

**VILLAGE OF VERNON HILLS  
ORDINANCE 2023-017**

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR A “CHILDREN’S  
RECREATION FACILITY” AND “AMUSEMENT, RECREATION OR  
TRAINING FACILITY FOR ADULTS” FOR URBAN AIR ADVENTURE PARK,  
413 N. MILWAUKEE AVE., UNIT 200**

**WHEREAS**, the Village of Vernon Hills received a petition by Wynn-Hoff Air, Inc., dba Urban Air Adventure Park, contract lessee, requesting a Special Use Permit for a Children’s Recreation Facility and Amusement, Recreation or Training Facility for Adults to be located in Unit 200 at 413 N. Milwaukee Avenue, Vernon Hills, Illinois, legally described below; and

**WHEREAS**, the Planning and Zoning Commission held a public hearing regarding the petition, duly noticed, on November 30, 2022 and continued to December 14, 2022; and

**WHEREAS**, the Commission, after consideration of the materials and testimony provided by the petitioner, has filed a report making findings of fact in support of the petition in accordance with the standards listed in Section 18.3 of the Zoning Ordinance, and has recommended approval of the petition, subject to conditions, as described in **Exhibit A** (Planning and Zoning Commission report); and

**WHEREAS**, the Village Board, having considered the associated application for a Certificate of Building and Use Conversion, has found that sufficient facts were presented which, in its judgment, demonstrate that the proposed business satisfies the following criteria listed in Section 4.14 of the Zoning Code.

1. The proposed building conversion either through its unique nature or via commensurate payment in lieu of taxes will not have a detrimental impact on the fiscal health of the village; or
2. The proposed building conversion will strengthen the economic viability of the adjacent properties and village; or
3. Without the proposed building conversion, the property cannot yield a reasonable rate of return; and
4. The proposed building conversion of RSE floor area is the minimum needed to accomplish the goals of the property owner and/or developer.

**WHEREAS**, the Village Board, having considered the Planning and Zoning Commission report, has found that sufficient facts were presented which, in its judgment, would justify approving the special use permit as referenced herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, COUNTY OF LAKE AND STATE OF ILLINOIS:**

**SECTION 1.** The above listed recitals are incorporated into and made part of this Ordinance.

**SECTION 2.** The Special Use Permit to facilitate the operation of a Children's Recreation Facility and Amusement, Recreation or Training Facility for Adults, pursuant to Article 18 of Appendix C, Zoning, of Village of Vernon Hills Code, on the property commonly known as 413 N. Milwaukee Avenue, Unit 200, zoned B-1 (General Business District), and legally described in Section 3 is hereby approved, and shall be operated in substantial conformance with following plans and exhibits, attached hereto as **Exhibit B:**

- Project Narrative, November 16, 2022
- Continuance Memo, December 6, 2022
- Sheet A1.5, Attraction Plan, dated September 23, 2022

**SECTION 3.** The Special Use Permit granted in Section 2 of this ordinance shall apply to the property legally described below, and specifically to the areas of said property illustrated on the plans referenced in Section 2:

LOT 1 IN BRADFORD SUBDIVISION, BEING A RESUBDIVISION OF LOT 1 IN MARKETPLACE AT VERNON HILLS SUBDIVISION BEING A SUBDIVISION OF PART OF SECTION 3, TOWNSHIP 43 NORTH, RANE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID BRADFORD SUBDIVISION, RECORDED SEPTEMBER 13, 1993 AS DOCUMENT 3397662 AND LOT 2 IN IN MARKETPLACE AT VERNON HILLS SUBDIVISION BEING A SUBDIVISION OF PART OF SECTION 3, TOWNSHIP 43 NORTH, RANE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID BRADFORD SUBDIVISION, RECORDED APRIL 12. 1993, AS DOCUMENT 3312952, IN LAKE COUNTY, ILLINOIS.

