



**TOWN OF LISBON  
PLAN COMMISSION MINUTES  
JANUARY 5, 2023**

**DRAFT  
PUBLIC HEARING MINUTES**

Public Hearings and the regular meeting of the Lisbon Plan Commission were held on Thursday, January 5, 2023, at the Richard Jung Memorial Fire Station, N54 W26455 Lisbon Road, Lisbon, WI.

Chairman Osterman called the Public Hearings and Plan Commission meeting to order at 6:33p.m.

**Roll Call:** Present: Chairman Joseph Osterman; Supervisor Rebecca Plotecher; Plan Commission Members Ed Nelson, Bryan Oelhafen, Joe Eberle, and Jeff Musche; Planner Orrin Sumwalt; Town Engineer Mitch Leisses; Town Attorney John Macy; Administrator Kathy Nickolaus; and Clerk Elisa Cappozzo Katch to record the minutes.

**Public Hearing No. 1:** A request by owner/applicant Pete Ericksen, for a Conditional Use Permit to allow excavating for the purpose of improving wildlife habitat in the C-1 Conservancy Zoning District, on the property located at N51W26871 Carlene Drive/ LSBT 0271.003.

Chairman Osterman read the published Notice of Public Hearing into the record and opened the Hearing at 6:34p.m. Chairman Osterman noted that the applicant was present and had requested the Public Hearing be adjourned to the May 2023 Plan Commission meeting to allow time to rework his proposal.

**Public Comments:** None.

There being no comments or objections, the Public Hearing was adjourned to the May Plan Commission meeting.

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**Public Hearing No. 2:** A request by owner/applicant Pete Ericksen, for a Major Grading Conditional Use Permit in the R-1 Residential Zoning District, to place fill (spoils) from a wetland scrape to improve wildlife habitat on the property located at N51W26871 Carlene Drive/ LSBT 0271.003.

Chairman Osterman read the published Notice of Public Hearing into the record and opened the Hearing at 6:35 p.m. Chairman Osterman noted that the applicant was present and had requested the Public Hearing be adjourned to the May 2023 Plan Commission meeting to allow time to rework his proposal.

**Public Comments:** None.

There being no comments or objections, the Public Hearing was adjourned to the May Plan Commission meeting.

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**Public Hearing No. 3:** A request by applicant Neil Pfaff/ Vierbicher on behalf of owner Robert C Rehm Jr./ Pizza Ranch, for a Conditional Use Permit for a Restaurant in the B-4 Commercial Special Use Zoning District, on the property located at N62W22045 Lieds Lane/ LSBT 0241.999.005.

Chairman Osterman read the published Notice of Public Hearing into the record, and opened the Hearing at 6:36p.m.

Planner Sumwalt and Applicant Neil Pfaff gave a brief overview of the proposal. Mr. Pfaff noted that the site layout was slightly different than the original concept plan and the building size had shrunk by approximately 1,000 sq.ft.

Commissioner Eberle stated that it appeared the northern elevation should be broken up by decorative elements or windows to add architectural interest. Planner Sumwalt indicated that the labels on the renderings were incorrect and that the correct elevation did indeed have large windows. Commissioner Eberle withdrew his comment.

**Public Comments:** None.

There being no further comments, Chairman Osterman closed the Public Hearing at 6:51p.m.

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**Public Hearing No. 4:** A request by applicant Neil Pfaff/ Vierbicher on behalf of owner Robert C Rehm Jr./ Pizza Ranch, for a Major Grading Conditional Use Permit in the B-4 Commercial Special Use Zoning District, related to construction of a new restaurant on the property located at N62W22045 Lieds Lane/ LSBT 0241.999.005.

Chairman Osterman read the published Notice of Public Hearing into the record, and opened the Hearing at 6:51p.m.

Planner Sumwalt gave a brief overview of the proposal indicating the grading would be in conjunction with the new construction. Engineer Leisses stated that he had a few comments noted in his report but there were no major concerns.

**Public Comments:** None.

There being no further comments, Chairman Osterman closed the Public Hearing at 6:55p.m.

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**Public Hearing No. 5:** A request by owner/applicant Jeff Osgood/ Kwik Trip, Inc., for a Conditional Use Permit for a Convenience Store with Fuel Sales in the B-4 Commercial Special Use Zoning District, on a vacant parcel located along Lieds Lane known as LSBT 0241.999.013.

Chairman Osterman read the published Notice of Public Hearing into the record, and opened the Hearing at 6:55 p.m.

