

Office

TOWN OF VIENNA

Design Review Ordinance

(November 6, 2006)

ORIGINAL

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The Town Board of the Town of Vienna, County of Dane, State of Wisconsin, does ordain and adopt as follows.

Section 1-1 Introduction

- (a) **Authority.** This ordinance entitled "Town of Vienna Design Review Ordinance" is adopted by the Town Board of the Town of Vienna, Dane County, Wisconsin, pursuant to the authority of Wis. Stats., Secs. 60.23(29), 61.34(1), 61.34(5), by the adoption of village powers under Wis. Stats., Sec. 60.10, under Sec. 10.16(10) of the Dane County Zoning Ordinance, and under general authority given to towns.
- (b) **Town Area of Applicability.** This ordinance shall only apply to that portion of the Town which is not under the jurisdiction of the DeForest-Vienna Extraterritorial Ordinance and its zoning classifications. In the situations where a parcel of land is located both inside and outside of the DeForest-Vienna Extraterritorial jurisdiction, the DeForest-Vienna Extraterritorial Ordinance shall control.
- (c) **Purpose.** The purpose of this ordinance is to promote the public health, safety, and welfare by ensuring, to the maximum extent practicable, that future development, infill development, or redevelopment of parcels of land as described in subsection (b) above in the Town of Vienna ("Town") proceeds according to the Town's goals, objectives, and policies as expressed in this ordinance, the Town of Vienna Smart Growth Comprehensive Plan, and the Town of Vienna Land Division and Subdivision Regulations. A major purpose of this ordinance is to preserve the rural character of the Town.
- (d) **Abrogation and Greater Restrictions.** Other regulations and standards contained in the Dane County ordinances, Town of Vienna ordinances, and Wisconsin Administrative Code pertaining to the use and development of property may apply. To the extent possible, the regulations and standards of this ordinance shall be construed to be consistent and in harmony with other applicable regulations and standards provided.
- (e) **Applicability.** The following types of developments in the Town of Vienna shall be subject to the provisions of this ordinance:
 - (1) Development of residential land uses consisting of three (3) or more lots.
 - (2) Development of all projects in which a principal use is a commercial, industrial, or institutional use, but not including any land use that is listed as a permitted use

within the A-1 Agriculture District (Exclusive) in the Dane County Zoning Ordinance.

- (3) Any new accessory use to one of the principal uses listed in subsection (2) including, but not limited to, signage, lighting, accessory buildings over six hundred (600) square feet in floor area, telecommunications facilities, and exterior commercial, industrial, or institutional building alterations.
 - (4) Any addition to an existing use listed in subsections (1) and (2) that results in a total expansion of at least twenty-five percent (25%) in building floor area, outdoor storage area, or parking area over the area which existed as of the date of adoption of this ordinance.
 - (5) Where developments under subsections (3) or (4) are proposed other than for residential use, the project, building, and site shall comply with the provisions of Section 1-2 of this ordinance to the extent practical, given existing site and building conditions.
- (f) **Severability.** In the event that a court should determine that a portion of this ordinance is invalid, such invalidity shall not affect the other provisions of this ordinance.

Section 1-2 Design Standards

- (a) **Generally.** No development subject to design review shall commence unless, in the determination of the Plan Commission, such development complies with each of the following design standards except if a variance is granted by the Town Board. The provisions of Section 1-2 shall not apply to existing residential or other existing uses unless an application for a development proposal is made.
- (b) **Site Layout.**
 - (1) The development shall allow for proper ingress and egress from public roads to the site at designated access points only.
 - (2) Internal traffic safety shall be provided by adequate driveway widths and circulation patterns.
 - (3) Interconnected parking lots, streets, driveways, and walkways shall be provided wherever practical to facilitate movement between sites.
 - (4) No buildings, parking, drive aisles, or other hard surfaced areas shall be placed within a twenty (20) foot wide strip adjacent to the current or proposed right-of-way or road easement edge.
 - (5) The siting of all buildings shall meet any applicable standard within the Town of Vienna Smart Growth Plan.
 - (6) The development shall be so planned and constructed that all surface drainage meets the standards of applicable town, county, and state erosion control and storm water management regulations and does not adversely affect neighboring properties.
- (c) **Building Design.**
 - (1) Commercial, industrial, or institutional building materials, colors, designs, and scale shall contribute to the desired character and image of the Town and with the applicable standards expressed in the Town of Vienna Smart Growth Comprehensive Plan. Modifications to standardized prototype and corporate franchise designs may be required.
 - (2) The principal building, unless otherwise approved, shall be oriented to the main road on which the site is located.

