

## MEMORANDUM

### **Public Hearing A / Business Items A & B**

From: Administrator/Staff

To: Plan Commission

Re: Public Hearing on a Conditional Use Application submitted by Kunes Appleton Properties LLC for a proposed addition to the existing heavy vehicle sales and rental principal building located at 2615 West American Drive, specifically described as Tax ID #006-0341-01.

AND

Plan Commission review & recommendation on a Conditional Use Application submitted by Kunes Appleton Properties LLC for a proposed addition to the existing heavy vehicle sales and rental principal building located at 2615 West American Drive, specifically described as Tax ID #006-0341-01.

AND

Plan Commission review & recommendation on a Site Plan Application submitted by Kunes Appleton Properties LLC for a proposed addition to the existing heavy vehicle sales and rental principal building located at 2615 West American Drive, specifically described as Tax ID #006-0341-01.

Please find the below comments from Code Administrator Kussow:

### **Property Information Specific to Tax ID # 006-0341-01:**

1. Specific Site Location: The subject site is the Kunes RV property addressed 2615 West American Dr.
2. Parcel Profile Report is enclosed with this memo for your reference. Additional applicable property information not included in the Parcel Profile Report is described below:
  - a. The subject property is located in the Town's General Business (B-3) District.
  - b. There are no wetland or floodplain concerns.
  - c. No portion of the subject property is located within shoreland and therefore, the subject property is not subject to Winnebago County zoning jurisdiction.
  - d. The subject property is not located in Outagamie County Airport Zoning, but is located in the 1,009 ft. Airport Height Limitation Zone.
  - e. The subject property is located in the Fox West Sewer Service Area and Town of Clayton Sanitary District #1.
  - f. The Future Land Use Map of the Town Comprehensive Plan identifies the subject property as being located in the Tier 1 development tier and the "Business Park" future land use category.
  - g. The existing "Heavy Vehicle Sales and Rental" land use is a Conditional Use in the subject property's General Business (B-3) District.
3. Zoning of Surrounding Properties:
  - a. North: B-3 (General Business District) & I-1 (Light Industrial District)
  - b. South: USH 10; I-1 (Light Industrial District) south of USH 10
  - c. East: A-2 (General Agriculture District)
  - d. West: B-3 (General Business District)

### **General Application Details & Background Information:**

#### **General Application Details:**

The applicant is proposing expansion of the existing heavy vehicle sales and rental land use via a 110' x 112' 6" addition consisting of new service bays and an exterior covered prep area. The

applicant is also requesting after-the-fact approval for expansion of the outdoor display/storage area.

Stormwater management is proposed to be directed to the existing regional stormwater pond located north of the subject property.

The proposed building addition and expansion of the outdoor display/storage area requires a Conditional Use Permit and Site Plan Review approval.

**Background Information:**

In 2017, the previous property owner (Horn RV) received Site Plan Approval to expand the gravel display area on the subject property, which included additional lighting and landscaping. A copy of the plans approved in 2017 is included for your reference.

In 2022, the gravel display area was expanded outside of the gravel display area approved in 2017 without any approvals from the Town, County, or Wisconsin Department of Natural Resources (DNR), and in violation of Town Zoning Ordinance requirements. Additionally, the following outstanding issues resulted from the 2022 expansion:

- Stormwater management & erosion control: No stormwater management or erosion control permits/approvals were obtained from Winnebago County or the DNR.
- Wetland filling: Wetlands were filled without any DNR approval.
- Landscaping required/installed as part of the 2017 approval was either never installed or removed.

**Special Standards for Principal Land Uses:**

Special standards for the “heavy vehicle sales and rental” land use are found in Sec. 9.08-291, as follows:

1. *“Outdoor display areas and other activity areas shall be located at least... 25 feet from a property in a commercial or mixed-use zoning district.”*

The submitted plans do not comply with this requirement due to the following issue(s):

1. Gravel outdoor camper display area is located within 25 ft. of the west property line as a result of the 2022 outdoor parking/display area expansion.
2. Gravel display area was installed beyond the western lot line onto the adjacent property to the west.