Planner Sumwalt and Troy Mleziva of Kwik Trip gave a brief overview of the proposal.

Commissioner Eberle asked if the application was correct that there would be no outside vending machines does that include fountain drinks and coffee machines? Mr. Mleziva indicated vending machines are coin-operated soda and snack machines, and none of those would be present on the site.

**Public Comments:** None.

There being no further comments, Chairman Osterman closed the Public Hearing at 6:58p.m.

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**Public Hearing No. 6:** A request by owner/applicant Jeff Osgood/ Kwik Trip, Inc., for a Major Grading Conditional Use Permit in the B-4 Commercial Special Use Zoning District, related to construction of a new convenience store with fuel sales on a vacant parcel located along Lieds Lane known as LSBT 0241.999.013.

Chairman Osterman read the published Notice of Public Hearing into the record, and opened the Hearing at 6:58p.m.

Planner Sumwalt gave a brief overview of the proposal indicating the grading would be in conjunction with the new construction. Engineer Leisses again stated that he had a few comments noted in his report but there were no major concerns.

**Public Comments:** None.

There being no further comments, Chairman Osterman closed the Public Hearing at 7:00p.m.

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### PLAN COMMISSION MINUTES

Chairman Osterman called the regular Plan Commission meeting to order at 7:00 p.m.

**Citizen Comment:** None.

#### Minutes – 12/1/2022 Joint Public Hearings & Plan Commission

*Motion by Eberle, second by Nelson, to approve the minutes of the December 1, 2022 Joint Public Hearing & Plan Commission meeting as presented. Motion carried.*

#### New Business:

A. Requests by Pete Ericksen for the following at N51W26871 Carlene Dr/ LSBT 0271.003:

- i. Conditional Use Permit for excavating in the C-1 Conservancy District to improve wildlife habitat
  - ii. Conditional Use Permit to place fill in the R-1 Residential District scrape to improve wildlife habitat
- Chairman Osterman again noted that the applicant was present and had requested the Public Hearing be adjourned to the May 2023 Plan Commission meeting to allow time to rework his proposal. As such, he asked for a motion to table consideration until May 2023.

*Motion by Nelson, second by Musche, to table consideration of the Conditional Use Permit requests until the May 4, 2023 Plan Commission meeting. Motion carried unanimously.*

**B. Requests by Vierbicher/ Pizza Ranch for the following at N62W22045 Lieds Lane/ LSBT 0241.999.005:**

**i. Conditional Use Permit for Restaurant in the B-4 Commercial District**

*Motion by Eberle to approve the request by Neil Pfaff/ Vierbicher on behalf of owner Robert C. Rehm Jr./ Pizza Ranch, for the property located at N62W22045 Lieds Lane/ LSBT 0241.999.005, for a Conditional Use Permit for a Restaurant in the B-4 Commercial Special Use Zoning District, subject to Planner and Engineer comments:*

1. The Conditional Use approval is limited to LSBT 0244.999.005.
2. Any business signage shall be required to obtain signage approval through the Town of Lisbon sign application process.
3. The Conditional Use approval shall not be in full force and effect until such time as the Petitioner obtains the necessary approvals and satisfies all comments, conditions, and concerns of the:
  - a. Town of Lisbon Plan Commission and Board, Town Engineer, Town Planner and Town Attorney with respect to the submitted plans, documents, and specifications.
  - b. Waukesha County Department of Land Resources for the erosion control and stormwater management plan including a stormwater maintenance agreement.
4. The Conditional Use Permit shall be filed with the Waukesha County Register of Deeds and approved as to form by the Town Attorney.
5. The Petitioner and/or Property Owner shall, on demand, reimburse the Town of Lisbon for all costs and expenses of any type incurred by the Town in connection with the review and approval of this application, including, but not limited to, the cost of professional services incurred by the Town for the review and preparation of required documents, attendance at meetings or other related professional services as well as to enforce the conditions in this approval due to a violation of these conditions. Additionally, any unpaid bills owed to the Town of Lisbon by the Subject Property Owner and/or Agent, 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 or forfeitures owed to the Town of Lisbon must be paid on demand and prior to issuance of any permits and shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Town of Lisbon, 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 of Lisbon, including possible cause for termination of the conditional approval.
6. Other Conditions.
  - a. No use is hereby authorized unless the use is conducted in a lawful, orderly, and peaceful manner. Nothing in this permit shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order, or rule of either the municipal governing body, the County of Waukesha, the State of Wisconsin, the United States of America, or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This permit shall not be deemed to constitute a building permit, nor shall this permit constitute any other license or permit required by Town ordinance or other law.
  - b. This Conditional Use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Town of Lisbon Plan Commission as being in compliance with all pertinent ordinances.
  - c. Should the permitted Conditional Use be abandoned in any manner, or discontinued in use for twelve (12) months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to municipality, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the Conditional Use may be terminated by action of the Town of Lisbon Plan Commission, pursuant to the enforcement provisions of this Conditional Use Permit.
  - d. Any change, addition, modification, alteration and/or amendment of any aspect of this Conditional Use, including but not limited to an addition, modification, alteration, and/or amendment to the use,

