

## MEMORANDUM

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

From: Administrator/Staff

To: Plan Commission

Re: Public Hearing on a Conditional Use Application submitted by Utschig Inc on behalf of Last Time Realty LLC for a proposed heavy vehicle sales and rental development located adjacent to the west of 2615 West American Dr, specifically described as Tax ID #006-0341-02.

AND

Plan Commission review & recommendation on a Conditional Use Application submitted by Utschig Inc on behalf of Last Time Realty LLC for a proposed heavy vehicle sales and rental development located adjacent to the west of 2615 West American Dr, specifically described as Tax ID #006-0341-02.

AND

Plan Commission review & recommendation on a Site Plan Application submitted by Utschig Inc on behalf of Last Time Realty LLC for a proposed heavy vehicle sales and rental development located adjacent to the west of 2615 West American Dr, specifically described as Tax ID #006-0341-02.

Please find the below comments from Code Administrator Kussow:

### **Property Information Specific to Tax ID # 006-0341-02:**

1. Specific Site Location: The subject site is located on the parcel adjacent to the west of the Kunes RV property addressed 2615 West American Dr. and south/southwest of West American Dr. from the Complete Fire Solutions property addressed 2630 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 is one (1) "navigable" intermittent stream along the northwest lot line.
  - c. The portion of the property within 300 ft. of the intermittent stream is located in the shoreland and Winnebago County's General Business (B-3) District.
  - d. There is a delineated wetland along the northwest lot line near the intermittent stream.
  - e. No portion of the subject property is located in floodplain.
  - f. The approximate western half of the subject property is located in the Zone 3 Outagamie County Airport Overlay Zoning District and 1,009 ft. Airport Height Limitation Zone.
  - g. The subject property is located in the Fox West Sewer Service Area and Town of Clayton Sanitary District #1.
  - h. 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.
  - i. The proposed "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)
  - b. South: B-3 (General Business District)
  - c. East: B-3 (General Business District)
  - d. West: B-3 (General Business District)

### **Application Details:**

The applicant is proposing a heavy vehicle sales and rental development to serve Valley Truck Leasing Inc., consisting of a 14,697 sq. ft. building with internal driveway/parking areas. One (1) driveway to West American Dr. is proposed. The submitted plans identify the current proposed Phase 1 of the development and a future Phase 2 which would include additional buildings and internal driveways/parking areas. Only Phase 1 is proposed at this time and this application is only for consideration of Phase 1. A "Future Building" addition is identified on the north side of the proposed building, but is not part of Phase 1 and this application. Per the October 24<sup>th</sup> letter from J.J. Toppins, President/Owner of Valley Truck Leasing, which is included with the application submittal, Valley Truck Leasing does not sell/rent/lease anything retail, and they "are a business-to-business truck & trailer provider for other businesses that either manufacture or transport goods."

Stormwater management is proposed to be directed to the existing regional stormwater pond located north of the subject property. Three (3) dry stormwater ponds are also proposed as part of Phase 1 development.

Phase 1 of this development requires a Conditional Use Permit and Site Plan approval by the Town.

### **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.

Rental/lease parking is proposed approximately 15 ft. +/- from the east property line and approximately 19 ft. +/- from the south property line. **It is staff's opinion that the parking area for rental/lease vehicles would not be considered an "outdoor display or other activity area", and such parking area would not be subject to the 25 ft. setback requirement per Sec. 9.08-291. If the Plan Commission/Town Board disagrees with this interpretation, the Town may require all parking to be located a minimum of 25 ft. from the property lines.**

### **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:**

- One (1) driveway to West American Dr. is proposed.
- Per Section A (1) (e), "driveways shall not exceed a maximum width of 36 feet at their juncture with the street pavement or 30 feet in width at the public right-of-way line."
- The proposed driveway is 75 ft. wide at its juncture with the street pavement and 40 ft. wide at the public right-of-way line, which does not comply with Section A (1) (e).