PIN: 15-03-102-020 and 15-03-102-016

**SECTION 4.** The Special Use Permit granted in Section 2 of this Ordinance is subject to the following terms and conditions:

1. The tenant buildout plan shall be reviewed by the fire department for egress requirements prior to occupancy;
2. The permit plans for the proposed tenant buildout shall be reviewed by Lake County for requirements including, but not limited to, required size of water service to the unit, grease basin location/sizing, and food service establishment requirements;
3. The petitioner and property manager shall provide documentation to demonstrate that the existing tenants have waived the prohibited use provision of the reciprocal easement agreement; and
4. The business shall provide its security plan to the Police Department for review and implement modifications once the facility is in operation if requested by the Police Department.

**SECTION 5.** A Certificate of Building and Use Conversion, in accordance with the provisions of Section 4.14 of the Zoning Code, is hereby granted.

**SECTION 6. SEVERABILITY.** In the event that any section, clause, provision, or part of this ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect. If any part of this ordinance is found to be invalid in any one or more of its several applications, all valid applications that are severable from the invalid applications shall remain in effect.

**SECTION 7. REPEAL AND SAVINGS CLAUSE.** All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions or causes of action which shall have accrued to the Village of Vernon Hills prior to the effective date of this ordinance.

**SECTION 8. SUCCESSORS AND ASSIGNS.** All of the provisions of this Ordinance and the attachments hereto are binding on all successors and assigns of the petitioner and property owner.

**SECTION 9. EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

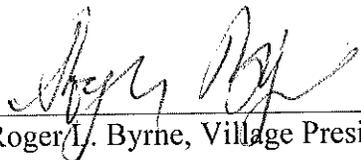
**SECTION 10. ORDINANCE NUMBER.** This ordinance shall be known as Ordinance Number 2023-017.

Adopted by roll call vote as follows:

AYES: 6 – Byrne, Schenk, Forster, Marquardt, Oppenheim, Koch

NAYS: 0 - None

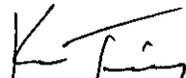
ABSENT AND NOT VOTING: 1 – Takaoka

  
\_\_\_\_\_  
Roger L. Byrne, Village President

PASSED: 02/07/2023

APPROVED: 02/07/2023

ATTEST: 02/07/2023

  
\_\_\_\_\_  
Kevin Timony, Village Clerk



**EXHIBIT A**

**Planning and Zoning Commission Report**

**Urban Air, 413 N. Milwaukee Avenue, Unit 200**

**EXHIBIT B**

**Plans and Exhibits**

**Urban Air, 413 N. Milwaukee Avenue, Unit 200**

VILLAGE OF VERNON HILLS

ORDINANCE NO. 2023-017

AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR A “CHILDREN’S RECREATION FACILITY” AND “AMUSEMENT, RECREATION OR TRAINING FACILITY FOR ADULTS” FOR URBAN AIR ADVENTURE PARK, 413 N. MILWAUKEE AVE., UNIT 200

THE 7<sup>th</sup> DAY OF FEBRUARY 2023

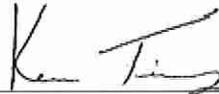
Published in pamphlet form by the Authority of the  
President and Board of Trustees of the Village of  
Vernon Hills, Lake County, Illinois, this  
7<sup>th</sup> day of February, 2023



AFFIDAVIT OF SERVICE

STATE OF ILLINOIS        )  
  )  
COUNTY OF LAKE        )

I, KEVIN TIMONY, BEING FIRST DULY APPOINTED, DEPOSES AND SAYS ON OATH THAT AS VILLAGE CLERK OF THE VILLAGE OF VERNON HILLS, HE DID CAUSE THE FOREGOING CERTIFICATE FOR ORDINANCE NO. 2023-017 AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR A "CHILDREN'S RECREATION FACILITY" AND "AMUSEMENT, RECREATION OR TRAINING FACILITY FOR ADULTS" FOR URBAN AIR ADVENTURE PARK, 413 N. MILWAUKEE AVE., UNIT 200 TO BE POSTED IN THE VILLAGE HALL AS REQUIRED BY LAW FROM FEBRUARY 7, 2023 TO FEBRUARY 17, 2023.