premises, structures, lands, or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.

- e. Unless this Conditional Use Permit expressly states otherwise, plans that are specifically required by this Conditional Use Permit may be amended upon the prior approval of the Town of Lisbon Board, upon receipt of a recommendation from the Plan Commission, if the Town of Lisbon Plan Commission finds the plan amendment to be minor and consistent with the Conditional Use Permit. Any change in any plan that the Town of Lisbon Plan Commission feels, in its sole discretion, to be substantial, shall require a new permit, and all procedures in place at the time must be followed.
- f. Should any paragraph or phrase of this Conditional Use Permit be determined by a Court to be unlawful, illegal, or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the Conditional Use and the remainder shall continue in full force and effect.
- g. If any aspect of this Conditional Use Permit or any aspect of any plan contemplated and approved under this Conditional Use is in conflict with any other aspect of the Conditional Use or any aspect of any plan of the Conditional Use, the more restrictive provision shall be controlling as determined by the Town of Lisbon Plan Commission.

*The motion was seconded by Nelson, was voted on, and carried unanimously.*

ii. Major Grading CUP related to new construction in the B-4 Commercial District

*Motion by Plotecher to approve the request by Neil Pfaff/ Vierbicher on behalf of owner Robert C. Rehm Jr./ Pizza Ranch, for the property located at N62W22045 Lieds Lane/ LSBT 0241.999.005, for a Major Grading Conditional Use Permit related to construction of a new restaurant in the B-4 Commercial Special Use Zoning District, subject to Planner and Engineer comments:*

1. The Conditional Use approval is limited to LSBT 0241.999.005
2. The Conditional Use approval is limited to Neil Pfaff (Vierbicher Associates, Inc.) and PR Lisbon, LLC to allow major grading in association with the construction of a Pizza Ranch restaurant in accordance with plans, documents, and specifications presented to the Town of Lisbon Plan Commission on January 5, 2023, except as further restricted or modified herein.
3. The Conditional Use approval shall not be in full force and effect until such time as the Petitioner obtains the necessary approvals and satisfies all comments, conditions, and concerns of the:
  - a. Town of Lisbon Plan Commission and Board, Town Engineer, Town Planner and Town Attorney with respect to the submitted plans, documents, and specifications.
  - b. Waukesha County Department of Land Resources for the erosion control and stormwater management plan including a stormwater maintenance agreement.
4. All sediment and erosion control BMPs shall be in accordance with WDNR Technical Standards. [https://dnr.wisconsin.gov/topic/Stormwater/standards/const\\_standards.html](https://dnr.wisconsin.gov/topic/Stormwater/standards/const_standards.html)
5. Once the erosion control measures are in place and prior to commencing construction the applicant shall contact Mitchell Leisses with Kunkel Engineering Group, 920-210-6330, for an initial inspection.
6. An as-built plan/survey of the land disturbance shall be prepared and submitted to the Town Engineer within 30 days of the completion of grading to assure compliance with the approved plan.
7. The Applicant shall record on the subject property, and any other property restricted by the granting of this permit, a notice prepared by the Town of the granting of the permit.
8. The owner or operator must keep a copy of the CUP, including the list of all conditions, on the site, available for inspection to the public during business hours.
9. The Town of Lisbon retains the right to review the grading for compliance and maintenance of associated stormwater facilities with approved plans.
10. The CUP shall expire 1 year after Plan Commission approval if the approved use has not commenced.
11. The Conditional Use Permit shall be filed with the Waukesha County Register of Deeds and approved as to form by the Town Attorney.
12. The Petitioner and/or Property Owner shall, on demand, reimburse the Town of Lisbon for all costs and expenses of any type incurred by the Town in connection with the review and approval of this application, including, but not limited to, the cost of professional services incurred by the Town for the review and preparation of required documents, attendance at meetings or other related professional services as well as to enforce the conditions in this approval due to a violation of these conditions. Additionally, any unpaid bills owed to the Town of Lisbon by the Subject Property Owner and/or Agent, 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 or forfeitures owed to the Town of Lisbon must be paid on demand and prior to issuance of any permits and shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Town of Lisbon, 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 of Lisbon, including possible cause for termination of the conditional approval.