**The applicant is requesting a waiver to this requirement. Justification for the requested waiver is described in the submitted application materials.**

Stormwater and Erosion Control:

Stormwater management is proposed to be directed to the existing regional stormwater pond located north of the subject property. Three (3) dry stormwater ponds are also proposed as part of Phase 1 development. Stormwater management and erosion control plans require review and approval by the Town and Winnebago County. Since this development involves greater than 1 acre of land disturbance, erosion control and stormwater management approval by the Wisconsin Department of Natural Resources is also required.

**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.

Exterior Wall Materials:

The proposed exterior wall materials consist of:

- Architectural VEE RIB metal wall panel (zinc gray)
- Aluminum Composite Material (ACM) wall panel (bright red)
- Concrete Masonry Unit (CMU) block (dove gray & smokey mountain)

Attachment C requires 75% or more of all exterior wall surfaces to be covered with “acceptable exterior building materials.” “Acceptable exterior building materials” listed in Attachment C 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 Attachment C is the Concrete Masonry Unit (CMU) block. Architectural VEE RIB metal wall panel and Aluminum Composite Material (ACM) wall panel are not listed as “acceptable exterior building materials”. **Applicant is requesting the Town to approve Aluminum Composite Material (ACM) wall panel as an “acceptable exterior building material”. Applicant is also requesting the Town to waive/modify the 75% “acceptable exterior building materials” requirement to allow the building’s exterior materials as proposed.**

**The proposed exterior materials do not comply with the requirements of Attachment C since Architectural VEE RIB metal wall panel and Aluminum Composite Material (ACM) wall panel are proposed to cover greater than 25% of all building sides (which are not considered “acceptable exterior building materials”).** The applicant is proposing the following areas/percentages of exterior materials by side of building. Exterior material area/percentage calculations are further broken down between the “office portion” and “shop portion” for the west and east sides for consideration.

North side (facing West American Dr):

Total Wall Area (excl. windows/doors) = 2,244 sq. ft

- Proposed Exterior Wall Material(s):
  - Architectural VEE RIB metal wall panel (zinc gray): 2,244 sq. ft (100%)

- Percent Acceptable Exterior Building Materials = 0%

South side (facing STH 10):

Total Wall Area (excl. windows/doors) = 1,932 sq. ft

- Proposed Exterior Wall Material(s):
  - Architectural VEE RIB metal wall panel (zinc gray): 330 sq. ft (17.1%)
  - Aluminum Composite Material (ACM) wall panel (bright red): 360 sq. ft (18.6%)
  - Concrete Masonry Unit (CMU) block (dove gray & smokey mountain): 1,242 (64.3%)
- Percent Acceptable Exterior Building Materials = 64.3% CMU block (82.9% if ACM wall panel is approved as an “acceptable exterior building material)

West side:

Total Wall Area (excl. windows/doors) = 2,830 sq. ft

- Proposed Exterior Wall Material(s):
  - Architectural VEE RIB metal wall panel (zinc gray): 1,675 sq. ft (59.2%)
  - Aluminum Composite Material (ACM) wall panel (bright red): 72 sq. ft (2.5%)
  - Concrete Masonry Unit (CMU) block (dove gray & smokey mountain): 1,083 (38.3%)
- Percent Acceptable Exterior Building Materials = 38.3% CMU block (40.8% if ACM wall panel is approved as an “acceptable exterior building material)

West Side “Office Portion” Wall Area (excl. windows/doors) = 1,119 sq. ft.

- Proposed Exterior Wall Material(s):
  - Architectural VEE RIB metal wall panel (zinc gray): 156 sq. ft (13.9%)
  - Aluminum Composite Material (ACM) wall panel (bright red): 72 sq. ft (6.4%)
  - Concrete Masonry Unit (CMU) block (dove gray & smokey mountain): 891 (79.6%)
- Percent Acceptable Exterior Building Materials = 79.6% CMU block (86.1% if ACM wall panel is approved as an “acceptable exterior building material)

West Side “Shop Portion” Wall Area (excl. windows/doors) = 1,711 sq. ft.

