

**TOWN OF GENESEE PLAN COMMISSION MINUTES
MAY 27, 2009**

Present: Engelking, Girman, Houston, Sullivan, Turzynski, Schmittinger

Also Present: Leair, Herrmann, Friedlein, Amy Barrows from Waukesha County
Parks and Land Use

Meeting called to order at 7:00 PM by Mrs. Leair.

Adjourned Public Hearing between the Town of Genesee Plan Commission and a Staff Representative of Waukesha County Parks and Land use to consider the Conditional Use Request (CU-150G) of Waukau Storage Yard, LLP, N88 W16447 Main Street, Menomonee Falls, WI 53051, to amend the conditions of the Conditional Use Permits for the existing guyed tower and the existing lattice communication towers on the property to allow future requests to co-locate on the towers to be permitted through the Site Plan and Plan of Operation application process. The property is located on C.T.H. X just west of the intersection of C.T. H. 83.

This hearing was adjourned from the original date of March 23, 2009 and was adjourned again on April 27, 2009 and was adjourned again to tonight's meeting.

Ms. Barrows gave a history on this property. It is zoned A-2, Rural Home District with an agriculture overlay. The property contains an existing lattice communications tower and a guyed communications tower. Both towers have equipment at their base. The petitioner is looking to amend the conditions of the existing Conditional Use Permits for the guyed tower and the lattice tower on the property to allow future requests to co-locate on the towers through the Site Plan and Plan of Operation process. Both of the towers were constructed with the benefit of a Conditional Use. The original Conditional Use for the guyed tower was issued in 1972 and the Conditional Use for the lattice tower was issued in 1995. There have been several additional Conditional Uses issued for additional antennae on the towers. In 2006 there was a Conditional Use issued to allow Sprint/Nextel to add twelve (12) antennae on the guyed tower and for the construction of a prefab shelter at its base. Waukesha County added conditions to the Conditional Use for Sprint/Nextel that allowed future co-locations on the tower to be handled through the Site Plan and Plan of Operation process and without the need to amend the Conditional Use Permit and without a public hearing. In 2008 Wisconsin Southern Railroad applied for a Site Plan and Plan of Operation to co-locate antennae on the guyed tower and the Site Plan and Plan of Operation was approved, however, one of the Town Plan Commissions conditions required that the tower owner should apply for a Conditional Use Permit to allow the co-location of wireless user through issuance of a Site Plan and Plan of Operation Permit. They are here this evening to amend the C U process so that future co-locators that simply want to put antennae and equipment on the existing tower site and be allowed to do that through a Site Plan and Plan of Operation, rather than going through the public hearing process with a CU.

No one was present to represent Waukau.

Opened to the floor for comment. There weren't any comments from the floor, brought back to the table.

Mr. Herrmann said the problem we had was that we had a co-locator that got approval to do it by Site Plan and Plan of Operation, it wasn't the tower owner. One of the conditions of the Plan Commission required that he come back, so he thought we should go ahead and take action on this request this evening because it has been delayed, adjourned twice now. Take action on the basis of what was submitted with the application because we actually required this.

No more comments, hearing closed at 7:06 PM.

Joint Public Hearing between the Town of Genesee Plan Commission and a Staff Representative of Waukesha County Parks and Land Use to consider the Conditional Use Request (CU-415B) of Reformation Evangelical Lutheran Church for two (2) signs, one entrance sign 50 sq. ft., and a new sign at the corner of C.T.H. D & E.

Ms. Barrows gave a brief history of the property. The property has been used and was permitted by Conditional Use as a church, Sunday school and there is also a parsonage on the property. The church put a large addition on the building in 2003. The property is zoned A-2, Rural Home. That zoning does require a Conditional Use for all churches and related uses. The County Land Use Plan was recently amended on this property to be Governmental/Institutional which is an appropriate category for a church. The petitioners are proposing an entrance sign at the entrance on C.T.H. "D" and also a sign at the location of C.T. H. "D" and "E" and the sign on the corner of C.T.H. "D" and "E" is located outside of the vision corner easement. The sign on "D" is shown on the site plan just outside of the right-of-way of C.T.H. "D" next to the existing sign. The existing sign is proposed to be removed as part of this application. Ms. Barrows said she would let the petitioner speak to this, but the sign needs to be 20' from the right-of-way of the road. The other sign on the corner does comply with the setbacks. Ms. Barrows said when they (Reformation) came in to apply for the application, we did talk about allowing an entrance sign just outside of the right-of-way, but when the County was thinking about it, they were thinking an arrow pointing the way, but this is a very substantial sign, 18 sq. ft. she thought it would be illuminated the same as the existing sign. The sign on D & E is 9 ½' wide by 7' high which includes the base of the sign. If you include the base of that sign, it is 65.8 sq. ft., but without the base it is 43 sq. ft. The allowed size of the sign is based on what the Town and County Plan Commissions feel is appropriate due to the Conditional Use nature of the proposal.

Bart Stubblefield, Stubblefield Signs was present.

Ms. Barrows: The sign on the corner is going to have a double faced is going to have an electronic message center on it. The message center part of the sign will be 30" in height, the sign is 9 ½' wide. That sign will be on the corner of D & E, 20' out of the right-of-way from each road and outside of the visions corner easement. The rest of the sign will be illuminated with fluorescent lamps.

Mrs. Leair asked how long the light would be on, all night?

Mr. Stubblefield said they didn't discuss it at the church. The lights can be shut off any time, they are controlled through a computer. The fluorescent lights are internal on the inside, they are controlled with a photocell but could also be on a timer and can be shut off whenever the Plan Commission wants it to be shut off. The LED lights can be controlled 3,000 different ways as far as brightness. During the day, the brighter the sun the brighter the LED lights get, at night it dulls down. You can control it 3,000 shades of brightness. The message now is static like, which means it is like a slide show, it changes and stops, it is between 7 to 10 seconds. If there are any problems with any of the lighting on the signs, they can be toned down at the request of the Town Plan Commission.

Ms. Barrows asked when they were planning on removing the existing sign, before they put in the new signs? Mr. Stubblefield said the church people would probably remove it before, they would tell the church people when they are coming with the new signs and they will have the existing signs removed. Ms. Barrows said they would not want to have the two signs there and for some reason the new sign gets constructed and the existing sign never goes away.

The entrance sign will have LED lights interior illumination and no flood light on the sign as there is now.

Ms. Barrows asked that the County get a revised copy that shows it will be the LED lighting rather than what was originally proposed before they approve this request.

Opened to the floor for comment. There were no comments from the floor so it was brought back to the table.

No more questions. Hearing closed at 7:16 P.M.