13. Other Conditions.

- a. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the municipal governing body, the County of Waukesha, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Town ordinance or other law.
- b. This Conditional Use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Town of Lisbon Plan Commission as being in compliance with all pertinent ordinances.
- c. Should the permitted Conditional Use be abandoned in any manner, or discontinued in use for twelve (12) months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to municipality, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the Conditional Use may be terminated by action of the Town of Lisbon Plan Commission, pursuant to the enforcement provisions of this Conditional Use Order.
- d. Any change, addition, modification, alteration and/or amendment of any aspect of this Conditional Use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises, structures, lands or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.
- e. Unless this Conditional Use Permit expressly states otherwise, plans that are specifically required by this Conditional Use Order may be amended upon the prior approval of the Town of Lisbon Board, upon receipt of a recommendation from the Plan Commission, if the Town of Lisbon Plan Commission finds the plan amendment to be minor and consistent with the Conditional Use Permit. Any change in any plan that the Town of Lisbon Plan Commission feels, in its sole discretion, to be substantial, shall require a new permit, and all procedures in place at the time must be followed.
- f. Should any paragraph or phrase of this Conditional Use Permit be determined by a Court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the Conditional Use and the remainder shall continue in full force and effect.
- g. If any aspect of this Conditional Use Permit or any aspect of any plan contemplated and approved under this Conditional Use is in conflict with any other aspect of the Conditional Use or any aspect of any plan of the Conditional Use, the more restrictive provision shall be controlling as determined by the Town of Lisbon Plan Commission.

*The motion was seconded by Oelhafen, was voted on, and carried unanimously.*

iii. Original SPPOO for restaurant in the B-4 Commercial District

*Motion by Osterman to approve the request by Neil Pfaff/ Vierbicher on behalf of owner Robert C. Rehm Jr./ Pizza Ranch, for the property located at N62W22045 Lieds Lane/ LSBT 0241.999.005, for a Conditional Use Permit for a Restaurant in the B-4 Commercial Special Use Zoning District, including the requested parking waiver, subject to Planner and Engineer comments:*

1. The Site Plan/Plan of Operation approval is limited to Neil Pfaff (Vierbicher Associates, Inc.) and PR Lisbon, LLC on the existing parcel known as LSBT 0241.999.005. Use of the property by any other entity, for any purpose, is not permitted. The approval shall reflect the following Plan of Operation:

- a. Uses and activities: Use is limited to a Pizza Ranch restaurant with accessory arcade.
  - b. Number of employees:
    - i. Full-time: 13
    - ii. Part-time: 28
    - iii. Minimum 5 employees at any given time.
    - iv. Maximum 15 employees at any given time.
  - c. Hours of operation:
    - i. Business Hours: 11:00 a.m. to 9:00 p.m. Monday – Friday  
11:00 a.m. to 10:00 p.m. Saturday – Sunday
    - ii. Operating Hours: 8:00 a.m. to 10:30 p.m.
  - d. Outdoor storage: Outdoor storage of any materials or equipment is prohibited.
2. This Site Plan/Plan of Operation approval is subject to the Petitioner complying at all times with the plans and documents presented to the Town of Lisbon Plan Commission on January 5, 2023. The existing site plan/plan of operation shall remain in effect, except as further restricted or modified herein.
  3. A paved trail connection shall be provided by the property owner at the time of the future trail installation by the Town within the adjacent 20' Pedestrian Access Easement.
  4. The Petitioner shall satisfy all comments, conditions, and concerns of the Town of Lisbon Plan Commission and Board, Town Engineer and Town Planner for the site plan, and other documentation.
  5. Waukesha County shall review the proposal for potential impacts and any changes required pertaining to erosion control and provide written documentation to the Town, prior to commencement of the use.
  6. Building Inspection. The Petitioner and/or Property Owner shall comply with any and all recommendations by the Town Building Inspector (or designee) prior to the issuance of an occupancy & use permit for the subject property. Approval by the Town Building Inspector, if granted, shall be solely for the benefit of the Town of Lisbon, and shall not be relied upon by the petitioner or others as proof of structural integrity or safety of any structure on the property, or as proof of compliance with any particular construction standard that would apply to new construction. The petitioner shall independently determine the suitability of all structures on the property for the petitioner's intended uses.
  7. Fire Inspection. The Petitioner and/or Property Owner shall comply with any and all recommendations by the Town of Lisbon Fire Department Chief (or designee) prior to the issuance of an occupancy & use permit for the subject property. Approval by the Town of Lisbon Fire Department Chief (or designee), if granted, shall be solely for the benefit of the Town of Lisbon, and shall not be relied upon by the petitioner or others as proof of fire safety of any structure on the property, or as proof of compliance with any particular fire safety standard that would apply to new construction. The petitioner shall independently determine the fire safety and suitability of all structures on the property for the petitioner's intended uses.
  8. This approval is granted for the express conditions stated herein. Changes or alterations including, but not limited to, a change in use, premises, lands, or ownership of the property in question shall require a new Site Plan/Plan of Operation permit with all the zoning procedures at the time being followed. The allowed uses of the property must at no time be hazardous, harmful, obnoxious, offensive, or a nuisance by reasons of appearance, noise, dust, smoke, odor, or other similar factors. Any use not specifically listed, as permitted, shall be considered to be prohibited, except as may be otherwise specified herein.
  9. The Property Owner shall keep the exterior condition of the premises in a neat and orderly condition at all times so the premises will not detract from neighboring premises. There shall be no outside storage of junk, debris, construction material, or other refuse materials within the property and all such materials shall be disposed of promptly and properly.
  10. The Property Owner shall allow Town of Lisbon representatives to inspect the premises following a 24-hour notice for the purposes of determining compliance with this approval.
  11. The Petitioner and/or Property Owner shall obtain the appropriate permits from the Town of Lisbon.
  12. The Petitioner and/or Property Owner shall, on demand, reimburse the Town of Lisbon for all costs and expenses of any type incurred by the Town in connection with the review and approval of this application, including, but not limited to, the cost of professional services incurred by the Town for the review and preparation of required documents, attendance at meetings or other related professional services as well as to enforce the conditions in this approval due to a violation of these conditions. Additionally, any unpaid bills owed to the Town of Lisbon by the Subject Property Owner and/or Agent, 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 or forfeitures owed to the Town of Lisbon must be paid on demand and prior to issuance of any permits and shall be placed upon the tax roll for the Subject Property if not paid

within thirty (30) days of the billing by the Town of Lisbon, 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 of Lisbon, including possible cause for termination of the conditional approval.

*The motion was seconded by Nelson, was voted on, and carried unanimously.*

C. Requests by Jeff Osgood/ Kwik Trip for the following on Lieds Lane at LSBT 0241.999.013:

- i. Conditional Use Permit for a Convenience Store with Fuel Sales in the B-4 Commercial District  
*Motion by Eberle to approve the request by Jeff Osgood/ Kwik Trip, for a Conditional Use Permit for a Convenience Store with Fuel Sales in the B-4 Commercial Special Use Zoning District, for the property located at N62W22045 Lieds Lane/ LSBT 0241.999.005, subject to Planner and Engineer comments:*
  1. The Conditional Use approval is limited to LSBT 0244.999.013.
  2. A final Site Plan including a pedestrian walkway extending from the row of customer parking along the north side of the site to the building entrance, and snow storage areas shall be prepared, and submitted to the Town Planner for review and approval, prior to issuance of a conditional use permit.
  3. A final Landscape Plan, depicting appropriate screening on all sides of the building per Addendum E, Section 2, and ongoing maintenance of landscaping including mowing and weed management within buffer areas and replacement procedures should a planting be damaged, or die shall be prepared, and submitted to the Town Planner for review and approval, prior to issuance of a conditional use permit.
  4. Any business signage shall be required to obtain signage approval through the Town of Lisbon sign application process.
  5. The Conditional Use approval shall not be in full force and effect until such time as the Petitioner obtains the necessary approvals and satisfies all comments, conditions, and concerns of the:
    - a. Town of Lisbon Plan Commission and Board, Town Engineer, Town Planner and Town Attorney with respect to the submitted plans, documents, and specifications.
    - b. Waukesha County Department of Land Resources for the erosion control and stormwater management plan including a stormwater maintenance agreement.
  6. The Conditional Use Permit shall be filed with the Waukesha County Register of Deeds and approved as to form by the Town Attorney.
  7. The Petitioner and/or Property Owner shall, on demand, reimburse the Town of Lisbon for all costs and expenses of any type incurred by the Town in connection with the review and approval of this application, including, but not limited to, the cost of professional services incurred by the Town for the review and preparation of required documents, attendance at meetings or other related professional services as well as to enforce the conditions in this approval due to a violation of these conditions. Additionally, any unpaid bills owed to the Town of Lisbon by the Subject Property Owner and/or Agent, 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 or forfeitures owed to the Town of Lisbon must be paid on demand and prior to issuance of any permits and shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Town of Lisbon, 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 of Lisbon, including possible cause for termination of the conditional approval.
  8. Other Conditions.
    - a. No use is hereby authorized unless the use is conducted in a lawful, orderly, and peaceful manner. Nothing in this permit shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order, or rule of either the municipal governing body, the County of Waukesha, the State of Wisconsin, the United States of America, or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This permit shall not be deemed to constitute a building permit, nor shall this permit constitute any other license or permit required by Town ordinance or other law.
    - b. This Conditional Use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein



mentioned unless expressly authorized in writing by the Town of Lisbon Plan Commission as being in compliance with all pertinent ordinances.

- c. Should the permitted Conditional Use be abandoned in any manner, or discontinued in use for twelve (12) months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to municipality, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the Conditional Use may be terminated by action of the Town of Lisbon Plan Commission, pursuant to the enforcement provisions of this Conditional Use Permit.
- d. Any change, addition, modification, alteration and/or amendment of any aspect of this Conditional Use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises, structures, lands, or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.
- e. Unless this Conditional Use Permit expressly states otherwise, plans that are specifically required by this Conditional Use Permit may be amended upon the prior approval of the Town of Lisbon Board, upon receipt of a recommendation from the Plan Commission, if the Town of Lisbon Plan Commission finds the plan amendment to be minor and consistent with the Conditional Use Permit. Any change in any plan that the Town of Lisbon Plan Commission feels, in its sole discretion, to be substantial, shall require a new permit, and all procedures in place at the time must be followed.
- f. Should any paragraph or phrase of this Conditional Use Permit be determined by a Court to be unlawful, illegal, or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the Conditional Use and the remainder shall continue in full force and effect.
- g. If any aspect of this Conditional Use Permit or any aspect of any plan contemplated and approved under this Conditional Use is in conflict with any other aspect of the Conditional Use or any aspect of any plan of the Conditional Use, the more restrictive provision shall be controlling as determined by the Town of Lisbon Plan Commission.

*The motion was seconded by Nelson, was voted on, and carried unanimously.*

ii. Major Grading CUP related to new construction in the B-4 Commercial District

*Motion by Eberle to approve the request by Jeff Osgood/ Kwik Trip, for the property located on Lieds Lane/ LSBT0241.999.013, for a Major Grading Conditional Use Permit related to construction of a Convenience Store with Fuel Sales in the B-4 Commercial Special Use Zoning District, subject to Planner and Engineer comments:*

1. The Conditional Use approval is limited to LSBT 0241.999.013
2. The Conditional Use approval is limited to Jeff Osgood (Kwik Trip, Inc.) to allow major grading in association with the construction of a Kwik Trip gas station in accordance with plans, documents, and specifications presented to the Town of Lisbon Plan Commission on January 5, 2023, except as further restricted or modified herein.
3. The Conditional Use approval shall not be in full force and effect until such time as the Petitioner obtains the necessary approvals and satisfies all comments, conditions, and concerns of the:
  - a. Town of Lisbon Plan Commission and Board, Town Engineer, Town Planner and Town Attorney with respect to the submitted plans, documents, and specifications.
  - b. Waukesha County Department of Land Resources for the erosion control and stormwater management plan including a stormwater maintenance agreement.
4. All sediment and erosion control BMPs shall be in accordance with WDNR Technical Standards. [https://dnr.wisconsin.gov/topic/Stormwater/standards/const\\_standards.html](https://dnr.wisconsin.gov/topic/Stormwater/standards/const_standards.html)
5. Once the erosion control measures are in place and prior to commencing construction the applicant shall contact Mitchell Leisses with Kunkel Engineering Group, 920-210-6330, for an initial inspection.
6. An as-built plan/survey of the land disturbance shall be prepared and submitted to the Town Engineer within 30 days of the completion of grading to assure compliance with the approved plan.
7. The Applicant shall record on the subject property, and any other property restricted by the granting of this permit, a notice prepared by the Town of the granting of the permit.