Additionally, the submitted plans do not comply with the outdoor display/gravel area setback from the south lot line per the 2017 Site Plan Approval. The plans approved in 2017 identified all gravel areas being located a minimum of 15 ft. from the south lot line. The submitted plans show existing gravel within 15 ft. of the south lot line.

In order to address and comply with the requirements of Sec. 9.08-291 and the 2017 Site Plan Approval, all gravel within 25 ft. of the west lot line and all gravel within 15 ft. of the south lot line should be required to be removed (*except for any gravel parking/display areas which were approved within 25 ft. of the west lot line as part of the 2017 Site Plan Approval*). The areas in which gravel is removed should be required to be re-seeded into lawn space or other acceptable landscaping.

**Special Site Design Principles and Architectural Standards**

The “heavy vehicle sales and rental” land use is subject to the special site design principles and architectural standards outlined in Division 8 of Article 8 of the Town Zoning Code of Ordinances. This section of the ordinance makes reference to the following attachments of the zoning code:

- Attachment B, Horizontal Site Design Standards

- Attachment C, Architectural Design Standards
- Attachment D, Architectural and Landscape Design Zones
- Attachment E, Landscape Design Standards
- Attachment F, Environmental and Energy Efficiency (E<sup>3</sup>) Guidelines

Per Attachment D, this property is located in the Tier 1 architectural and landscape design zone.

**Horizontal Site Design Standards (Attachment B):**

Driveways & Vision Clearance Triangle: There is one existing driveway from the site to West American Dr. No changes to the driveway or access to the site is proposed.

Stormwater and Erosion Control:

Stormwater management is proposed to be directed to the existing regional stormwater pond located north of the subject property. Stormwater management and erosion control are regulated by Winnebago County and the Wisconsin Department of Natural Resources (DNR). **County and DNR stormwater management and erosion control permits/approvals were not provided by the applicant.**

Wetlands:

It is apparent that two wetlands identified per a 2016 wetland delineation were disturbed/filled as a result of the 2022 outdoor parking/display area expansion.

- Applicant is proposing to restore the filled wetland in the eastern portion of the property.
- Applicant is proposing to request DNR approval to allow the filled wetland in the middle of the property, adjacent to West American Dr, to remain filled and partially paved with gravel.

**DNR approval for wetland disturbance/filling was not provided by the applicant.**

**Architectural Design Standards (Attachment C):**

The subject property is located in the Tier 1 architectural design zone per Attachment D, Architectural and Landscape Design Zones.

Existing Structures:

Sec. A. (5) addresses architectural design standards for existing structures as follows:

- *Any additional square footage added to these structures must be in full compliance to the architectural design standards.*
- *Percentages of Acceptable Exterior Building Materials may be decreased to allow for consistency in architectural design with the existing structures.*

Exterior Wall Materials:

The proposed exterior wall materials of the addition consist of:

- Architectural metal wall panel (American or equivalent color)
- Concrete Masonry Unit (CMU) block (old castle or equivalent color)

Sec. A. (2) (a) states:

- 1) *Except as provided below, Acceptable Exterior Building Materials shall cover 75 percent or more of all exterior wall surfaces. Windows and doors, including overhead doors, shall not be included in the total wall surface area calculation.*

“Acceptable exterior building materials” listed in Sec. A. (1) (d) include the following:

- Clay or masonry brick
- Natural or manufactured stone
- Decorative concrete masonry (sealed) with color consistent with design theme.
- Poured-in-place, tilt-up or precast architectural concrete (shall have stone, texture or coating appearance consistent with design theme)

- Glass curtain walls (Note: Glass windows and doors are not considered glass curtain walls)
- Other materials as approved by the Town Board

The only proposed exterior wall material which is considered an “acceptable exterior building material” as listed in the Town code is the Concrete Masonry Unit (CMU) block. Architectural metal wall panel is not listed as “acceptable exterior building materials” per the Town code.