- (3) All commercial, industrial, or institutional front and street walls shall provide an architecturally detailed facade, particularly where building masses and long unbroken building facades would otherwise result. Unfaced concrete block, structural concrete, prefabricated metal siding, and similar surfaces are discouraged for such facades.
- (4) The principal commercial, industrial, or institutional building shall be architecturally finished on all sides and include architectural details such as variations in height and roof lines, exterior wall offsets, overhangs and canopies, windows, bays, and visually distinct entrances.
- (d) **Natural Features and Landscaping.**
 - (1) Pre-existing landforms, terrain, and vegetation shall be preserved in their natural state, insofar as practicable, by minimizing modifications that are not essential to project development and by designing grades and contours in general conformance with neighboring developed areas.
 - (2) New landscape plantings shall be focused near building foundations, within and around parking lots and loading areas, and within the yard adjacent to the main road on which the development site is located in a manner consistent with vision clearance triangle requirements.
 - (3) New plantings for commercial, industrial, or institutional lots shall be provided in accordance with the following guidelines: Plans should include plantings of the following types and number per every one (1) acre of lot area:
 - a. Four (4) canopy trees with a trunk diameter of at least two (2) inches at the time of planting.
 - b. Eight (8) ornamental or evergreen trees with a height of at least four (4) feet at the time of planting.
 - c. Twenty (20) shrubs with a height of at least eighteen (18) inches at the time of planting.
 - (4) Credit towards planting requirements may be provided where the retention and protection of existing trees are included in the landscape plan.
- (e) **Outdoor Storage and Screening for Commercial, Industrial, or Institutional Buildings.**
 - (1) Outdoor storage of materials, equipment, fuel, scrap, inoperative vehicles, and similar objects shall not occur in places that are readily visible from public rights-of-way or neighboring properties.
 - (2) External trash dumpsters shall be screened from common view by walls, berms, dense landscaping, or combinations thereof.
 - (3) Mechanical equipment, communication dishes, and signal receiving antennas that are readily visible when viewed from ground level of adjacent properties or from public rights-of-way shall be softened by screening or covered in a manner that forms an integral part of the building or site design.
- (f) **Signage for Commercial, Industrial, or Institutional Sites.**
 - (1) One (1) wall or awning mounted sign shall be permitted per business or per customer entrance, whichever is greater. The maximum total wall sign copy area shall be fifty (50) square feet.
 - (2) One (1) ground mounted sign shall be permitted per lot. The maximum sign copy area for all faces of the ground sign visible at one time shall be fifty (50) square feet. The maximum ground sign height shall be sixteen (16) feet.

- (3) The following types of signs are not permitted:
 - a. Off-site advertising and directional signs greater than fifty (50) square feet in area (including billboards).
 - b. Roof signs.
 - c. Any temporary sign displayed more than thirty (30) days in any calendar year.
 - d. Portable signs.
 - e. Signs that cause a visual distraction and pose a potential nuisance or traffic safety hazard, including flashing signs, inflatable signs, rippling or sparkling signs, spotlights, and a wide variety of strings of lights, "tinsel," "pom poms," "pinwheels," pennants, banners, streamers, and related attention-getting devices.
- (4) The standards in subsections (1) through (3) shall not apply to agriculture signs, farm signs, crop signs, auxiliary signs, directional signs, and parking lot signs.
- (g) **Exterior Lighting.**
 - (1) Exterior lighting, when used, shall be established, directed, and maintained so as not to be cast directly on occupied buildings on adjacent properties.
 - (2) All exterior light fixtures that are over one hundred fifty (150) watts and not in the rights-of-way or easements of public roads shall be completely shielded or recessed into canopies with the fixtures mounted parallel to the ground.
 - (3) The maximum illumination level at all lot lines shall be one-half (1/2) foot candle; the average illumination level within the lot shall be no greater than two and one-half (2-1/2) foot candles; and the maximum illumination level at any point on the lot shall be twenty (20) foot candles except where the applicant demonstrates that different light levels will meet the standards of the Illuminating Engineering Society of North America for areas with "dark surroundings."
 - (4) The Town may specify certain hours within which illumination of signs or exterior light fixtures is permitted or prohibited.