8. The owner or operator must keep a copy of the CUP, including the list of all conditions, on the site, available for inspection to the public during business hours.
9. The Town of Lisbon retains the right to review the grading for compliance and maintenance of associated stormwater facilities with approved plans.
10. The CUP shall expire 1 year after Plan Commission approval if the approved use has not commenced.
11. The Conditional Use Permit shall be filed with the Waukesha County Register of Deeds and approved as to form by the Town Attorney.
12. The Petitioner and/or Property Owner shall, on demand, reimburse the Town of Lisbon for all costs and expenses of any type incurred by the Town in connection with the review and approval of this application, including, but not limited to, the cost of professional services incurred by the Town for the review and preparation of required documents, attendance at meetings or other related professional services as well as to enforce the conditions in this approval due to a violation of these conditions. Additionally, any unpaid bills owed to the Town of Lisbon by the Subject Property Owner and/or Agent, 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 or forfeitures owed to the Town of Lisbon must be paid on demand and prior to issuance of any permits and shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Town of Lisbon, 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 of Lisbon, including possible cause for termination of the conditional approval.
13. Other Conditions.
  - a. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the municipal governing body, the County of Waukesha, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Town ordinance or other law.
  - b. This Conditional Use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Town of Lisbon Plan Commission as being in compliance with all pertinent ordinances.
  - c. Should the permitted Conditional Use be abandoned in any manner, or discontinued in use for twelve (12) months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to municipality, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the Conditional Use may be terminated by action of the Town of Lisbon Plan Commission, pursuant to the enforcement provisions of this Conditional Use Order.
  - d. Any change, addition, modification, alteration and/or amendment of any aspect of this Conditional Use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises, structures, lands or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.
  - e. Unless this Conditional Use Permit expressly states otherwise, plans that are specifically required by this Conditional Use Order may be amended upon the prior approval of the Town of Lisbon Board, upon receipt of a recommendation from the Plan Commission, if the Town of Lisbon Plan Commission finds the plan amendment to be minor and consistent with the Conditional Use Permit. Any change in any plan that the Town of Lisbon Plan Commission feels, in its sole discretion, to be substantial, shall require a new permit, and all procedures in place at the time must be followed.
  - f. Should any paragraph or phrase of this Conditional Use Permit be determined by a Court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the Conditional Use and the remainder shall continue in full force and effect.
  - g. If any aspect of this Conditional Use Permit or any aspect of any plan contemplated and approved under this Conditional Use is in conflict with any other aspect of the Conditional Use or any aspect

of any plan of the Conditional Use, the more restrictive provision shall be controlling as determined by the Town of Lisbon Plan Commission.

*The motion was seconded by Nelson, was voted on, and carried unanimously.*

**iii. Original SPPOO for convenience store with fuel sales in the B-4 Commercial District**

*Motion by Eberle to approve an Original Site Plan/ Plan of Operation for Jeff Osgood/Kwik Trip, for a Convenience Store with Fuel Sales on the parcel known as LSBT 0241.999.013, specifically excluding the sign as depicted in the submitted plan set, and including the requested parking waiver, subject to Planner and Engineer comments:*