Joint Public Hearing between the Town of Genesee Plan Commission and a Staff Representative of Waukesha County Parks and Land Use to consider the Conditional Use Request (CU-162B) of James Williams for two (2), two (2) family buildings.

Mrs. Leair: Just for clarification, this is not a rezoning hearing. Under the current zoning, Mr. Williams would be allowed to have seventeen (17) units. He is asking for four (4) units. The reason it is on the agenda is that there is a Conditional Use on that property where he proposes to put these buildings.

Ms. Barrows gave a brief history of the property. It is zoned R3 which is single family residential. It allows 20,000 sq. ft. per living unit. The Land Use Plan is in low density residential with the County and the Town and which is also 20,000 sq. ft. minimum density per living unit. The property is approximately 7 acres. The property was issued a Conditional Use in 1972 which permitted the existing residences, so there were existing multi-family residences prior to our Ordinance being created. They did get a CU in 1972 and they also proposed two new units at that time in the barn building. At that time in 1972, there were a total of seven (7) units approved. There is one (1) one family residence; one (1) two (2) family residence and four (4) residential units in the barn. The petitioner is currently proposing to amend the Conditional

Use to add two (2) two (2) family duplexes along Boettcher Road and going to face the private road. The Conditional Use requirements for a multi-family specifically requires one (1) unit per 15,000 sq. ft. and at least 5,000 sq. ft. of open space per unit. There has to be a minimum of 900 sq. ft. for a one bedroom unit; 1,000 sq. ft. for a two bedroom unit and 1,100 sq. ft. for a three (3) bedroom unit. There has to be two (2) parking stalls per unit on the property. There are a couple other requirements beyond that that are not an issue on this particular property.

Mr. Williams was not present. Mrs. Leair opened to the floor for comments. Comments from Mr. Paul Mandella, W296 S2965 Molly Lane, S, Waukesha, WI 53188, Matteo Daddato, W297 S3130 Boettcher Road, Waukesha, WI 53188, Ron Marx, S28 W29705 Ancestral Dr., Waukesha, WI 53188, Cathy and James Naukkari, W296 S3041 Molly Lane, S., Waukesha, WI 53188, Robert McIntyre, W296 S3019 Molly Lane, Waukesha, WI 53188. The complaints were concerns with water run-off, where will additional water go when the new buildings are built; site distance; property values; lights in parking area; additional traffic; will buildings be taken care of, existing buildings aren't being taken care of and things sitting around the yard of existing buildings like mattresses, tables, etc., getting worse and rain gutters falling off; effect on Mandella mound system; eight additional vehicles; more people walking in the neighborhood;

Brought back to the table for comments.

Mr. Williams arrived. Mrs. Leair told him the comments from the floor included drainage, traffic, property values, safety at the intersection, etc.

Ms. Barrows said the property was rezoned from A-1 Agricultural to R-3 Residential in 1972 when he did apply for or just before he applied for the Conditional Use. One of the conditions was that if any of the existing structures are remodeled more than 50% or is burned down, they cannot be rebuilt and the property would revert back to that original zoning. If this does get approved, we definitely need to amend that condition of the Conditional Use.

There will be two mound systems, one for each building. There have been problems with the septic system seepage in the past. Mr. Williams said it is checked every month.

Mr. Williams was not sure where the units will be on the property, because if he goes with solar panels, the units would have to be moved, facing south. We would also need to have the actual floor plan as well as the site plan and plan of operation; location of structures, size of the garages, location of mounds.

There were some discrepancies in the information that Mr. Williams gave the Plan Commission and the conversation this evening. We need the correct information because we are not just approving the ability to build, we are approving the actual building, location and everything as part of the CU.

Mr. Engelking made a motion to adjourn this public hearing to the July 27, 2009 Plan Commission meeting in order to allow Mr. Williams to get us the final plan/proposal. Motion seconded by Mr. Houston, Motion carried unanimously. Mr. Herrmann will put together a list of items/information that Mr. Williams will need to bring back to us.

Took at break at 8:10 PM – Meeting called back to order at 8:20 PM.

Joint Public Hearing between the Town of Genesee Plan Commission and a Staff Representative of Waukesha County Parks and Land Use to consider the Rezoning request (SCZ-819B) of Sunset Genesee, LLC c/o James Derrick, 21401 W. Orchard Dr., New Berlin, WI 53146, to amend existing conditional B-3 General Business District Zoning on the property, Tax Key Number GNT 1487-999-005 to allow several additional business uses on the property and to rezone portions of the property from A-2 Rural Home and A-B Agricultural Business Districts to a conditional B-3 General Business District Zoning to match the remainder of the parcel.

Ms. Barrows gave some history on the property. The petitioner owns three (3) parcels, one contains most of the buildings and he has two smaller parcels adjacent to Sunset Drive with residences on them. The western parcel has a single family residence and the eastern parcel has a duplex on it. All of the properties that he owns are designated commercial on the County and Town Land Use Plan with exception of the wetlands that are designated as open space lands to be protected. The property has been operating under a conditional rezone since 1987 and an amendment to the conditions of the rezone was made in 2008 to include mini storage. There were only specific uses allowed on the property with the conditional rezone. The County did receive word that businesses were operating on this property without the appropriate permits and that the businesses did not comply with the conditions of the rezoning. That is why Mr. Derrick is here today and he wants to make all of the properties consistent. He is proposing to amend the conditions of the existing zoning on Lot 3A of CSM 8403. He is also proposing to amend the zoning of the remaining parcel from A-2 to conditional B-3 and that is the area to the far west. He is proposing to amend the area on the north side of the parcel from AB to B-3. All of the AE lands, which are wetlands, are going to remain as is. We should know that the wetlands as delineated and approved by the DNR are much larger than the zoning shows on our zoning maps, so what we need to do is rezone the AE to incorporate all of the wetlands. The County also recommends that the AE area be rezoned to C-1, which is conservancy. AE lands are meant to be lands that are in agricultural production that are flood plains, wetlands or areas with soils with seasonal high ground water. These areas do not appear to be farmed at all. They are very hydric and wetlands with wetland vegetation, so we would rather see them be zoned to C-1. The uses don't really change. The petitioner is also proposing to amend the .84 acre parcel, which is the western parcel with the single family residence, from AB to B-3. Then they are going to amend the 0.44 acre parcel, which is the easterly parcel with the duplex, from AB to B-3 also. The existing conditions of the zoning state that they are allowed to have metal fabricating in conjunction with equipment repairs, welding, engine repairs, equipment painting, grain storage and drying and those are all uses that existed on the property. They were also allowed the mini storage on the property and he is currently proposing to go through the site plan and plan of operation process to have those approved. What he wants to do is to amend that condition of the rezone to allow repair and service shops for automobiles, motorcycles, lawnmowers and other small engines; garages for storage of vehicles used in the operation of a permanent business; cabinet and furniture construction and assembly; contractors office; indoor storage associated with an office use; professional offices and studios and other similar uses as may be allowed by the Town Plan Commission and Zoning Administrator. Ms. Barrows said she would