Section 1-3 Residential Land Uses of Three (3) or More Lots

- (a) **Land Division.** Residential land use consisting of three (3) or more lots shall meet any applicable standard set forth in the Town of Vienna Land Division and Subdivision Regulations.
- (b) **Adjacent Lots.** In preparing proposed lot or lots, the applicant shall plan the lot sizes with due regard for the adjacent uses and lots. In the case of land divisions which abut other existing development of three (3) or more lots with larger or smaller lot sizes, the proposed lots which abut the existing development shall have a lot size which transitions from the proposed development to those lots which predominate in the existing development.
- (c) **Residential Building Footprint.** The applicant's building permit request information shall show the residential building footprint and its distance to all property lines. However, the Plan Commission and/or Town Engineer may require a residential building footprint and its distance to all property lines at any time.
- (d) **Driveway and Culvert Compliance.** The applicant's information shall show compliance with the Town's Driveway and Culvert Ordinance.
- (e) **Erosion Control and Storm Water Management.** The applicant shall comply with the applicable provisions of Subchapter II of Chapter 14 of the Dane County Code of

Ordinances relating to erosion control and storm water management, as amended and adopted by the Town of Vienna.

- (f) **Easements.** Each residential lot shall provide for utility easements at locations and widths deemed adequate by the Town Engineer but in no case less than ten (10) feet. The Town Engineer may also require that easements or drainage ways of widths sufficient to accommodate storm water run off be provided where a lot area includes a segment or segments of water courses, drainage ways, channels, or streams. Private access easements for ingress and egress shall be a minimum of twelve (12) feet in width.

Section 1-4 Design Review Process

- (a) **Application and Scheduling.** Before or upon application for a building permit, the applicant shall be advised by the Town Clerk/staff whether compliance with this ordinance is required. If required, an application shall be transmitted by the applicant to the Town Clerk/staff with appropriate fees and plans as provided in the Ordinance of the Town of Vienna Relating to Application Fees.
 - (1) **Upon Filing of Applicant's Application.** The Town Clerk/staff will review applicant's application. All applicants are entitled to attend one (1) meeting (preliminary informational meeting) of the Town Plan Commission for the purpose of explaining applicant's request without incurring Town costs other than the Twenty-five Dollar (\$25.00) application fee. A meeting date before the Town Plan Commission will be scheduled after the application has been received and the fee paid.
 - (2) **After a Preliminary Informational Meeting:** After a preliminary informational meeting with the Town Plan Commission, the Town shall require supporting documents or information as determined by the Town Plan Commission. A meeting date before the Town Plan Commission will be scheduled after a complete application is received and all fees are paid (and, if necessary and as determined by the Town Plan Commission, applicant has entered into a pre-development agreement with the Town). After completion of any initial review, the Town Plan Commission may schedule a public hearing or public meeting to consider applicant's request. Applicant will be informed of the time and place of the public hearing or public meeting.
 - (3) **Consultations.** No such consultations shall in any manner bind the Town Plan Commission or the Town Board to approve a plat, a land division, or any other land use control. Further, no sub-divider may rely upon or cite any advice or information provided by the Town Plan Commission, Town officers, or Town Board as evidence of the official actions of the Town.
- (b) **Plan Commission Review.** The Plan Commission shall review the application and submitted plans to determine whether the development request complies with the provisions of this ordinance. As part of its review, the Plan Commission may consult with staff, consultants, Town attorneys, Town Engineer, and officials of the town, county, state, fire and emergency medical services departments or other agencies.
- (c) **Plan Commission Action.** Following the procedure set forth in subsections (a)(1) and (a)(2), the Plan Commission shall take action to recommend approval, conditional approval, or rejection of the application and submitted plans to the Town Board. Such action shall take place within ninety (90) days of the submittal of a complete application unless the deadline is extended by agreement of the Plan Commission and the applicant. Failure of the Plan Commission to act within this period or any mutually agreed

extension shall be interpreted as a recommended approval to the Town Board of the application and submitted plans as presented. Plan Commission action shall be recorded on the Town of Vienna Design Review Application Approval/Rejection Form.