1. The Site Plan/Plan of Operation approval is limited to Jeff Osgood (Kwik Trip, Inc.) and on the existing parcel known as LSBT 0241.999.013. Use of the property by any other entity, for any purpose, is not permitted. The approval shall reflect the following Plan of Operation:
  - a. Uses and activities: Use is limited to a Kwik Trip convenience store with attached 1-bay carwash, attached dumpster enclosure, fueling canopy, and separate diesel canopy.
  - b. Number of employees:
    - i. Full-time / Part-Time: 28 – 35
      1. Minimum 2 employees at any given time.
      2. Maximum 8 employees at any given time.
  - c. Hours of operation: 24 hours per day, 7 days per week.
  - d. Outdoor storage: Outdoor storage of any materials or equipment is prohibited. Outside merchandising of products next to the store including ice and propane shall be allowed.
2. This Site Plan/Plan of Operation approval is subject to the Petitioner complying at all times with the plans and documents presented to the Town of Lisbon Plan Commission on January 5, 2023. The existing site plan/plan of operation shall remain in effect, except as further restricted or modified herein.
3. The Petitioner shall satisfy all comments, conditions, and concerns of the Town of Lisbon Plan Commission and Board, Town Engineer and Town Planner for the site plan, and other documentation.
4. Waukesha County shall review the proposal for potential impacts and any changes required pertaining to erosion control and provide written documentation to the Town, prior to commencement of the use.
5. Building Inspection. The Petitioner and/or Property Owner shall comply with any and all recommendations by the Town Building Inspector (or designee) prior to the issuance of an occupancy & use permit for the subject property. Approval by the Town Building Inspector, if granted, shall be solely for the benefit of the Town of Lisbon, and shall not be relied upon by the petitioner or others as proof of structural integrity or safety of any structure on the property, or as proof of compliance with any particular construction standard that would apply to new construction. The petitioner shall independently determine the suitability of all structures on the property for the petitioner's intended uses.
6. Fire Inspection. The Petitioner and/or Property Owner shall comply with any and all recommendations by the Town of Lisbon Fire Department Chief (or designee) prior to the issuance of an occupancy & use permit for the subject property. Approval by the Town of Lisbon Fire Department Chief (or designee), if granted, shall be solely for the benefit of the Town of Lisbon, and shall not be relied upon by the petitioner or others as proof of fire safety of any structure on the property, or as proof of compliance with any particular fire safety standard that would apply to new construction. The petitioner shall independently determine the fire safety and suitability of all structures on the property for the petitioner's intended uses.
7. This approval is granted for the express conditions stated herein. Changes or alterations including, but not limited to, a change in use, premises, lands, or ownership of the property in question shall require a new Site Plan/Plan of Operation permit with all the zoning procedures at the time being followed. The allowed uses of the property must at no time be hazardous, harmful, obnoxious, offensive, or a nuisance by reasons of appearance, noise, dust, smoke, odor, or other similar factors. Any use not specifically listed, as permitted, shall be considered to be prohibited, except as may be otherwise specified herein.
8. The Property Owner shall keep the exterior condition of the premises in a neat and orderly condition at all times so the premises will not detract from neighboring premises. There shall be no outside storage of junk, debris, construction material, or other refuse materials within the property and all such materials shall be disposed of promptly and properly.
9. The Property Owner shall allow Town of Lisbon representatives to inspect the premises following a 24-hour notice for the purposes of determining compliance with this approval.
10. The Petitioner and/or Property Owner shall obtain the appropriate permits from the Town of Lisbon.

11. The Petitioner and/or Property Owner shall, on demand, reimburse the Town of Lisbon for all costs and expenses of any type incurred by the Town in connection with the review and approval of this application, including, but not limited to, the cost of professional services incurred by the Town for the review and preparation of required documents, attendance at meetings or other related professional services as well as to enforce the conditions in this approval due to a violation of these conditions. Additionally, any unpaid bills owed to the Town of Lisbon by the Subject Property Owner and/or Agent, 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 or forfeitures owed to the Town of Lisbon must be paid on demand and prior to issuance of any permits and shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Town of Lisbon, 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 of Lisbon, including possible cause for termination of the conditional approval.

*The motion was seconded by Nelson, was voted on, and carried unanimously.*

### **Unfinished Business**

- A. Request by Kwik Trip for extension to Major Grading CUP at N67W27619 Silver Spring Dr  
A brief discussion occurred regarding work done on the site to date, and when actual construction would begin on the new building later this year.  
*Motion by Eberle to approve an extension to the previously issued Conditional Use Permit for Major Grading on the property located at N67W27619 Silver Spring Drive/ LSBT 0219.994.008, with the caveat that if a further extension was requested that the applicant would need to go through the entire approval process from scratch.*  
*The motion was seconded by Oelhafen, was voted on, and carried unanimously.*
- B. RESOLUTION 2023-01 re: Comp Plan update to remove INRA designation from LSBT0244.999.001  
*Motion by Plotecher to approve "RESOLUTION 2023-01: Resolution to Recommend Approval of Proposed Amendment to the Comprehensive Development Plan for the Town of Lisbon" to remove an Isolated Natural Resource Area (INRA) designation from the parcel located at W220N5859 Townline Road/ as LSBT 0244.999.001* *The motion was seconded by Nelson, was voted on, and carried unanimously.*

### **Planner Report**

Planner Sumwalt gave a brief update on recent Planner Appointments and upcoming projects. No action taken.

### **Adjournment**

*There being no further business, Commissioner Eberle moved to adjourn. The motion was seconded by Commissioner Nelson, was voted on, and carried unanimously. The meeting was adjourned at 7:50p.m.*

Respectfully submitted,

Elisa Cappozzo Katch, WCMC  
Lisbon Clerk