  
\_\_\_\_\_  
Kevin Timony, Village Clerk

SUBSCRIBED AND SWORN TO BEFORE  
THIS 7<sup>th</sup> DAY OF FEBRUARY 2023

  
\_\_\_\_\_  
Notary Public



**Planning and Zoning Commission – Meeting Minutes  
November 30, 2022 – 7:30 p.m.**

**I. Call to Order and Roll Call**

DCD Jennings called the meeting to order at 7:32 PM.

DCD Jennings called for a motion to appoint a Chairman Pro-Tem for the duration of the Planning and Zoning meeting.

Motion by Commissioner Cotton, second by Commissioner Mulcrone, to appoint Commissioner Heidner as Chairman Pro-Tem for the duration of the meeting.

Roll call vote:

AYES: 4 – Cotton, Hezner, Mulcrone, Heidner

NAYS: 0 – None

ABSENT AND NOT VOTING: 1 – Morris

Motion carried.

Attendance Roll Call: Commissioners Cotton, Hezner, Mulcrone, and Heidner. Chairman Morris gave prior notice that he would not be in attendance. A quorum was established.

Also attending: Andrew Jennings, Director of Community Development, Village Attorney, Jim Ferolo and Recording Secretary Heavrin.

**II. Public Hearing**

Chairman Pro-Tem Heidner called for the opening of the public hearing.

Commissioner Hezner made a motion to adopt the Rules and Procedures for Land Use Public Hearings before the Planning and Zoning Commission, second by Commissioner Cotton.

Roll call vote:

AYES: 4 – Cotton, Hezner, Mulcrone, Heidner

NAYS: 0 – None

ABSENT AND NOT VOTING: 1 – Morris

Motion was adopted.

1. **Case #2022-013** is a petition filed by Neil R. Hoffner, dba Wynn-Hoff Air, Inc., contract lessee, requesting approval of a Special Use Permit to allow for a “Children’s Recreation Facility” and “Amusement, Recreation or Training Facility for Adults” known as Urban Air Adventure Park, at the location commonly known as 413 N. Milwaukee Avenue Unit 200, in accordance with Appendix C, Zoning, of the Village of Vernon Hills Code of Ordinances, Article 13, Section 13.3, Article 18, Article 21, Section 21.6

**ALL PERSONS PROVIDING TESTIMONY WERE SWORN IN**

Neil R. Hoffner, dba Wynn-Hoff Air, Inc. as Urban Air

Adam Stein, Logic Design & Architecture, Corporate Architect for Urban Air  
Dean Siampos, Marketplace at Vernon Hills property manager

**PUBLIC NOTICE**

DCD Jennings stated public notices were sent out November 14, 2022 in the Daily Herald, to the surrounding properties and management. No responses or objections were received.

Mr. Hoffner provided an introduction to the proposed business. The petitioner showed a map of their local franchises around the Chicagoland area, while explaining the differences of an Urban Air 2.0 location versus a 2.5 location is a larger feature such as go-karts or skydiving.

He explained Urban Air day passes, memberships, food and alcohol offerings, hours of operations, special events and promotions, and in-house promotions that focus to the local community where they are located. The petitioner spoke of how Urban Air balances out walk-ins and crowds with time allotments and wristbands.

In response to a question regarding go-kart safety, general safety, and staff coverage by Chairman Pro Tem Heidner, Mr. Hoffner said management does continuous safety walk-throughs, sends “zen” work tickets that are trackable and must show completion and documentation. Urban Air also uses a third party for additional inspections, as required or needed. Mr. Hoffner stated that the go-karts are all electric and located on multi-levels, where employees and management monitor on all levels. With the remote control, Urban Air has the option to freeze the karts to prevent accidents, and the operator controls the go-kart speed. Urban Air provides mandatory, safety seat harnesses in each kart.

