner Rybarczyk asked what the size is of the largest truck owned by the Deluca's. Mr. Deluca stated two quad axels that are stored on Guthrie Drive. He stated the largest on Big Bend Road is a Tatum. Planner Rybarczyk asked how many employees park on the Big Bend site. Mr. Deluca stated 25. Planner Rybarczyk asked why Mr. Deluca would like a new salt shed. Mr. Deluca stated it will have higher ceilings; it will be more up to date for easier dumping. Planner Rybarczyk asked if any water testing has been done on the marsh. Mr. Deluca stated not that he is aware of.

Senior Land Use Specialist Peggy Tilley stated someone asked what conditions are in violation and she stated condition one and three.

Attorney Macy asked about the repair issue and servicing the vehicles. Mr. Deluca stated that yes; he is requesting to be allowed to service vehicles. Attorney Macy explained the zoning process for the annexation.

Senior Land Use Specialist Peggy Tilley stated the Deluca property would follow the Village of Big Bends Zoning; only the ordinance for shore land will apply for the County.

Attorney Fredrick explained process of zoning when the property is annexed to the Village. He stated there is no truth to the salt shed issue that the Village will not allow it. He stated he would know because he is involved.

Commissioner Bartholomew asked if the company works under any other name. Mr. Deluca stated Building and Landscaping. Commissioner Bartholomew asked how the holding tank is cleaned out. Mr. Deluca stated a company comes and pumps it out and then dispose of it.

Attorney Macy explains the next process with the public hearing. He stated the Commission can close the public hearing or if more information is needed the public hearing needs to be adjourned to a later time and date.

Rodell Singert W254S7890 Hilo Dr stated listening to the concerns about the salt shed, people should be made aware North Prairie substation it is being used as an example leader in design and conditions of how a salt shed should be. He stated it might answer many

questions for the people. He stated the other question is he does not know where the salt shed is going to be located. He stated each Board member and Plan Commissioner should go and walk the site. He stated adjourning the public hearing would be a good idea. He stated, the time has come that this business has grown so successfully that the size and the location no longer support the business.

Ty Barber W232 S6750 Millbrook Circle stated Mario Deluca did not seem to sharp on his answers today. He stated some things came up that aren't exactly right, the trucks are a big issue. He stated tri-axels were not allowed in the original Conditional Use and Mr. Deluca stated he has two of them. Mr. Barber also questioned the hours of the business, because the business is noisy.

MOTION Commissioner Benkowski moved to adjourn the public hearing to May 14, 2009 at 6:30 p.m. Seconded by Commissioner Bartholomew , motion carried.

Public hearing closed at 9:53p.m.

6. **Discussion and action** to consider the Conditional Use Amendment, Mario & Diane De Luca, W234 S6650 Big Bend Road, Waukesha WI 53189.

No discussion or action was taken.

7. **Discussion and action** to consider the following items for Falcon's View Estates (Roamer Strasser Development, LLC), Part of the SW ¼ of Section 8 and SE ¼ of Section 7:

- a. Final Plat Approval.

Town Planner Jamie Rybarczyk stated the applicants are developing a 12-lot subdivision on Hillview Drive in the Town of Vernon. Previously, the applicants have submitted for review and approval, a preliminary plat, a master plan amendment, residential development permits (allotment), a rezone, and the Declaration of Restrictions.

Town Engineer Tom Ludwig stated the notes, referring specifically to the Outlot statement, incorrectly refers to the Town of Mukwonago and should instead read the Town of Vernon. He stated also the temporary cul-de-sac easement does not match the plans and should be changed accordingly.

MOTION Commissioner Benkowski move for the Town of Vernon Board recommends to the staff of Waukesha County Planning and Zoning Division conditional approval of the Falcon's View Estates located at Part of the SW ¼ of Section 8 and SE ¼ of Section 7, subject to the following conditions:

1. The applicant satisfying all comments, conditions, and concerns of the Town of Vernon Engineer regarding the construction plans prior to this approval being effective.
2. Subject to the developer satisfying all comments, conditions and concerns of the Town Engineer, the Town Chair and all reviewing, objecting and approving bodies, including but not limited to the State of Wisconsin Department of Commerce per ch. 236, Wisconsin Statutes and ch. Comm. 85, Wisconsin Administrative Code; State of Wisconsin Department of Administration per ch. 236, Wisconsin Statutes; the Waukesha County Department of Parks and Land Use and the Waukesha County Department of Public Works; in regard to the preliminary plat and final plat, prior to commencing construction of any improvement, whether public or private, or site development or approval of the final plat, whichever is earlier.