Although the applicant did not provide area calculations identifying the percentage of exterior wall surfaces covered with “acceptable exterior building materials”, it is apparent that 75% of all exterior wall surfaces of the proposed addition are not covered with “acceptable exterior building materials” and the proposed exterior wall materials do not comply with the requirements of Sec. A. (2) (a).

Please note that Sec. A. (2) (a) provides allowances for the Town to decrease the required percentage of “acceptable exterior building materials” as follows:

2. *In those areas deemed to be of limited exposure to the general public, percentages may be decreased so long as the intent of this provision is maintained. Additional limitation to public view may be achieved by building location, orientation, additional landscaping or additional screening.*
3. *For those uses that require the location of exposed overhead or coiling doors, and not allow for the aggregate percentages to be achieved, acceptable building materials may be decreased to accommodate their necessity for the building use, so long as the intent of this provision is maintained. The Town Board has the authority to approve additional landscaping, acceptable material in other areas, screening, environmental and energy efficiency provisions, a reduction in the number of doors and building location within the parcel to maintain the aesthetic value of the area and maintain the intent of this provision.*

Additionally, as described above, Sec. A. (5) states: *Percentages of Acceptable Exterior Building Materials may be decreased to allow for consistency in architectural design with the existing structures.*

#### Roofing Materials:

The proposed roofing material is prefinished metal roof panels. “Architectural metal roof panels” is listed as an acceptable roofing material per Sec. A. (1) (c).

Per Sec. A. (1) (c), roof material shall have a Solar Reflective Index (SRI) of 78 or higher on roof slopes less than or equal to 2:12. *Staff was unable to determine compliance due to the applicant not providing specifications identifying the SRI of the proposed roof material.*

#### Loading Docks and Overhead Doors:

Sec. A. (9), described provision for loading docks and overhead doors as follows:

- *Except as provided below, loading docks and overhead doors shall be located in the side yard or rear yard and shall not be located facing a street yard. **Overhead doors are proposed on both street-facing sides of the building, facing USH 10 and West American Dr.***
- *Should the building orientation or parcel not provide a suitable accommodation or present an undue hardship for locating loading docks and overhead doors in and/or facing the side or rear yard, the Town Board may allow loading docks in and/or facing the street yard if a practical alternative does not exist.*

Staff recommends allowing the overhead doors to face the street yards due to the existing building orientation and the subject lot having street frontage on both the north and south sides of the lot.

### Building Orientation:

Per Sec. A. (12):

- *The Town Board may require building orientation to be adjusted to meet specific site concerns and address aesthetic considerations of nearby properties.*
- *The Town Board may require additional architectural design features on street-facing building facades to mimic the appearance of primary building entrances being located on the street facing side(s) of buildings.*

### Exceptions:

Sec. A. (14), states: *“Should a particular parcel present an undue hardship or needs arise to mitigate adjoining land use impacts, the Town Board may modify provisions of these regulations so long as the intent is protected and such modifications are not utilized in significant fashion as to warrant revision.”*

### **Landscape Design Standards (Attachment E):**

The subject property is located in the Tier 1 landscape design zone per Attachment D, Architectural and Landscape Design Zones. **The following issues relating to landscaping were identified:**

1. **No landscape plan was submitted with the application for review.**
2. **Existing landscaping does not comply with the 2017 Site Plan Approval. It is apparent that the display/gravel area perimeter landscaping approved as part of the 2017 Site Plan Approval was either never installed or removed in 2022.**
3. **Existing landscaping does not comply with Attachment E for the proposed building addition and expansion of the outdoor display area.**

### **Environmental and Energy Efficiency (E<sup>3</sup>) Guidelines (Attachment F):**

The E<sup>3</sup> standard is strongly recommended, but not required. Per review of the application materials, the following E<sup>3</sup> components are included in this development:

- Storm sewer piping. Only hard piping of stormwater directly off-site is proposed to be directed to the existing regional stormwater pond located north of the subject property.
- Minimize sprawl. Development is proposed within 1/8 mile of existing commercial development.
- Minimize impervious surfaces. Proposed impervious surface percentage is 70% which is in compliance with the maximum 70% requirement.