In terms of general safety, Mr. Hoffer explained the ratios and how reductions in staff are determined with keeping safety as a priority.

Commissioner Hezner was concerned about party room occupancies. Mr. Stein said they use coil head movable doors that assists in splitting or opening rooms to keep with occupancy requirements.

Commissioner Mulcrone inquired about the shared parking plans and if an overload in customers would impact other businesses nearby. DCD Jennings noted that the total field exceeded the sum of the parking requirements, even taking into account the parking required for Urban Air. He noted that the property manager was present and could provide additional detail.

Mr. Dean Siampos spoke on behalf of the landlord. He stated they are in discussions with the other tenants about shared parking lots, but do not have the written agreement at this time. Commissioner Hezner asked if the building management has or would be investing in property improvements. Mr. Siampos noted that they have made several investments in the parking lot and drive aisles, and some façade work has been completed. He noted additional investment is planned.

**THE HEARING WAS OPENED FOR PUBLIC COMMENT**

Attorney Lenny Asaro of Faegre Drinker Biddle & Reath LLP, representing Sky Zone at 701 Milwaukee in Vernon Hills, was present and sworn in.

Attorney Asaro said he was there to oppose the approval of the special use permit due to the closeness in distance of the two locations, Sky Zone and Urban Air. He explained the overlap of similarities with Sky Zone and Urban Air. Commissioner Hezner asked if Sky Zone has copyrights on the attractions, and Attorney Asaro stated that he was not aware if they are any copyright issues.

Attorney Asaro stated that the application contains two special uses and asked the petitioner if he submitted a project narrative in support of this application. If so, he would ask if the narrative referred to a restaurant serving food and alcohol. Mr. Hoffner confirmed the narrative referred to food and alcohol.

Attorney Asaro referenced Section 13.319 of the Zoning Ordinance that states the sale of alcoholic beverages is listed as a special use. He noted that he had reviewed the application and did not find that it included this as a special use for the Vernon Hills facility. He asked the petitioner if they own and operate the Mokena and any other Illinois locations. The petitioner responded that he did not.

Attorney Asaro asked what the minimum parking space requirements were for this space and Mr. Hoffner stated it was four parking spaces for every 1000 square feet. Attorney Asaro referred to Section 19.7.14, noting that it states all other permitted or special uses necessitate one space per 200 sq ft of gross floor area. Attorney Asaro asked the petitioner the gross floor area of the proposed special use. Mr. Stain stated it was 66,632 gross square feet.

Attorney Asaro asked the basis of that calculation, and Mr. Stein said it was gross square footage of the entire facility, based on field measurements. In response to a question from Attorney Asaro, Mr. Stein stated that parking requirement according to the staff report states that the sum of the uses requires 806 spaces and 840-862 stalls are provided. Attorney Asaro asked if the staff report cites the section of the Zoning Ordinance that was the basis of the parking calculation. The petitioner redirected Attorney Asaro to ask staff. DCD Jennings noted that he not yet provided testimony. Attorney Ferolo agreed and informed Attorney Asaro that he will have a chance to inquire to staff.

Attorney Asaro asked Urban Air if Sky Zone is their competition. Mr. Hoffner stated it would be viewed as a competitor but he did not feel it was a direct overlap. Attorney Asaro asked why they selected this location, and Mr. Hoffner replied that was one of two that they identified that provided an existing building with adequate square footage and parking. They were not able to come to terms on the other location.

Attorney Asaro asked whether Urban Air provided the petitioner guidance as to the distance to competition. Mr. Hoffner stated that he was not provided guidance.

Mr. Asaro presented several exhibits (Exhibits 9, 10, 11), and stated that they demonstrated the similarity in the activities offered at Sky Zone Vernon Hills, Urban Air Mokena, and Urban Air Bloomingdale.

In response to a question from Attorney Asaro, Mr. Stein detailed the differences of the two entities, Urban Air and Sky Zone. He noted there is overlap on trampolines, and Urban Air is not concerned about the competition based on Urban Air's supplementary offerings.