- (d) **Project Commencement.** No building permit shall be issued and no development project under the jurisdiction of this ordinance shall commence construction until the building inspector has received, in writing, Town Board approval of the application and submitted plans and all conditions of approval that reasonably could have been satisfied have in fact been satisfied. The property owner shall be responsible for installing and maintaining all site improvements in conformance with the approved plans and all conditions.
- (e) **Appeals.** Final actions of the Town Board under this ordinance shall be appealable as administrative interpretations to the Dane County Circuit Court. Such appeal shall be made to the circuit court within thirty (30) days after final action of the Town Board.

Section 1-5 Plan Submittal Requirements

- (a) **Generally.** Applications for design review shall contain or include the plans listed in this section as applicable and such other information relating thereto as the Town Clerk/staff or the Plan Commission may deem necessary for consideration of the development. Eight (8) copies of all materials shall be submitted. All plans shall be drawn to a recognized scale, and include a north arrow, date of preparation, and contact information.
- (b) **Site Plan.** Including, where applicable:
 - (1) Lot area.
 - (2) All existing and proposed lot lines, labeling dimensions.
 - (3) Wetlands.
 - (4) Shore land zoning areas.
 - (5) Floodplains.
 - (6) Slopes of greater than twelve percent (12%).
 - (7) Current zoning of the site.
 - (8) Required minimum setbacks for buildings and other structures.
 - (9) Proposed ingress and egress to the site.
 - (10) Existing and proposed buildings, indicating gross floor area and capacity.
 - (11) Other structures.
 - (12) Parking lot or area.
 - (13) Calculations for determining the number of off-street parking spaces as required by the Dane County Zoning Ordinance, as applicable.
 - (14) Loading area.
 - (15) Vehicle and pedestrian circulation and driveway areas.
 - (16) Outdoor storage areas.
 - (17) Screened dumpsters.
 - (18) Adjacent streets and land uses, including all buildings within fifty (50) feet of the site's boundaries.
 - (19) Applicable residential building requests shall not have to comply with subsections (10) - (18) above and Section 1-5(e), (f), or (g) unless requested by the Plan Commission.
- (c) **Commercial, Industrial, or Institutional Landscape Plan.** Including:
 - (1) All existing trees with a trunk diameter at breast height of over six (6) inches or a height of over thirty (30) feet and the limits of woodlots within which at least fifty percent (50%) of the trees meet at least one of these two size criteria.

- (2) Proposed protection measures for all such trees or portions of woodlots to be retained.
- (3) All proposed new landscape plantings for the site, indicating their locations, quantities, species, size at time of planting, and size at maturity.
- (d) **Grading, Erosion Control, and Storm Water Plans.** As required to meet all applicable town, county, extraterritorial, and state requirements, and including existing and proposed surface elevations of the lot.
- (e) **Commercial, Industrial, or Institutional Buildings.** Depicting and describing the dimensions, colors, and materials proposed for all exterior building sides and roofs, along with building mounted lighting, signs, and mechanical units. The Plan Commission may also require building material samples.
- (f) **Sign Plan.** Including the location, height, dimensions, color, materials, lighting and sign copy area of all proposed exterior signage.
- (g) **Commercial, Industrial, or Institutional Exterior Lighting Plan.** Illustrating the location, height, type, design, orientation, anchorage, and wattage of all proposed outdoor lighting and including a photometric plan for projects proposed to have more than three (3) outdoor lighting fixtures of greater than one hundred fifty (150) watts. A photometric plan is generally prepared by a lighting professional and shows spot illumination levels at regularly spaced intervals on the lot and at all lot lines, along with average proposed illumination levels on the lot as a whole.