recommend that they include the contractors office, warehouse and also woodworking just to make sure that we encompass all that they are proposing to do and she assumed with the contractors office, they will probably need to store vehicles on the property. They recorded a deed restriction on the property, that was a condition of the rezone, that “the rights granted here are only transferrable to any subsequent owner of the property upon approval of the Town of Genesee Board. Proof of filing needed to be submitted to the Town Clerk prior to the Ordinance being affective”. That was recorded, however, the restriction, if this gets approved, will need to be amended to include all of the lands because now there are additional lands included in that zoning. The other condition states, “Determination of non-compliance of the above requirements will necessitate the reversion of this conditional zoning to AB with an ag overlay, following due notice and public hearing and the rezoning shall not be effective until such time as Waukesha County Land Use Plan is amended from the rural designation to the commercial designation as it is proposed. That has already been done.

Mr. Derrick: There were some uses that I felt were just outside the regular uses. We expanded the uses. I am requesting a ton, not because of anybody there or plans, but just if I lose a tenant now, then we wouldn't have to go through this process to get that specific tenant. We just wanted a broad category where we could fit people. It is not like I am going to have those uses. Mr. Derrick said he hasn't changed anything since the former owner had it. They are just trying to get legal now. The businesses currently in operation on the site are: Simons Electric Systems, there is a mobile home that they use for an office and there is a large warehouse, they have two full-time and one part-time employee. This is their headquarters and they do their billing here. They warehouse in the large green metal shed. They don't have customer traffic, it is an office warehouse. Mr. Derrick said if they would leave, he would want a similar type of operation there. Pebble Creek Craftsman is a one person business. His wife comes and sands for him sometimes as does his son, but it is a one man operation, he builds customer cabinets. He builds them in the shop, loads them in his truck and goes and installs them. He is there 3 or 4 days per week and on job sites 1 to 2 days per week. Extreme Auto Body Works is just painting. Mr. Derrick said he probably only paints one car per month. Berg Painting is no longer in business. Mr. Derrick says his long range plan is that the duplexes be gone in five (5) years, that is where the storage buildings will be. Mr. Derrick is working with Dave Egli from the County Environmental Health regarding an illegal holding tank that was put in by the Mobile Home were Simons Electric Systems is. They didn't have any permits. The County said he has to replace that holding tank and he is currently getting estimates. He anticipates that within a week he will be ready to pull the permits for that and Dave Egli said from his perspective, as soon as Mr. Derrick pays the fee to the County and the plumber pulls the permit, Mr. Egli is ready to sign off on it, allowing him to move ahead with the building permit for the mini warehouses. He said from the day he pulls the permit, he has two years to complete the replacement of the holding tank.

Ms. Barrows said and you are aware that the duplexes and the residence are certified systems that are close to failure. Mr. Derrick said correct, the two duplexes are going to go away so that is not an issue, we are trying to be gentle with the water. He believes the septics on those three properties are as good as any septics on an 80 year old house in Genesee, they are operating, but are not up to current standards. He said Mr. Egli was willing to sign off on all three of those.

Mr. Derrick said there is an agreement between Pebble Creek and Simons where their buildings adjoin so the gentlemen from Pebble Creek use the restroom at Simons. There aren't any facilities for Pebble Creek. There is also a port-o-john on the property that the gentleman from Extreme uses. There were three illegal sinks on the property. Mr. Derrick said he removed two of the sinks and the third one is in the building where Pebble Creek is and Mr. Derrick said they are going to plumb that sink into the holding tank. He discussed this with Mr. Egli and he is on board with that. Mr. Girman asked if it was the holding tank by the trailer. Mr. Derrick said, yes, the trailer and the warehouse that Simons Electric uses and Pebble Creek, are all within 20'.

Ms. Barrows asked if there was any outside vehicular storage on the property, because she didn't think it was one of the uses proposed or allowed. Mr. Derrick said there is request for outside storage along with the mini warehouses. He said there is not going to be a lot of outside storage. He said when all ten buildings are complete, there won't be much room for outside storage. Outdoor storage now consists of a lot of odds and ends, trailers, boats and his stuff. Mrs. Lear said she would like to see those things stored inside, because once they start to grow they never stop and it ends up looking like a big junk yard. Mr. Girman said especially if they do small engine repair, there could be cars, lawn mowers, etc. The bike trail is right there and the Town Park.

Opened to the floor, no questions from the floor. Brought back to the table. No questions. Hearing closed at 8:45 PM.

Joint Public Hearing to consider the Conditional Use Request of Steven and Donna Seeker, (CU-1503) s19 w28818 Price Court, Waueksha, WI 53188 to complete land altering activities in order to level a portion of their property between an existing private sewage system and old road bed. (Lot 13 Parkers Grove.)

Ms. Barrows gave a history of the property. The property is Zoned A-2, Rural Home. The Land Use Plan has it in Suburban II Residential and there is Primary Environmental Corridor. Most of the wooded area on the property is Primary Environmental Corridor. There is an existing old road bed which appears to be vegetated at this point. There is a mound system just downhill from that road bed and it sounds like they are trying to level the slope in between the two. Ms. Barrows said she looked at the site and it looked like a very insignificant project as far as the County is concerned. Her only questions was whether or not there is going to be tree removal and then we can talk about how they are going to stabilize the site. She thinks it will blend in really well and be unnoticeable.

Mrs. Seeker said no trees are going to be removed and where grading will be done no damage will be done to the large red oak. She said originally in the plan, the old road bed was to be graded more in line with the property and it wasn't done. Now they want to make it more of a gradual break between the road and the mound system. For vegetation, they want to use primarily wild flowers and some prairie grasses, on top of the mound over the top of this dirt up to the road. They estimate dirt being moved 75 to 100 cu. Yards. The actual top of the mound, the lowest point, is a 2' drop, but to the top of the road it is another couple of feet in order to taper that in. She said if they build it to make it level with the top of the mound that would be an estimate of 50 cu. Yards, to taper it to the top of the road it will take a little more.

Ms. Barrows said she talked to Environmental Health and there is no problem with filling on the up slope side of the mound system, just the down slope side, they did say the petitioners need to be particularly careful that they don't disturb the mound system or 15 ft. down slope of the mound system. Providing they do that, the project should not have any impact on the mound itself.

Opened to the floor for comment, no comments from the floor, brought back to the table.

The petitioner said they would like to have the project completed during the summer. She said a good part of that depends upon their ability to get free fill or low price fill and now with not a lot of residential building being done, it might take some time.