Attorney Ferolo noted that the purpose of the Planning and Zoning Commission does not include making decisions on competition issues, but to determine if criteria is being met for a specific location and the special use request of that location. Attorney Asaro referred to Section 18.1, the purpose of a Special Use. Attorney Ferolo stated that the market that regulates competition and limiting competition is not the domain of the Planning and Zoning Commission. The Commission's focus should remain on zoning related issues. Attorney Asaro understood and clarified that his objective was to create a complete record for the hearing on the petition. He referred to then Section 18.3.2, Standards for a Special Use.

Attorney Asaro asked if Urban Air consulted with anyone, such as a real estate appraiser, on property valuation impact. The petitioner asked for a further explanation of his inquiry and Attorney Asaro asked whether Urban Air consulted with a real estate broker to help determine whether the business would affect property values within the adjacent neighborhood. Mr. Siampas indicated that he was a real estate broker. He stated that the management required approval from each business surrounding the unit but did not discuss property values. Attorney Asaro asked if they developed a specific opinion of any impact to neighborhood property values and Mr. Siampas indicated that they did not.

Attorney Asaro referenced a form DCD Atkinson's FOIA email (Exhibit 3) regarding the business conversion calculation. He read Section 18.3.6 of the Zoning Code and referred to the Zoning Map (Exhibit 1). He noted the location was zoned B-1 and in the core retail overlay, and stated that according to Section 13.1, Section 4.14 (Building Use Conversion Certificate) would now apply. Following a comment by Chair Pro Tem Heidner, Attorney Asaro asked whether the section was still in effect. DCD Jennings and Attorney Ferolo stated the section referenced in the email response from former DCD Atkinson is still in effect.

Attorney Asaro read from Exhibit 3 (email from Mr. Atkinson) regarding the percentage of retail sales establishments (RSE's) to non-RSE's and made the comparison to the square footages listed in an appraisal report that he found through the County assessor's website (Exhibit 2). Attorney Asaro said the staff email suggests Home Depot is part of the property while the appraisal does not.

He explained the ownership was not the same by presenting Exhibits 4, 5, 7 and 8 (identified for the record as printouts for each PIN from the assessor's website), and further discussed form DCD Atkinson's calculations. He noted that the various exhibits show that staff's calculations incorrectly included Home Depot. He concluded that the petition does not comply with the code, and therefore the petition does not address Standard 18.3.6.

Attorney Asaro stated that documents he was provided in response to FOIA do not contain dimensions of the attractions, square footage or a legend. Attorney Asaro asked Urban Air if the petition included a variation request, and if so, what it was for. Mr. Hoffner confirmed that they needed a 370' variation. DCD Jennings interjected to explain that a "370' variance" is terminology that refers to obtaining the list of properties within 250', excluding roads, from the assessor. A petitioner would not be familiar with the terminology.

Attorney Asaro submitted Exhibit 6, an article from the Lake County Gazette. He stated that it referred to security concerns at an Urban Air location.

Attorney Asaro said he had no other evidence to introduce but he did not know if he had obtained all of the petitioner's evidence that would be considered part of the record. He requested copies of any documents that the Commission would be analyzing to construct their recommendation.

Chairman Hezner made a motion to include Attorney Asaro's Exhibits 1-11 into the record, second by Commissioner Mulcrone. The motion was approved by a voice vote.

Chairman Pro Tem Heidner made a motion for a five-minute recess, second by Commissioner Hezner. The motion was approved by a voice vote. The Commission went into recess.

Chairman Pro Tem Heidner called the meeting to order. He noted that the next item on the order in the adopted rules was a rebuttal to the questions by the objecting party. In rebuttal, Mr. Hoffner stated that a lot of emphasis had been placed on competition and he would like to keep the conversation focused on the special use permit.