Section 1-6 Variances and Fees

- (a) **Variances.**
 - (1) Where the Town Board finds that unnecessary hardship may result from strict compliance with this ordinance, it may vary the ordinance so that substantial justice may be done; provided that the public interest is secured and that such variation will not have the effect of nullifying the intent and purpose of this ordinance.
 - (2) Any modifications or variance thus granted shall be entered into the Town records setting forth the reasons which, in the judgment of the Town Board, justified the modification or variance. A copy of the minutes shall be kept by the Town Clerk.
- (b) **Administrative Fees.**
 - (1) **General.**
 - a. The applicant shall pay the Town all fees as hereinafter required and at the times specified before being issued a building permit.
 - b. At the time of submitting an application, the applicant shall pay to the Town Clerk filing fees. All filing fees shall be set by Town Board resolution.
- (c) **Engineering and Attorney Fees.** The applicant shall pay a fee equal to the actual cost to the Town for all engineering and legal work incurred by the Town in connection with the application, including inspections required by the Town. The applicant shall pay a fee equal to the actual cost to the Town for such inspection as the Town Board deems necessary to assure that the construction of the requirement improvements is in compliance with the plans, specifications, and ordinances of the Town or any other governmental authority.
- (d) **Escrow Account.** At the time of issuance of a building permit or permits, the applicant shall deposit with the Town Treasurer an escrow fund in amounts as established by resolution of the Town Board. As required at the sole discretion of the Town Board,

funds may be drawn from said escrow accounts for payment of engineering, legal, and other administrative and review costs under this ordinance incurred by the Town. Monies not required for such administrative costs shall be returned to the applicant. If Town costs exceed the initial escrow account amount, the Town reserves the right to require additional escrow account deposits from the applicant.

Section 1-7 Remedies

Any person, firm or corporation who fails to comply with the provisions of this ordinance shall, upon conviction thereof, be subject to penalties and forfeitures as provided under Wisconsin law. Failure to comply with the requirements of this ordinance shall invalidate the building permit at the option of the Town. Building permits shall also be refused for construction on sites created in violation of these requirements.

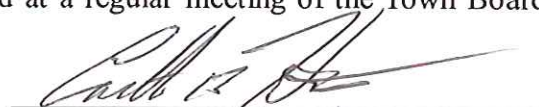
Section 1-8 Payment for All Services

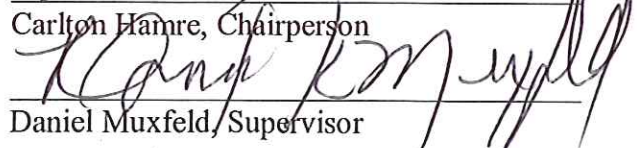
If the applicant making the request and/or application fails to pay and/or reimburse the Town for any obligation owed under this ordinance, in addition to any other remedies provided by law, the Town Board and/or Town officers may immediately stop any process involved and may refuse to grant the required and/or application sought. In the event the obligations are not paid and/or reimbursed to the Town, the Town may elect to collect its costs and all costs of collection, including attorneys' fees and costs, as a special charge upon the next tax roll on lands owned by the applicant and/or owner making the request and/or application pursuant to the authority of Section 66.0627, Wis. Stats. In the event the obligations to the Town are paid in full after the action has been stopped, it shall be in the sole discretion of the Town as to whether to decide to renew the application process and/or grant the request and/or application.

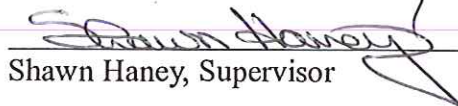
Section 1-9 Effective Date

This ordinance shall be effective after a public hearing, adoption by the Town of Board of the Town of Vienna, and publication.

The foregoing ordinance was duly adopted at a regular meeting of the Town Board of the Town of Vienna on November 6, 2006.

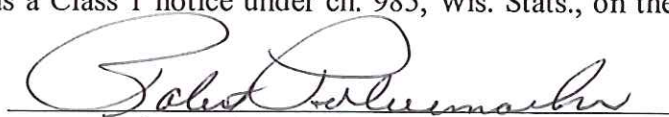

Carlton Hamre, Chairperson


Daniel Muxfeld, Supervisor


Shawn Haney, Supervisor

I hereby certify that the foregoing ordinance relating to design review of developments within the Town of Vienna was published as a Class 1 notice under ch. 985, Wis. Stats., on the 9 day of November, 2006.

Dated: Nov 20, 2006


Robert Pulvermacher, Clerk