There were no more questions, the hearing was closed at 8:50 PM.

Adjourned Discussion/Action on Conditional Use Request of Waukau Storage Yard to amend conditions to allow future requests to co-locators through a Site Plan and Plan of Operation.

Motion by Mr. Engelking to recommend to the County, approval of the Conditional Use Request of Waukau Storage Yard to allow future co-locators to locate on the tower through a Site Plan and Plan of Operation, subject to our Town Attorney and Town Planner drafting the conditions of approval. Motion seconded by Mr. Houston. Motion carried unanimously.

Discussion/Action on Conditional Use Request of Reformation Evangelical Lutheran Church

Mr. Herrmann explained that the Town has two options. We put it on the agenda as two separate items, one is for the Conditional Use Request and one is for the sign. We can amend the Conditional Use to bring it up to today's standards so we can have to have signs, lighting, landscaping and minor changes just to come back with a site plan. Or you can just amend the Conditional Use to allow the sign as proposed. It works out in the long run if we amend the CU and bring it up to today's standards and approve the signs as a separate item. (Then it wouldn't have to come back with a Conditional Use hearing every time they make a minor change.)

Mr. Herrmann said take item #7 and approve as the Conditional Use and he can draft the conditions the same as he has done for other churches and approve the sign separately (#8) as a Site Plan and Plan of Operation.

Motion by Mr. Engelking to recommend to the County, approval of the Conditional Use Request for Reformation Evangelical Lutheran Church subject to our Town Planner amending the conditions to basically simplify those minor items such as signage, landscaping that would only have to come back as a Site Plan and Plan of Operation the church can amend their Conditional Use in the future for simply those minor items such as signage, landscaping, etc. for items that would only have to come back for a Site Plan and Plan of Operation. Motion seconded by Mr. Houston. Motion carried unanimously.

Discussion/Action-Conditional Use Request of Reformation Evangelical Lutheran Church for signage plan.

Motion by Mr. Engelking to recommend to the County, approval of the signage plan for Reformation Evangelical Lutheran Church as presented tonight as long as it is in a conforming zoning location as indicated by Ms. Barrows. If we do have an issue with the lighting, since Mr. Stubblefield from the sign company said they could control it and fine tune it, I don't have a problem with it. I prefer to see internally illuminated lighting. Motion seconded by Mr. Girman.

Mr. Houston asked if we wanted to put some kind of condition on the LED because it is changeable. It says it changes every 7 seconds. Do we want to say how that changeable sign would operate? Mrs. Leair said if there is a problem we can request that they tone it down.

Mr. Engelking modified his motion to add a condition to include that the Plan Commission reserves the right to review the display of the lighting on a complaint basis if it becomes a nuisance. The second on the motion, Mr. Girman, agrees with Mr. Engelking's modification of the motion. Motion carried unanimously.

Discussion/Action on Conditional Use Request of James Williams for two, two family buildings.

The action on this request was adjourned to the July 27, 2009 Plan Commission meeting.

Discussion/Action on Rezoning request of Sunset Genesee LLC, James Derrick

Mrs. Leair read the list of businesses that are allowed in B-3 zoning. Even though these are conditional B-3 uses, she wants it to be clear that it doesn't allow all the B-3 uses.

Mr. Engelking: For clarification, are we only allowing or amending the B-3 for the seven uses that are listed on the application? Does this include the existing uses that are permitted, or are we eliminating those uses? The existing uses that are allowed by the conditional B-3 zoning such as metal fabricating, welding, engine repairs, equipment painting maybe some storage.

Mrs. Leair: I am assuming that they want to make this legal so I am assuming we would want to allow the existing uses.

Mr. Herrmann said you can do anything you want. You can modify those, you can give them any uses that you want.

Mrs. Leair: When do we take care of the outside storage issue. Mr. Herrmann said that would be part of the Site Plan and Plan of Operation.

Motion by Mr. Engelking to recommend to the County, Conditional B-3 as presented this evening with the list of uses including the existing allowed uses, office, warehouse, professional offices, cabinet and furniture construction and assembly (woodworking), indoor storage of

vehicles and repair for vehicles and small engines. (Grain storage and drying is no longer there.) This will clean up the property with the conditions and it follows our Land Use Plan Limited Commercial Use.

Mr. Herrmann questioned the last bullet point, "Any other similar use as may be allowed by the Town Plan Commission and the Zoning Administrator". Mr. Derrick said that was added in case they specifically didn't hit on something that was just outside of what we requested that you could approve it without going through this process. If you opted not to approve it, that's fine. As I discussed with Peggy Tilley, it would give you the authority to approve something that was close.

Mr. Engelking amended his motion to include that Conditions #3 and 4 should be eliminated.

Motion seconded by Mr. Houston. Motion carried unanimously.

Discussion/Action on Conditional Use Request of Steven and Donna Seeker for Land Altering.

Motion by Mr. Schmittinger to recommend to the County, approval of the Conditional Use Request of Steven and Donna Seeker for Land Altering subject to the project being completed by October 15, 2009 unless the petitioner is granted an extension by the Town of Genesee Plan Commission. Motion seconded by Mr. Girman. Motion carried unanimously.

Discussion/Action-Request for Special Events, Wern Valley Sportmens Club, Steve Williams

Mr. Williams is requesting the Miller Lite Sporting Clays Championship Friday thru Sunday, June 5, 6, 7, 2009 and also the Great Cancer Shootout on Saturday, July 25, 2009.

Motion by Mr. Engelking to approve the special events as presented this evening. Motion seconded by Mr. Houston. Motion carried unanimously.

Discussion/Action-Site Plan and Plan of Operation-Sunset Storage of Genesee, S30 W28602 Sunset Drive, James Derrick, Mini warehouse storage, outdoor storage and office space with warehouse.

Mr. Herrmann said Mr. Derrick has reviewed the conditions of approval.

Mr. Herrmann's Report and Recommendation:

TOWN OF GENESEE PLAN COMMISSION
PLANNER'S REPORT & RECOMMENDATION
SITE PLAN/PLAN OF OPERATION

NAME: **Sunset Storage of Genesee**

DATE: May 18, 2009

TAX KEY NO.: GNT 1487.999.005

OWNER/APPLICANT: James A. Derrick
21401 W. Orchard Drive
New Berlin, WI 53146

LOCATION OF PROPERTY: Lot 3A, Certified Survey Map No. 8403, being a part of the SW ¼ and the SE ¼ of Section 12, T6N, R18E, Town of Genesee, Waukesha County, Wisconsin.

ZONING CLASSIFICATION: B-3 General Business District (Conditional).

PRESENT LAND USE: Various Uses including a Painting Business, Electrical Contractor, Wood Working Shop and an Auto Body Repair Business.