DCD Jennings was sworn in to provide Village staff testimony. DCD Jennings reviewed the items included in the staff report. DCD Jennings recommended to include a reference for the need of a Building Conversation Certificate in any motion to be considered. While it is not the Commission's purview, it is a requirement that the Board must consider with the Committee of the Whole report. He referred to the staff recommendation section, which noted a Liquor License would be needed. He also noted that there is a condition of approval suggested that references the required review by the Lake County Public Works and Health Departments.

In response to a question from Attorney Asaro, DCD Jennings confirmed based on his analysis that Home Depot is on a separate parcel with no common ownership. Without a common owner he use conversion certificate is required.

Attorney Asaro asked for copies of the staff report and was provided a copy. Attorney Asaro asked if anything in the Zoning Ordinance regarding parking requirements allows for a reliance on the original PUD. DCD Jennings responded that the PUD applies. Attorney Asaro confirmed to DCD Jennings the maximum non-retail space for the location is 20% of the total floor area and DCD Jennings agreed. Attorney Asaro and DCD Jennings agreed to the 191,418 square feet

total leasable area. Attorney Asaro requested the maximum non RSE square footage, and DCD Jennings noted that he calculated it as a percentage, with 32% exceeding the 20% threshold.

In response to a question from Attorney Asaro, DCD Jennings confirmed that a conversion certificate would be required based on this calculation. Attorney Asaro asked if a special use was required because of the usage with regards to a training facility for adults and recreational use for children. DCD Jennings responded yes. Attorney Asaro asked for confirmation of special uses and wanted to know if the staff report references alcohol in the restaurant / café plans. DCD Jennings responded that the materials submitted do include references to alcohol, and indicated that the references in the staff report were in the Description of Proposal and the Staff review sections. He stated that Urban Air would have to get a liquor license, but they have not applied for that special use specific to alcohol service at this time. Attorney Asaro requested confirmation as to whether a specific special use was required, and referred to the list of special uses in the B-1 district. DCD Jennings stated that he was not offering an opinion one way or the other. Attorney Asaro concluded his questions regarding Staff testimony.

DCD Jennings referenced a longer narrative document that was not attached to the report. The report notes it is available upon request. Attorney Ferolo indicated that the additional document should be included in the record.

In rebuttal to questions on staff testimony by the objecting party, DCD Jennings addressed the Commission regarding special use requirements for alcohol service. He noted that there are locations that are pre-approved for alcohol service so that tenants do not need to obtain individual special uses. At this time he does not know if an additional special use should have been published but he will be looking into if the Marketplace / Rivertree area allows preapproval for alcohol uses.

Attorney Ferolo noted that there was a lot for the Commission to deliberate, and that several items had been left open. He suggested that if a motion to continue would be considered then the Commission should discuss the purpose of a continuance.

Commissioner Mulcrone stated that he thought several items would be needed to help show the petition met the standards. Those items requested were a site plan, a parking plan, a traffic study, a proposed exterior elevation of the building with signage graphics, and documentation that the adjoining tenants in the building are agreeing to the shared parking. He also thought the discrepancies in square footage should be cleaned up so all the numbers match from document to document as well as with the Village's. Commissioner Hezner agreed with all items except the traffic study. He feels a parking study is needed but not a traffic study for this particular parking lot.

DCD Jennings reviewed the items that will be needed for the next meeting. He stated that alcohol service research would be done by staff but the petitioner and property manager would provide the others. In order to decide on an appropriate date for the continued hearing, DCD Jennings explained the nature of the petition that is already scheduled for a hearing on December 14<sup>th</sup>. The Commission agreed that it seemed reasonable to hear both items.

Chairman Pro-Tem Heidner made a motion to continue the public hearing on December 14, 2022, at 7:30 PM, second by Commissioner Cotton.

Roll call vote:

AYES: 4 – Cotton, Hezner, Mulcrone, Heidner

NAYS: 0 – None

ABSENT AND NOT VOTING: 1 – Morris

Motion carried.