### **Storage of Waste/Trash and Recyclables (Sec. 9.08-209):**

Per Sec. 9.08-209:

- *Outside Storage of waste/trash or recyclables shall be screened from view and enclosed by a fence or wall that extends to the tallest point of waste/trash or recyclable container(s), but not less than six (6) feet in height.*
- *Screen fencing or walls shall be of a continuous wood, brick, or vinyl surface, or other material(s) as approved by the Town Board.*
- *When a fence has two distinct sides, the side with protruding posts, studs, etc. shall face the inside of the enclosure.*

**The refuse/recycling area and screening in compliance with Section 9.08-209 was not identified on or provided with the submitted plans.**

### **Exterior Lighting (Sec. 9.08-210):**

Per Section 9.08-210 (b) (1), *exterior lighting shall be certified by the International Dark Sky Association (IDA).*

**The application did not submit specifications verifying the proposed exterior lighting is IDA-compliant.**

### **Comprehensive Plan Considerations:**

- The Future Land Use Map of the Town Comprehensive Plan classifies this parcel as being in the “Business Park” future land use category.
- “Business Park” Future Land Use Category Description:  
*“Located along the north and south sides of USH 10, between STH 76 and Clayton Avenue, this district contains much of the visible property that fronts the USH 10 corridor. The accessibility and visibility of these lands is attractive to commercial land uses... Planned light industrial uses are also included in the Clayton Business Park North area primarily due to restrictions imposed on uses within the Airport Zoning Overlay. Examples could include warehousing, distribution centers, and light manufacturing...”*

*New businesses within this area should be regional in nature and require high-levels of access to the USH 10 and I-41 transportation corridors. New development driven solely by USH 10 traffic counts (i.e. car, boat, RV, trailer dealerships, etc.) shall be discouraged. Instead, high-value employment firms with professional offices, medical and dental facilities, and related uses that attract users to and from the Friendship Trail should be considered within this district.”*

Please note that per §66.1001 (2m) (b) of Wisconsin Statutes states: *“A conditional use permit that may be issued by a political subdivision does not need to be consistent with the political subdivision’s comprehensive plan.”*

### **Issues & Outstanding Items, Staff Comments/Recommendation, & Basis of Decision:**

#### **Issues & Outstanding Items:**

1. Gravel outdoor camper display area does not comply with the 2017 Site Plan Approval and the 25 ft. outdoor display area setback requirement per Sec. 9.08-291.
  - Staff recommends requiring the applicant to submit revised site plans identifying compliance with the 2017 Site Plan Approval and, for display areas installed beyond the 2017 approval, compliance with Sec. 9.08-291 prior to Conditional Use Permit and Site Plan approvals.
2. Applicant did not provide Winnebago County and Wisconsin Department of Natural Resources (DNR) stormwater management and erosion control permits/approvals.
  - Staff recommends requiring the applicant to provide the Town copies of County and DNR stormwater management and erosion control permits/approvals prior to Conditional Use Permit and Site Plan approvals.
3. Applicant did not provide Wisconsin Department of Natural Resources (DNR) approval for wetland disturbance/filling.
  - Staff recommends requiring the applicant to provide the Town a copy of DNR approval for wetland disturbance/filling prior to Conditional Use Permit and Site Plan approvals.
4. The proposed exterior wall materials do not comply with the requirements of Attachment C for the Tier 1 architectural design zone (i.e., “Acceptable Exterior Building Materials” shall cover at least 75% of all exterior wall surfaces of the proposed addition).
  - Plan Commission will need to determine if compliance with Attachment C will be required for the proposed addition or if Plan Commission will recommend

allowing the percentages of Acceptable Exterior Building Materials to be decreased for consistency in architectural design of the existing building.