PROPOSED REQUEST:

The property contains several buildings which are rented out to various businesses, including Simons Electrical Systems, Pebble Creek Craftsman LLC. and Extreme Auto Body Works. The existing uses were never approved by the Town of Genesee or Waukesha County. The petitioner has applied for a zoning amendment and the necessary permits to legalize the existing uses. In addition, the petitioner is seeking approval to construct six (6) mini-storage buildings. Two (2) of the storage buildings are 40 ft. x 160 ft. and four (4) of the buildings are 40 ft. x 180 ft. All units are ten (10) feet wide with the end units on each building varying in size. The end dividing walls are easily moved to create a larger space, but the side walls are not movable. The interior of the units will not contain any electrical or lighting. Exterior lighting would be under the eaves and on the end of the buildings, 35 watt HPS fixtures every 40 feet. A 120 volt outlet will also be located on each building for maintenance.

The petitioner is also showing buildings that may be added in the future. These buildings are for small office/warehouse type uses. The buildings will be approximately 60 ft x 80 ft. and divided into two (2) units. Each unit will have a small office in front of the building and a large warehouse area in the back. These buildings would be heated and will contain restrooms. Before the office/warehouse buildings would be constructed, the two (2) existing duplexes and the two (2) garages would be razed. The petitioner is also proposing outdoor storage of RV's, boats, cars, trailers, trucks and etc. These items will be stored toward the north end of the property.

Security cameras, fencing, touch pad gate and paving will be added as funds become available.

The petitioner has indicated that a sign will be erected between buildings 1 and 6 and a sign will be erected at the entrance. No detailed drawings of the sign have been provided. In addition, the petitioner has not provided a landscaping plan.

The days and hours of operation will be Sunday through Saturday (7-days a week) from 6:00 a.m. to 9:00 p.m. There are no employees. No proposed refuse disposal has been provided. Each individual tenant will be responsible for the disposal of his/her refuse and waste.

PLANNER'S RECOMMENDATIONS:

The Town Planner recommends **approval** of this request subject to the following conditions:

1. Documentation shall be submitted to the Town Planner that Waukesha County Park and Planning Commission has approved the Site Plan and Plan of Operation. Any and all conditions established by Waukesha County shall be adhered to.
2. The proposed zoning amendment shall be approved prior to the issuance of the plan of operation permit for the proposed storage units.
3. Subject to documentation being submitted to the Town Planner that Waukesha County Environmental Health Division has approved the existing septic systems on the property and that the proposed uses will not have an adverse impact on said uses.
4. Waukesha County Department of Public Works shall review the proposed access to C.T.H. DE. Documentation of the approved access shall be submitted to the Town Planner prior to issuance of any permits.
5. A detailed exterior lighting plan, including cut-sheets for all fixtures, shall be submitted to the Town Planner for review and approval, prior to the issuance of any permits. All outside lighting shall be screened so as to avoid fugitive lighting shining upon the neighboring properties.
6. The colors and materials of the exterior of the building shall be presented to the Town Planner for review and approval prior to the issuance of any permits. All buildings shall contain similar building materials and colors.
7. Each individual tenant owner shall submit a detailed Site Plan/Plan of Operation, prior to occupying the tenant space. If a tenant is currently occupying a space as of May 1, 2009, a new Site Plan/Plan of Operation shall be submitted within thirty (30) days or no later than June 30, 2009.
8. A new Site Plan/Plan of Operation is required for each new tenant or user of the property, prior to occupy said premises.
9. A new Site Plan/ Plan of Operation is required for buildings #7 - #10. In addition, the two (2) duplexes and two (2) garages shall be completely removed from the property prior to constructing Building No. 7.
10. Any proposed signage will require the petitioner to submit detailed sign renderings, colors and locations of any and all proposed signs to the Town Planner for review and approval prior to the issuance of a building permit for said sign(s).

11. A detailed landscaping plan shall be reviewed and approved by the Town Planner, prior to the issuance of a Plan of Operation Permit.
12. Absolutely no “outside storage” shall be allowed, unless specifically approved by the Town of Genesee Plan Commission.
13. A copy of the state approved building plans (if required) shall be submitted to the Town Building Inspector, prior to the issuance of a building permit.
14. Documentation shall be submitted to the Town Planner that an Erosion Control and Stormwater Management Permit have been issued by Waukesha County Land Resources Division, prior to the issuance of a building permit.
15. 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.
16. Documentation shall be submitted to the Town Planner that all required local, county, state and federal licenses and permits have been obtained.
17. The applicant shall allow the premises to be available for inspection by the Town of Genesee officials at any reasonable time and upon reasonable notice.
18. All activities on the subject property herein may not in any way become a nuisance by reason of appearance, noise, dust, smoke, illumination, odor or any other similar factor.
19. 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 Plan of Operation, 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.
20. 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.

Respectfully submitted,

Jeffrey Herrmann, AICP
Town Administrator/Planner

Mr. Herrmann said the one issue he has is the outside storage given that it is next to Sunset Park and the Bike Trail he asks that no outside storage be allowed on this premise. Everything should be stored inside.

Mr. Derrick said he would just like to comment that all the buildings would be between the park and the outside storage. To the west there is no possible viewing and from the bike path it is very limited. He said he thinks the area is well screened. There is a resident that lives in the back, he has an easement through this property to get back there. He said they moved 48 trees along the neighbors easement just so he didn't see anything when we was driving to his property. As soon as he is under the bridge he cannot see Derrick's property. He said the neighbors viewing is not an issue.

Mrs. Leair said we've seen these things before and it isn't long before it turns into a junk yard. They feel if you can store them outside, why build a building

Mr. Derrick said it would be like a motor home, travel trailer, larger things like that that won't fit in a mini warehouse.

Mrs. Leair said she thought there should be a limit on the number of vehicles if you were to allow any.

Mr. Engelking asked if this storage is after the buildings get completed.

Mr. Derrick said, no right away. The buildings are going up on a demand basis. He would like to supplement his income with some outside storage. When all the buildings are up there is not a lot of room left for storage.

Mr. Houston asked what about the outdoor storage for the businesses there.

Mr. Herrmann said he was more concerned about renting storage space for people to drop off, boats, trailers, trucks, equipment because it ends up being a junk yard.

Mrs. Leair said when we had another request for a storage yard, we required the petitioner to fence in all of the area; put locks on the entrance, screening, berm, etc. We are going to have to be consistent if we are going to allow outside storage.