- Proposed Exterior Wall Material(s):
  - Architectural VEE RIB metal wall panel (zinc gray): 1,519 sq. ft (88.8%)
  - Concrete Masonry Unit (CMU) block (dove gray & smokey mountain): 192 (11.2%)
- Percent Acceptable Exterior Building Materials = 11.2% CMU block

East side:

Total Wall Area (excl. windows/doors) = 2,851 sq. ft

- Proposed Exterior Wall Material(s):
  - Architectural VEE RIB metal wall panel (zinc gray): 1,675 sq. ft (58.8%)
  - Aluminum Composite Material (ACM) wall panel (bright red): 72 sq. ft (2.5%)
  - Concrete Masonry Unit (CMU) block (dove gray & smokey mountain): 1,104 (38.7%)
- Percent Acceptable Exterior Building Materials = 38.7% CMU block (41.2% if ACM wall panel is approved as an “acceptable exterior building material)

East Side “Office Portion” Wall Area (excl. windows/doors) = 1,140 sq. ft.

- Proposed Exterior Wall Material(s):
  - Architectural VEE RIB metal wall panel (zinc gray): 156 sq. ft (13.7%)

- Aluminum Composite Material (ACM) wall panel (bright red): 72 sq. ft (6.3%)
- Concrete Masonry Unit (CMU) block (dove gray & smokey mountain): 912 (80%)
- Percent Acceptable Exterior Building Materials = 80% CMU block (86.3% if ACM wall panel is approved as an “acceptable exterior building material)

East Side “Shop Portion” Wall Area (excl. windows/doors) = 1,711 sq. ft.

- Proposed Exterior Wall Material(s):
  - Architectural VEE RIB metal wall panel (zinc gray): 1,519 sq. ft (88.8%)
  - Concrete Masonry Unit (CMU) block (dove gray & smokey mountain): 192 (11.2%)
- Percent Acceptable Exterior Building Materials = 11.2% CMU block

**Applicant is requesting the Town to approve Aluminum Composite Material (ACM) wall panel as an “acceptable exterior building material”. Applicant is also requesting the Town to waive/modify the 75% “acceptable exterior building materials” requirement to allow the building’s exterior materials as proposed. Justification for the requested waiver is described in the submitted application materials.** Attachment C allows the Town to waive/modify architectural design standards via the following provision:  
*“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.”*

Roofing Materials:

The proposed roofing material is standing seam Acrylic Coated Galvalume metal roof panels. “Architectural metal roof panels” is listed as an acceptable roofing material per Sec. A. (1) (c).

Per Sec. A. (1) (c), the proposed roof material shall have a Solar Reflective Index (SRI) of 78 or higher. The SRI for the proposed roof material is 65 which does not comply with the Town’s SRI requirement. **Applicant is requesting a waiver to this requirement. Justification for the requested waiver is described in the submitted application materials.**

Sustainable Design:

Sec. A. (11) states: *“It is the intent of the Town of Clayton to encourage sustainable development and design. Sustainable design reduces dependency upon energy and impact on the environment while meeting development needs of the community. While certification to a specific environmental standard (e.g., LEED, Green Globe, Energy Star) is not required, the site plan review process will include review of a project’s adherence to Attachment F, Environmental and Energy Efficiency (E3) Guidelines, of this Chapter. Projects that aim to meet an established, specific environmental standard such as those named above are strongly encouraged.”*

Exceptions:

Attachment C allows the Town to waive/modify architectural design standards via the following provision:

*“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.