3. Subject to the Developer submitting to the Town Clerk and receiving approval as to form from the Town Attorney and as to amount from the Town Engineer, a letter of credit or cash and subject to the Developer submitting to and receiving from the Town Attorney and the Town Engineer, approval of a Developer's Agreement for the improvements (including all public, private and site development improvements), prior to commencing construction of any improvement, whether public or private, or site development or approval of the final plat, whichever is earlier.
4. Subject to the Developer submitting to and receiving from the Town Attorney and the Town Engineer, approval of the deed restrictions, prior to commencing construction of any improvement, whether public or private, or site development or approval of the final plat, whichever is earlier.
5. Subject to the Developer applying for and receiving from the Plan Commission for the Town of Vernon, the Town Board for the Town of Vernon, and Waukesha County all necessary modifications, waivers or variances (if any) to the Waukesha County Zoning Code, the Waukesha County Shoreland and Floodland Protection Ordinance, and the Town of Vernon Subdivision Control Ordinance, prior to commencing construction of any improvement, whether public or private, or site development or approval of the final plat, whichever is earlier.
6. Subject to, prior to the Town signing the final plat, all other required signatures must be inscribed on the final plat.
7. Subject to the Developer and Owner satisfying all comments, conditions and concerns of all rezoning ordinances, which have been approved in regard to the subject property, prior to commencing construction of any improvement, whether public or private, or site development or approval of the final plat, whichever is earlier.
8. Subject to the Developer submitting the preliminary plat and final plat to and receiving approval from the Fire Chief of the same, including, but not limited to, approval of any and all issues regarding street names and the uniform address system, prior to commencing construction of any improvement, whether public or private, or site development or approval of the final plat, whichever is earlier.
9. Professional fees. Petitioner shall, on demand, reimburse the Town 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.
10. Payment of Charges. Any unpaid bills owed to the Town by the Subject Property Owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of the conditional approval.
11. Subject to the Developer satisfying all of the aforementioned conditions within one (1) year of the Town Board granting this conditional final plat approval.

Seconded by Commissioner Craig, motion carried.

8. **Discussion and action** to consider the following items Temporary Site Plan and Plan of Operation for, Vince and Heather Siegel (American Fireworks), W228 S7080 Enterprise Drive.

Town Planner Jamie Rybarczyk stated similar to 2008, the applicant proposes to operate from a 40' x 80' tent and two (2) 10' x 40' storage container units, for the sale of fireworks. The applicant proposes five (5) banner signs and one (1) helium balloon as was proposed in 2007. Furthermore, adequate parking, sanitation and refuse disposal will be provided on site. The applicant had no ordinance violations last year.

The pertinent changes from 2008 are:

Hours: (was) 24 hours / 7 days per week; (request) 8am to 10:30pm.

Dates: (was) Setup – May 20 to July 15, 2008, Sales - May 23 to July 6, 2008; (request)

Setup – June 1 to June 3, 2009, Sales - June 4, 2009 to July 15, 2009, take down shall commence between July 15 to July 22, 2009.

Motion Commissioner Craig move for the Town of Vernon Plan Commission to recommend to the staff of Waukesha County Planning and Zoning Division Conditionally Approving the Temporary Site Plan and Plan of Operation Amendment for Vince and Heather Siegel (American Fireworks), W228 S7080 Enterprise Drive, subject to:

1. **Set up shall not commence prior to June 1, 2009. Sales shall be permitted from June 4, 2009 to July 15, 2009. The sale of merchandise shall not occur prior to the receipt of written approvals from the County Zoning Agency and County Environmental Health Division, written approval of the Big Bend / Vernon Fire Department, and following annual completion of a site inspection by the Town Planner, and annual issuance of written approval by the Town Planner to commence operations.**
2. **The entire operation, any debris and all signage shall be removed from the site no later than July 15, 2009.**
3. **Signage shall be limited to three (3) 4' x 20' banners attached as tent side curtains. One (1) 8'x 48' banner, one (1) 8' x 10' directional sign, and one (1) 11' helium balloon.**
4. **Documentation shall be submitted to the Town Planner that Waukesha County Department of Parks and Land Use has approved the Site Plan/Plan of Operation. Any and all conditions established by Waukesha County shall be adhered to.**
5. **Subject to all overnight storage of fireworks on the property being contained in the secured 10 ft. x 40 ft. secured metal storage container approved by the Fire Chief or removed from the property.**
6. **The Town reserves the right to review any condition imposed as part of this Plan of Operation if said use becomes a problem in the area. The Town Plan Commission may modify, change, delete, add, etc. any conditions, which they feel may be reasonable in order to allow this use and insure it does not become detrimental to the surrounding area**
7. **Subject to a letter from the petitioner and owner acknowledging and accepting all terms and conditions of this Plan of Operation Permit being submitted to the Town Clerk, prior to issuance of any permits.**
8. **All activities on the subject property herein may not in anyway become a nuisance by reason of appearance, noise, dust, smoke, illumination, odor or any other similar factor.**

9. The applicant shall allow the premises to be available for inspection by the Town officials at any reasonable time and upon reasonable notice.
10. Subject to this approval being for this year only and during the permitted days and hours of operation as conditioned above.
11. The on-site manager shall have a copy of the conditions on the premises at all times of operation.
12. The petitioner shall obtain all required licenses / permits needed to operate the proposed use, and the documentation of said licenses / permits shall be provided to the Town and County prior to issuance of the Use Permit.
13. The operation shall be conducted in compliance with all Federal, State, County and local ordinances.
14. The applicant shall submit to the Town of Vernon Town Planner and staff of Waukesha County Planning and Zoning Division, written approval of the Site Plan and Plan of Operation from the Big Bend / Vernon Fire Department Chief (or designee). The applicant shall comply with any recommendations by the Chief (or designee) prior to the issuance of an occupancy permit for the new portion of the business.
15. The applicant shall apply for and receive approval from the Environmental Health Division for the operation prior to issuance of a Plan of Operation Permit.
16. A one (1) million dollar liability insurance policy shall be taken out for the operation at this site and submitted to the Town of Vernon prior to release of a Plan of Operation Permit.
17. Any change in use or the individual operations on the property requires submittal and approval of a revised Site Plan / Plan of Operation.
18. The property shall be kept clean of debris during the operation and trash shall be taken from the site on a daily basis.
19. 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.
20. 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.
21. 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.
22. 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 Bartholomew, motion carried. One nay from Commissioner Johnson.

9. **Correspondences:** Waukesha County Outstanding Zoning Violations:

- a. Hallada - Pheasant Dr.
- b. Greffer - National Ave.
- c. Deluca - Big Bend Dr
- d. Steve Koehler – Lot 23, Major Manor.
- e. O’Neil Development LLC, Enterprise Dr.
- f. Laura Wollenzien Trust c/o Robert Look, Oakdale Dr.

10. Minutes for Approval:

- i. 11-13-08

Motion Commissioner Johnson moved to approve the 11-13-08 minutes as printed.

Seconded by Commissioner Bartholomew, motion carried.

- ii. 1-8-09

Motion Commissioner Bartholomew moved to approve the 1-8-09 minutes as printed.

Seconded by Commissioner Johnson, motion carried.

11. Next Meeting:

- i. February 26, 2009

Motion Commissioner Bartholomew moved to adjourn the Plan Commission meeting at 10:20 p.m. Seconded by Commissioner Craig motion carried.

12. Meeting adjourned at 10:20 p.m.

Liz Mascione
Deputy Clerk
Town of Vernon
Waukesha County

APPROVED:
As printed ()
With corrections ()

Brian Paff, Chairperson
Town of Vernon

Date

APPROVED:

Brian Paff

Brian Paff, Chairperson

PROCEEDINGS OF THE TOWN OF VERNON PLAN COMMISSION

Thursday, February 12, 2009

6:30 P.M.

Page 13 of 13

**Please note, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request service, contact Town Clerk at 662-2039. For TTY service, call 662-2039.

**It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information; no action will be taken by any other governmental body except the Town of Vernon Plan Commission.