The Plan Commissioners agreed on the fact that the bike trail is there as well as Sunset Park. Mr. Engelking said he would like to see a little more detail on it, maybe have a limit on the area and if it is going to move around that is going to be an issue because whenever we've done outdoor storage it is in a planned area. He could come back with a detailed plan and how many vehicles he would want, just for consideration. It is a Site Plan and Plan of Operation, he could come back at any time. Mr. Derrick said the applications for the Site Plans and Plans of Operation for the existing businesses on the property have been given to Waukesha County and that the County said it would be easier to get this plan approved tonight before the Town and

County act on the other three Site Plans for the existing businesses. Mr. Engelking said we should get the applications for our June 22, 2009 meeting because the deadline in the Town Planner's Report and Recommendation is June 30, 2009.

Motion by Mr. Houston to approve the Site Plan and Plan of Operation for James Derrick, Sunset Storage of Genesee for mini warehouse storage subject to the Town Planner's Report and Recommendation dated May 18, 2009. Motion seconded by Mr. Engelking. Motion carried unanimously.

Discussion/Action CSM-Tom & Lynn Saxe, Mickle Road

**TOWN OF GENESEE PLAN COMMISSION & TOWN BOARD
PLANNER'S REPORT AND RECOMMENDATION
CERTIFIED SURVEY MAP**

PROJECT NAME: Saxe CSM

DATE: May 18, 2009

OWNER: Tom & Lynn Saxe
W325 S1767 Mickle Road
Delafield, WI 53018

TAX KEY NO.: GNT 1457.999
GNT 1458.994

LOCATION: Being a part of the NE ¼ and the
NW ¼ of Section 5, Town of Genesee, Waukesha County,
Wisconsin.

ZONING CLASSIFICATION: B-3 General Business District.

LOT SIZE: Approximately 7.45 Acres.

REQUESTED USES: A three (3) lot Certified Survey Map (CSM).

COMPLIANCE WITH THE TOWN OF GENESEE COMPREHENSIVE PLAN - 2035:

The recommended Land Use Plan for the Town of Genesee, as noted in the Town of Genesee Comprehensive Land Use Plan – 2035 identifies this property in a Commercial category. It should be noted that the Development Plan for Waukesha County also has this property located in a Commercial category. Therefore, the proposed CSM complies with the Comprehensive Land Use Plan for the Town of Genesee.

STAFF ANALYSIS:

In January 2005, the Town of Genesee Plan Commission reviewed a conceptual land division for Tom and Lynn Saxe, 2451 Pickeral Lake, East Troy, Wisconsin to re-divide two (2) existing parcels into three (3) parcels of land. The property contains approximately 7.45 acres of land

and has about 2,284 feet of frontage on U.S.H. 18. The petitioner has now submitted a formal Certified Survey Map (CSM) dated July 14, 2004. Lot 1 will be 3.14 acres in size and is currently vacant, except it appears to contain a portion of the parking area from the volleyball court. Lot 2 will be 1.27 acres in size and contains the existing volleyball court and a portion of the bituminous parking area for the volleyball court and the restaurant on the west side of Mickle Road. It appears that a mapping error has occurred since it was the petitioner's intention to keep all of the parking on Lot 2 with no parking on Lot 1. Lot 3 will be 2.41 acres in size and contains the existing restaurant and banquet facilities. It is important to note that Mickle Road separates Lots 2 and 3. A restriction is noted on the CSM indicating that Lots 2 and 3 shall be permanently attached and not sold separately.

This submittal is a Certified Survey Map (CSM), which gives the Town Plan Commission 45 days and the Town Board 60 days to take action. The CSM was filed with the Town of Genesee on April 30, 2009, giving the Town Plan Commission until June 14, 2009 and the Town Board until June 29, 2009, to take action, unless the Developer grants an extension in writing.

In performing a detailed review of the CSM dated July 14, 2004, I have found the following items must be added to the map or waived by the Plan Commission and Town Board in order to comply with the Town's Land Division Ordinance:

- Section 2.06 (G) Soils Tests Required. Lands to be divided or developed into building sites to be served by soil absorption sewage disposal systems, shall have a minimum of one (1) soil test performed per lot, indicating the lot(s) and building site(s) can support a conventional or mound type of soil absorption sewage disposal system in compliance with Department of Commerce codes, including but not limited to COMM 83 & 85 and all amendments thereto.

 - Section 4.02 (A) Exact Length and Bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in U. S. Public Land Survey and the total acreage encompassed thereby. The north lot line of Lot 2 shows a distance of 185.00 feet, but measures only 105.00 feet.

 - Section 4.02 (M) Existing Zoning on and adjacent to the proposed CSM shall be shown on the CSM.

 - Section 5.02 (E) All utility and/or drainage easement shall be shown on the final CSM.

 - Section 6.06 Duplicate CSM to be Filed; An identical reproducible copy (on stable drafting film at least 4 mils thick) along with the recording data shall be placed on file with the Town Clerk.

 - Section 6.07 The Town Clerk or his/her designee shall place upon a copy of the map on each lot shown on said map the correct legal address numbers assigned to lot in conformity with the grid system in effect in Waukesha County. All costs associated with this shall be paid for by the developer.
- that

Section 7.02 (A) A planting strip at least 30 feet in depth shall be provided adjacent to U.S.H. 18. This strip shall be a part of the CSM lot, but shall have the following restriction lettered on the face of the CSM: "This strip reserved for the planting of trees and shrubs, the building of structures hereon is prohibited."

PLANNER'S RECOMMENDATION:

Based on the above information, the Town Planner advises the Town Plan Commission to recommend to the Town Board to **approve** the CSM subject to the aforementioned conditions being satisfied prior to Town signing the final CSM and subject to the following:

1. Subject to the developer satisfying all comments, conditions and concerns of the Town Engineer and all reviewing, objecting and approving bodies, including but not limited to the State of Wisconsin Department of Commerce per ch. Comm. 85, Wisconsin Administrative Code; State of Wisconsin Department of Administration per ch. 236, Wisconsin Statutes; and the Village of Wales in regard to the CSM, prior to the Town signing the final CSM.
2. All existing and proposed easements shall be shown on the CSM.
3. The Village of Wales has Extraterritorial Jurisdiction, therefore they will need to review the CSM and should be added to the signature page on Sheet 7 of 7.
4. On Sheet 7 of 7, Waukesha County is listed as a signature to the final CSM. Since the location of the CSM is not within the Waukesha County Shoreland and Floodland Protection Ordinance it may not be necessary to have Waukesha County Review the final CSM. The petitioner should contact Waukesha County to determine if they need to review the CSM. If they do not, then the signature can be removed from Sheet 7 of 7.
5. A note shall be placed on the face of the final CSM stating, no lot or outlot shall be further divided absent the express written approval of the Town Board of the Town of Genesee. No new lots or outlots shall be created absent the express written approval of the Town Board of the Town of Genesee. No lot line or outlot line shall be adjusted or reconfigured in any way absent the express written approval of the Town Board of the Town of Genesee or unless otherwise expressly authorized by law.
6. The petitioner shall provide documentation to the Town Planner from the Wisconsin Department of Transportation that access onto U.S.H. 18 from Lot 1 is permitted and the location of said access.
7. A notation shall be located on the final CSM indicating the areas where access from the proposed lots to S.T.H. 83 is prohibited. There shall be no direct access from Lots 2 or 3 onto U.S.H. 18. The no access area shall be clearly marked on the face of the CSM.
8. A portion of the property has a Conditional Use Permit for the operation of an outdoor

volleyball court. Proposed Lot 2 does appear to encompass the entire portion of the property that is covered under the Conditional Use Permit. The petitioner will need to consult with Waukesha County if an amendment to the Conditional Use Permit is necessary.