### General Design Criteria:

A Landscape Plan was submitted which identifies 37% impervious surface area (63% green space) and the following landscaping materials:

- 34 evergreen trees (Colorado Blue Spruce)
- 70 medium deciduous shrubs (Red Prince Weigela)
- 20 medium evergreen shrubs (Pyramidal Thuja Arborvitae)
- 23 low deciduous shrubs (Goldflame Spirea)

### Design Standards:

The following landscaping types are required per Attachment E:

- Parking Lot Landscaping
- Screening Requirements (i.e., screening around service, storage, and trash collection structures and areas)
- Building and Grounds Landscaping

### Parking Lot Landscaping:

Per Sec. C (1) (b) 1), *“any off street parking area in excess of 5,000 square feet shall have landscaped areas equaling not less than 15 percent of the parking area intermittently placed within the parking area or within 10 feet of the parking area perimeter.”*

- Per the submitted plans, total parking space area equals 45,008 sq. ft.
- 6,751 sq. ft. of landscaped areas are required to be intermittently placed within the parking area or within 10 feet of the parking area perimeter.

It is staff's opinion that the proposed plans meet the intent of this requirement via tree/shrub placement and grassed areas within the parking area and within 10 feet of the parking area perimeter.

Per Sec. C (1) (b) 3) a), Parking Lot Interior Landscaping, *“one deciduous or evergreen tree shall be planted in each planting island.”*

The Landscape Plan complies with this requirement.

Per Sec. C (1) (b) 3) b), Parking Lot Perimeter Landscaping, *“One (1) tall or medium deciduous or evergreen trees per 50 linear feet of parking lot perimeter shall be equally spaced around the perimeter of the parking lot.”*

**The Landscape Plan proposes an adequate number of evergreen trees around the perimeter of the parking lot. However, the evergreen trees are not equally spaced around the perimeter of the parking lot, particularly on the southern side of the parking lot.**

### Screening Requirements:

Visual screening is required around refuse/recycling collection area. A 6 ft. tall concrete block wall with a solid vinyl gate and medium evergreen shrubs (5 ft. tall at time of planting/establishment) is proposed.

**The Landscape Plan complies with this requirement.**

### Grounds Landscaping:

Per Sec. C. (1) (d) 1):

- *A minimum of 20 landscape points consisting of deciduous and evergreen trees shall be provided on a prorated basis for every 4,500 square feet of impervious surface area. Low deciduous trees shall not make up more than 50 percent (50%) of the total number of trees. Evergreen trees shall make up at least 15 percent (15%) of the total number of trees.*
  - Phase 1 requires 754 landscape points consisting of trees. The Landscape Plan proposes 1,020 landscape points consisting of trees.

- *A minimum of three (3) landscape points consisting of deciduous and/or evergreen shrubs shall be provided on a prorated basis for every 1,000 square feet of impervious surface area.*
  - Phase 1 requires 509 landscape points consisting of shrubs. The Landscape Plan proposes 519 landscape points consisting of shrubs.

**The Landscape Plan complies with these requirements.**

Building Landscaping:

Per Sec. C. (1) (d) 2), *“75% of all building sides must be landscaped with a variety of appropriate plant materials in a wood mulch or stone landscaping bed which is a minimum of 6’ wide measured from building façade.”*

**The Landscape Plan does not comply with this requirement.**

Ground Sign Landscaping:

Signage plans and ground sign landscaping plans were not submitted.

Modifications of Standards:

Sec. F states: *“The Town Board shall have the authority to waive or modify the requirements and standards of this section for good cause shown by the applicant. In lieu of any modification, a substitution of higher standards or inclusion of E3 components described in Attachment F can be required by the Town Board to offset any corresponding waiver or modification. Documentation of any modification shall be on file at the Town of Clayton and available for public review.”*

**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:

- Increase number of plants. The total number of trees and shrubs required for “grounds landscaping” exceeds minimum requirements
- Storm sewer piping. Only hard piping of stormwater directly off-site is proposed to the stormwater pond located north of the subject property which is anticipated to be approved by the Town & County.
- Minimize sprawl. Development is proposed within 1/8 mile of existing commercial development.
- Light Pollution. Proposed lighting is further reduced beyond current ordinance requirements.
- Minimize impervious surfaces. Proposed impervious surface percentage is less than 37% which is well below the maximum 70% requirement.