5. Applicant did not provide specifications identifying compliance with the Solar Reflective Index (SRI) requirement for roofing material.
  - Staff recommends requiring the applicant to provide specifications identifying compliance with the SRI requirement prior to Conditional Use Permit and Site Plan approvals.
6. New overhead doors are proposed facing street yards (i.e., USH 10 & West American Dr.).
  - Staff recommends allowing the overhead doors to face the street yards due to the existing building orientation and the subject lot having street frontage on both the north and south sides of the lot.
7. Applicant did not submit a landscape plan; the existing landscaping does not comply with the 2017 Site Plan Approval; and the existing landscaping does not comply with Attachment E for the proposed building addition and expansion of the outdoor display/storage area.
  - Staff recommends requiring the applicant to submit a landscape plan in compliance with the 2017 Site Plan Approval and Attachment E for the proposed building addition and outdoor display area expansion prior to Conditional Use Permit and Site Plan approvals.
8. The refuse/recycling area and screening in compliance with Section 9.08-209 was not identified on or provided with the submitted plans.
  - Staff recommends requiring the applicant to submit plans identifying the refuse/recycling area and screening in compliance with Section 9.08-209 prior to Conditional Use Permit and Site Plan approvals.
9. Applicant did not provide specifications verifying the proposed exterior lighting is certified by the International Dark Sky Association (IDA).
  - Staff recommends requiring the applicant to submit specifications verifying the proposed exterior lighting is IDA-compliant prior to Conditional Use Permit and Site Plan approvals.

**Staff Comments/Recommendation:**

- Staff does not recommend approval of the Conditional Use Permit or Site Plan Review applications at this time due to the “Issues & Outstanding Items” described above.
- Staff recommends postponing (tabling) the Conditional Use Permit and Site Plan Review applications until the “Issues & Outstanding Items” described above are addressed and submitted for review by the Plan Commission.

**Basis of Decision:**

Conditional Use:

The Town, in making its decision, should consider the following factors:

1. the size of the parcel on which the proposed use will occur;
2. the presence of and compatibility with other uses on the subject property;
3. the location of the proposed use on the subject property (e.g., proximity of the proposed use to other existing or potential land uses);

4. effects of the proposed use on traffic safety and efficiency and pedestrian circulation, both on-site and off-site;
5. the suitability of the subject property for the proposed use;
6. effects of the proposed use on the natural environment;
7. effects of the proposed use on surrounding properties, including operational considerations relating to hours of operation and creation of potential nuisances;
8. effects of the proposed use on the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district and adjoining districts; and
9. any other factor that relates to the purposes of this chapter as set forth in s. 9.01-5 and other sections as may apply.

Site Plan Review:

The Town, in making its decision, should consider the following factors:

1. Effects of the project on traffic safety and efficiency and pedestrian circulation, both on-site and off-site;
2. Effects of the project on the natural environment;
3. Effects of the project on surrounding properties, including but not limited to operational considerations relating to hours of operation and creation of potential nuisances such as noise, odor, fumes, dust, and light;
4. Compliance with the Special Site Design Principles and Architectural Standards described in Division 8 of Article 8;
5. Compliance with other applicable requirements contained in this Chapter; and
6. Any other factor that relate to the purposes of this Chapter as set forth in section 9.01-05 and other applicable sections.

**SUGGESTED MOTIONS**

**Business Item A:**

*Motion to recommend denial of the Conditional Use Application submitted by Kunes Appleton Properties LLC due to non-compliance with the minimum standards/requirements of the Town's Zoning Ordinance as outlined in the 9 Issues & Outstanding Items described in the submitted Staff Memo.*

**Business Item B:**

*Motion to recommend denial of the Site Plan Application submitted by Kunes Appleton Properties LLC due to non-compliance with the minimum standards/requirements of the Town's Zoning Ordinance as outlined in the 9 Issues & Outstanding Items described in the submitted Staff Memo.*

Respectfully Submitted,  
Kelsey