9. Lot 2 shall be modified to include the entire parking area on said lot or that portion of the parking area located on Lot 1 shall be removed. However, the parking area shall only be removed if the petitioner has adequate parking for the restaurant and banquet facilities with out including said parking.
10. Subject to the Town Planner verifying all conditions of approval have been complied with prior to the Town Officials signing the final CSM.
11. Subject to, **prior to the Town signing the final CSM**, all other required signatures must be inscribed on the final CSM.
12. Subject to the Developer satisfying all of the aforementioned conditions within one year of the Town Board granting conditional final CSM approval.
13. Any and all waivers reviewed and approved by the Town Plan Commission and Town Board shall be noted on the final plat. The Town Planner shall approve the language of the note.
14. 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.
15. 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.

Respectfully submitted

Jeffrey C. Herrmann, AICP
Town Administrator/Planner

Mr. Herrmann explained that this CSM was here as a conceptual several years ago. Mr. Saxe wants to Split off one lot all the way down to Pick ‘N Save. Lots 2 and 3 can never be sold separately because Mickle Road separates the two lots. There are some numbers that are wrong the CSM and Mr. Herrmann talked to the surveyor and he is going to make the changes. Mr.Herrmann said this does impact the parking. One of Mr. Herrmann’s concerns was how many parking spaces he needs for the banquet facilities, restaurant and volleyball courts. We have to make sure he doesn’t cut off too many parking spaces. There was talk with the Village of Wales, that when the sewer becomes available, that they also sewer this property. Access will have to be approved by the State D.O.T. There is no direct access there now.

Motion by Mr. Engelking to recommend to the Town Board, approval of the CSM for Tom and Lynn Saxe subject to our Town Planners Report and Recommendation dated May 18, 2009. Motion seconded by Mr. Schmittinger. Motion carried unanimously.

Discussion/Action-Site Plan and Plan of Operation-Oak Slope Productions, Inc., S42 W31254 Hwy. 83, Genesee Depot, WI 53127.

TOWN OF GENESEE PLANNING COMMISSION
PLANNER’S REPORT & RECOMMENDATION
SITE PLAN/PLAN OF OPERATION

PROJECT NAME: Oak Slope Productions, Inc.
DATE: May 18, 2009
TAX KEY NUMBER: GNT 1521.974
PETITIONER: John Gourdoux
d/b/a Oak Slope Productions, Inc.
P.O. Box 340
Genesee Depot, WI 53127
OWNER: Gary Reichert
P.O. Box 321
Genesee Depot, WI 53127

LOCATION OF PROPERTY:
A part of the NE 1/4 of Section 21, T6N, R18E, Town of Genesee, located at S42 W31254 Hwy 83.

PRESENT ZONING:
B-3 Local Business District.

PRESENT LAND USE:
Vacant.

PLANNER'S ANALYSIS:

The property contains numerous buildings and uses. The petitioner would like to utilize the existing mill building, which is approximately 36' x 73' to operate a film/video production company. Oak Slope Productions is proposing to expand their business with a "Gotta-Go-Green" campaign. This facility will be used temporarily to provide adequate space in a professional atmosphere to support a new eco-friendly "Green Screen" stage for their projected productions. Oak Slope Productions will provide a variety of quality multimedia products and service with an emphasis on environmental awareness to inspire continued growth and preservation. Product and services featured by Oak Slope Productions is attached as Exhibit A.

The interior floor plan includes several studios, retail display area, green gallery showroom, a service counter, restroom, classroom stage, several offices and editing bay. The business will be open five (5) to seven (7) days a week for 24-hours a day. The business will employ two (2) full-time employees potentially some volunteers/students. The proposed use requires two (2) parking spaces. The current uses on the property require a total of approximately 74 parking spaces. The entire site can accommodate about 89 parking spaces. It appears the site contains the necessary parking spaces.

The petitioner is proposing to erect a new sign to replace the existing sign. The new sign will state the name of the business "The Green Grainery". No sign rendering, sign size or location map has been submitted with the application. In addition no changes are proposed to the exterior lighting, parking or landscaping. The property is served by a holding tank and private well. A private refuse collection service will service the property.

PLANNER'S RECOMMENDATION:

Based upon the above information, the Town Planner recommends the Town Plan Commission **approve** this request subject to the following conditions:

1. Documentation shall be submitted to the Town Planner that Waukesha County has approved the Site Plan/Plan of Operation. Any and all conditions established by Waukesha County shall be adhered to.
2. Subject to documentation being submitted to the Town Planner that Waukesha County Environmental Health Division has approved the on-site waste disposal system for the proposed uses on the property, prior to the issuance of any permits.
3. The Wales/Genesee Fire Chief shall inspect the premises to ensure all applicable fire codes are complied with and that a Knox Box has been installed in conformance with the Town of Genesee Knox Box Ordinance.
4. Subject to the Town Building Inspector inspecting the premises to insure all applicable codes are complied with for the intended use.
5. A detailed list of items to be sold shall be submitted to the Town Planner, prior to occupancy of the building.

6. A detailed sign rendering, colors and location of any and all proposed signs shall be reviewed and approved by the Town Planner, prior to the issuance of a building permit for said sign(s).
7. No outside storage shall be allowed, unless specifically approved by the Town Plan Commission.
8. Subject to the property being in compliance with all Federal, State, County and local laws, ordinances, codes, rules and regulations.
9. An up to date Plan of Operation must be on file, at all times, with the Town of Genesee Plan Commission and Waukesha County.
10. Subject to the applicant allowing the premises to be available for inspection by the Town of Genesee officials at any reasonable time and upon reasonable notice.
11. Subject to 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.
12. 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.
13. 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 Plan of Operation, 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.
14. 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.