**Outside Storage of Equipment, Products, and Materials (Sec. 9.08-208):**

- Section 9.08-208 (a) (5) states: *“Outside storage shall not be located in a street yard adjacent to U.S. Highway 10... and West American Drive.”*
- “Street yard” is defined as: *“that area that extends across the front of a lot between the side lot lines from the front lot line to the front of the principal building.”* This means the area from the building to the U.S. Highway 10 right-of-way line and from the building to the West American Drive right-of-way line.
- Section 9.08-208 (c) (2) states: *“The Town Board shall have the authority to waive or modify the requirements... for good cause demonstrated by the applicant. If waiver or modification is granted, additional landscaping requirements may be applied to address buffering concerns.”*

Applicant is proposing outside storage of rental/lease trucks and trailers in the street yards adjacent to both U.S. Highway 10 and West American Drive. **Applicant is requesting a**

**waiver to this requirement. Justification for the requested waiver is described in the submitted application materials.**

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

A revised lighting plan was submitted on December 7, 2023 identifying building-mounted and freestanding fixtures. The lighting plans comply with Sec. 9.08-210.

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**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.”*

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**Staff Comments, Basis of Decision, & Suggested Conditions:**

**Requested Waivers/Modifications & Outstanding Items/Issues:**

Plan Commission/Town Board will need to consider and discuss the following requested waivers/modifications and outstanding items/issues:

1. Driveway Width Requirements:

**Applicant is requesting a waiver/modification to allow a driveway exceeding maximum driveway width requirements.**

- a. Per Attachment B, maximum driveway widths are 36 ft. at its juncture with the street pavement and 30 feet at the public right-of-way line.
- b. Proposed driveway to West American Dr is 75 ft. wide at its juncture with the street pavement and 40 ft. wide at the public right-of-way line.

Staff recommends granting the waiver/modification and allowing driveway as proposed.

2. Exterior Wall Material Requirements:

**Applicant is requesting the Town to approve Aluminum Composite Material (ACM) wall panel as an “acceptable exterior building material”, and a waiver/modification to the 75% “acceptable exterior building materials” requirement.**

- a. Per Attachment C, “Acceptable Exterior Building Materials” shall cover 75 percent or more of all exterior wall surfaces.



- b. Only proposed exterior building material which is listed as an “acceptable exterior building material” per Attachment C is Concrete Masonry Unit (CMU) block.
- c. Proposed building identifies the following percentages of “acceptable exterior building materials”:
  - i. North Side: 0%
  - ii. South Side: 64.3% (82.9% if ACM wall panel approved as “acceptable exterior building material”)
  - iii. West Side: 38.3% (40.8% if ACM wall panel approved as “acceptable exterior building material”)
  - iv. East Side: 38.7% (41.2% if ACM wall panel approved as “acceptable exterior building material”)

Staff recommends:

- Approving Aluminum Composite Material (ACM) wall panel as an “acceptable exterior building material”; and
- Denying request for waiver/modification to the 75% “acceptable exterior building materials” requirement due to property being in the Tier 1 development zone and high level of visibility from USH 10 and West American Dr. Extensive consideration of these requirements occurred during preparation/adoption of the Site Plan Review code amendments and Town Comprehensive Plan in 2022/2023.

3. Roofing Material Requirements:

**Applicant is requesting a waiver/modification to the minimum 78 Solar Reflective Index (SRI) requirement for roofing material.**

- a. Per Attachment C, roof materials shall have a Solar Reflective Index (SRI) of 78 or higher.
- b. Proposed roofing material’s SRI is 65.

Staff recommends denying waiver/modification request.

4. Parking Lot Perimeter Landscaping Requirements:

- a. Per Attachment E, one (1) tall or medium deciduous or evergreen trees per 50 linear feet or parking lot perimeter shall be equally spaced around the perimeter of the parking lot.
- b. An adequate number of evergreen trees around the perimeter of the parking lot is proposed. However, the evergreen trees are not equally spaced around the perimeter of the parking lot, particularly on the southern side of the parking lot.