Respectfully Submitted,

Jeffrey C. Herrmann, AICP
Town Administrator/Planner

Mr. Gordoux was present and explained to the Plan Commission that this is a temporary facility to house an adequate space for him to continue and expand his existing video production company to pop up some stages, some blue screen and green screen sites to appropriately move stuff and do stuff. Move out of his basement, basically. He said their vision is to develop educational and environmental programs and products. They are looking at a strong focus with arts incorporating learning aspects to creativity through music, video and film productions. He said they are trying to go green and he has a program he has been working on with his sister, Eileen. He said they have developed some really cool programs. Eileen is a retired school teacher after 35 years of teaching. He said this would be temporary because of the cold winters and the cost of heating of the building all winter. That is why this is temporary he doesn't want to build anything that isn't going to be able to be taken down, reused or hauled away and recycled. Their green program is to help people understand how to become more green and changing their carbon footprint on a daily basis. Ultimately they would like to develop a curriculum that would be supported through textbooks or educational programs that they can get out there. He said it was an experimental launch if it is a success they may continue on or they may shut down for a few months and then try it again in the next season.

There were no additional questions.

Motion by Mr. Girman to approve the request of Mr. Gourdoux, Oak Slope Productions, Inc., subject to our Town Planners Report and Recommendation dated May 18, 2009. Motion seconded by Mr. Schmittinger. Motion carried unanimously.

Discussion/Action-Violation – David Muglia, W305 S5064 Hwy. 83

Mrs. Leair explained that this complaint was on the Town Board agenda and the Town Board actually referred it, and our Town Planner recommended that it be referred to the Plan Commission. There is a lot of history on this property and the Plan Commission was copied with the correspondence. Mrs. Leair said she thought the neighbors have tried to work things out, but it hasn't gone very well. We prefer not to get involved in problems between neighbors, but there is a County Ordinance that is in existence that if the Plan Commission feels they want, they can declare a nuisance. Mrs. Leair said we have a couple of options. Mr. Herrmann read from Section 3.07 (4) of the County Code basically states that any use or structure that becomes hazardous, harmful, noxious, offensive, or a nuisance to the surrounding neighborhood, the owner or occupant may be required to improve, correct or abate such conditions by such measures as may be mutually directed by the Town Plan Commission or the Waukesha County Zoning Administrator, consistent with reasonable technology and economic practicality in conformance with reasonable standards that may be contained in this Ordinance. Mr. Herrmann said the Plan Commission has the right to declare it a nuisance or not declare it as a nuisance or to request additional assistance from the Zoning Administrator on how to handle this situation. Mr. Herrmann said this was before the Town Board on several occasions. The Board directed the neighbors to work out their differences, they did and had an agreement. One says he is abiding by it and the other says he is not. The gentleman (Muglia) is cutting wood on his property and is limited to six hours per week based on the agreement, he said he has held to the issue. The other issue that comes into play is that he is cutting wood for other people, friends and people that drop it off and picking it up on the property and hauling it away. This then raises the question if this constitutes some type of business activity. The County staff says no, it is not

a business. The Town Attorney has a different opinion, so we thought we would bring it to the Plan Commission and have you make some decisions on this. If the Plan Commission feels that there is some type of business activity here and that we should get some type of legal opinion from Waukesha County Corporation Counsel whether this constitutes a business or not.

Mrs. Leair said she wishes people would work something out, because this type of situation can make things worse. She said she knows Dorshack Tree Service dumps big loads of logs off at Mr. Muglia's property and it doesn't take much to figure out that it is not all going to be for Mr. Muglia's use. If we refer this to Corporation Counsel or if we issue citations, what is this going to accomplish.

Gary Gilmore, 1134 Auburn Drive. He explained that the wood is dropped off by Scott, he works for Dorshack and gets the wood free. Scott is a friend of Mr. Muglia and they both heat their homes with wood. What they do, Scott drops off the wood and then he comes over with his son and they chop it up, abiding by the 6 hours. He said they are not running a business and without Scott he doesn't have free wood. He can't heat his home. It is not like he is giving it away to the world and he certainly isn't selling it to anyone.

Mrs. Leair asked why it always has to be cut on Mr. Muglia's property. Mr. Gilmore said he (Mr. Muglia) has all the equipment. Mr. Schmittinger said, isn't it just as easy to take the equipment over to the other place as it is to bring the wood over here? Mrs. Leair said she knows what a wood splitter is and she knows you can take them anywhere you want to take them.

Mr. Houston said this is the agreement they apparently have and it is three items. He said he has not heard any violation of those three items yet and wonder what's been the violation of those three items?

Mrs. Leair said that as she understands it, the agreement was made on personal use of the wood.

Mr. Houston said it didn't say on the agreement that they agreed to it. Mrs. Leair said that was their understanding from the Town Board meeting.

Mr. Schmittinger asked Mr. Muglia how many cord of wood he uses in one year and Mr. Muglia said approximately 16. He, said he was only heating one building. Mr. Schmittinger said he sweeps chimneys for a living and he would be dog gone if he had a customer that burns more than 3 or 4 cords per year. Mr. Schmittinger said that 16 cord is a lot of wood. Mr. Muglia said it isn't if that is your primary source of heat.

Mr. Minnich said whether he is selling it or giving it to someone else, he still has to listen to the noise.

Options are to contact Corp. Counsel to see if it is a violation of their ordinance whether it be a business or any other type of business use. You can do nothing and say it is a civil issue. Or you can say that it is a nuisance and have the County assist us in putting together regulations to monitor it.

Mr. Schmittinger said it obvious that they don't care to work together. He said this is the third or fourth time he has seen this and he is getting sick of it.

Motion by Mr. Schmittinger to refer this to Corporation Counsel.to see what their recommendation would be. Motion seconded by Mr. Girman. Motion carried unanimously.

Mr. Herrmann will draft a letter to Corporation Counsel.

Approval of Minutes from the regular Plan Commission meeting of March 23, 2009.

Motion by Mr. Engelking to approve the minutes from the March 23, 2009 Plan Commission meeting. Motion seconded by Mr. Girman. Three abstentions, Mr. Sullivan, Mr. Schmittinger and Mr. Houston. Motion carried.

Approval of Minutes from the regular Plan Commission meeting of April 27, 2009.

Motion by Mr. Engelking. Motion seconded by Mr. Schmittinger. Motion carried unanimously.

Review of Pending – Everyone copied.

Mr. Schmittinger said he gave Mrs. Barrows the information she needed for the Site Plan and Plan of Operation for ACTS 2 Lutheran Church located in the Wales/Genesee Lions Clubhouse.

Correspondence – Everyone copied.

Motion by Mr. Schmittinger to adjourn. Motion seconded by Mr. Turzynski. Motion carried unanimously. Meeting adjourned at 9:40 PM.

Respectfully submitted,

Elizabeth Friedlein
Deputy Clerk/Designated Representative