**Plan Commission will need to review and determine if the parking lot perimeter landscaping is acceptable as proposed, or if the applicant will need to revise the landscape plan to adequately address this requirement.**

5. Building Landscaping:

- a. Per Attachment E, 75% of all building sides must be landscaped with a variety of appropriate plant materials in a wood mulch or stone landscaping bed which is a minimum of 6’ wide measured from building façade.
- b. 75% of all building sides are not landscaped due to overhead doors on the east and west sides of the building, and a planned future addition on the north side of the building.

**Plan Commission will need to review and determine if the building landscaping is acceptable as proposed, or if the applicant will need to revise the landscape plan to adequately address this requirement.**

6. Outside Storage of Equipment, Products, and Materials:

**Applicant is requesting a waiver/modification to allow outside storage of rental/lease trucks and trailers in the street yards adjacent to both U.S. Highway 10 and West American Drive.**

- a. Per Section 9.08-208, outside storage shall not be located in a street yard adjacent to U.S. Highway 10 and West American Drive.
  - b. Applicant is proposing outside storage of rental/lease trucks and trailers in the street yards adjacent to both U.S. Highway 10 and West American Drive.
7. Exterior Lighting:  
Applicant has not submitted documentation verifying exterior lighting fixtures are certified by the International Dark-Sky Association (IDA) as dark sky compliant.
- a. Per Section 9.08-209, exterior lighting shall be certified by the International Dark-Sky Association (IDA) as dark sky compliant.

**Basis of Decision:**

Conditional Use:

The Town, in making its decision, shall 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.

Please note that §62.23 (7) (de) of Wisconsin Statutes states:

- 2. a.: *“If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.”*
- 2. b.: *“The requirements and conditions described under subd. 2. a. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The city's decision to approve or deny the permit must be supported by substantial evidence.”*
- 1. b.: *“Substantial evidence” means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.”*

It is staff's opinion that the Conditional Use Permit may not be denied solely based on inconsistency with the Town Comprehensive Plan/Future Land Use category. Any denial shall be supported by “substantial evidence” pursuant to §62.23 (7) (de), Wisconsin Statutes.

Site Plan Review:

The Town, in making its decision, shall 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 factors that relate to the purposes of this Chapter as set forth in section 9.01-05 and other applicable sections.

**Staff Recommendation & Suggested Conditions:**

If the Town determines that the driveway widths, exterior wall materials, roofing material, landscaping, outside storage of rental/lease trucks and trailers, and overall site plan are adequate, as proposed, it is staff's opinion that the Town may approve the conditional use permit and site plan.

The following are possible conditions of approval that may be relevant to ensure compliance with ordinance requirements:

1. This permit/approval is only for Phase 1 of this development. Any future addition(s)/expansion(s) of this use/development shall require a new Conditional Use Permit and Site Plan Review in accordance with the Town Zoning Ordinance.
2. The project shall comply with all applicable local, state, and federal codes/ordinances.
3. Outagamie County permit/approval for development in the Airport Overlay Zoning District shall be obtained prior to commencing construction.
4. Winnebago County and Wisconsin Department of Natural Resources permits/approvals for stormwater management and erosion control shall be obtained prior to commencing construction.
5. Any proposed signage shall comply with the applicable requirements of Article 12 and Attachment E of the Town Zoning Ordinance.
6. Any substantial changes and/or additions to the site plan and/or building plans shall be reviewed and approved by the Plan Commission and Town Board in accordance with the Town Zoning Ordinance. Determination of whether a change or addition is substantial shall be at the discretion of the Town Administrator.

**SUGGESTED MOTION(S)**

**Business Item A:** *Motion to recommend approval of the Conditional Use Application submitted by Utschig Inc on behalf of Last Time Realty LLC with the condition that the proposed development obtain Site Plan Approval pursuant to Division 13 of Article 7 of the Town Zoning Ordinance, and shall comply with all conditions of any Site Plan approval.*

**Business Item B:** *Motion to recommend approval of the Site Plan Application submitted by Utschig Inc on behalf of Last Time Realty LLC with all listed Staff Recommendations & Conditions.*

Respectfully Submitted,  
Kelsey