### **III. Approval of the November 16, 2022 Planning & Zoning Commission minutes**

Chairman Pro-Tem Heidner motioned, second by Commissioner Cotton to approve the minutes, as corrected, for the November 16, 2022 Planning & Zoning meeting.

All in favor vote.

Motion was unanimously approved.

### **IV. Development Review**

DCD Jennings noted that the next meeting would involve Chick-Fil-A and setback variation approvals for canopies in their drive through lanes. He suggested for the meeting schedule for 2023 to go with the status quo option where the Commission would state the schedule as every Wednesday. On the back end staff would have to go through the motions by providing a notice for every cancellation. He said this would not affect the Commission but it would be an extra step to make to comply with the Open Meetings Act. Commissioner Hezner asked whether Staff's suggestion was to have a regular schedule of 1 or 2 meetings to be held each month. DCD Jennings said his original goal to talk about both of the options but at this time to continue operating as needed but phrase it in a way that it still complies with the Open Meetings Act.

### **V. General Public Comments**

There were no comments.

### **VI. Adjournment**

With no further items on the agenda, Chairman Pro-Tem Heidner motioned, second by Commissioner Hezner, to adjourn the meeting.

All in favor vote.

Motion was unanimously approved.

The meeting adjourned at 10:19 PM.

Respectfully submitted,

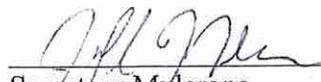
Andrew Jennings  
Director of Community Development

Distribution:  
President and Board of Trustees  
Village Manager/Village Clerk  
Commission Members

  
Approval Date

12-14-22

  
Chairman Pro-Tem Heidner

  
Secretary Mulcrone

**Planning and Zoning Commission – Meeting Minutes**  
**December 14, 2022 - 7:30 p.m.**

**I. Call to Order and Roll Call**

Chairman Morris called the meeting to order at 7:30PM.

Attendance: Chairman Morris, Commissioners Cotton, Hezner, Mulcrone, and Heidner. A quorum was established.

Also attending: Andrew Jennings, Director of Community Development, and Village Attorney, Carmen Forte.

**II. Public Hearing**

Chairman Morris called for the opening of the following public hearing:

1. **Case 2022-15** is a petition filed by Allan Wiley, GDC Design Inc, 565 White Pond drive, Akron, OH 44320, on behalf of Chick-fil-A, 5200 Buffington Road, Atlanta, GA 30349, requesting; approval of a certain variance to facilitate construction of a free standing canopy on the property described, in accordance with Appendix C, Zoning, of the Village of Vernon Hills Code of Ordinances, Section Article 13, Section 13.3, Article 21, Section 21.5 and 21.6.

*Subject Property:* 701 Milwaukee Ave Unit 360, zoning B-1, General Business District. Property, is located in the Rivertree Shopping Center and is known as Chick-fil-A.

**ALL PERSONS PROVIDING TESTIMONY WERE SWORN IN**

Jack Meany, GBC Design Inc., spoke on behalf of Chick-Fil-A.

Mr. Meany described the project to the Commission. He stated that Chick-fil-A is proposing to reconfigure the drive-thru to extend the two lane portion. The business will be adding two canopies, one at the order point and one at the building for pickup. He added that the grading/utility plan has been reviewed and the existing storm sewer can be re-used. He described the landscape plan and elevation plans for the Commission. The canopies would be dark bronze to blend with the other features on the building. A zoning variation is required to permit the new canopies to be located within the required front and side setbacks.

In response to a question by Commissioner Cotton, Mr. Meany stated that the canopies would have a nine foot (9') clearance, but could be raised if needed.

Commissioner Heidner requested more detail on the grading work and function of the pickup area. Mr. Meany explained that the entire surface would be raised two inches to match the finished floor of the building. Instead of a pick up window, the employees will be able to walk out to customers' cars through a new sliding door. It may be possible for two cars to leave at the same time if the second car already received its order.

In response to a question from Commissioner Heidner, Mr. Meany confirmed that there would be LED lights under the canopies and that they would take them into account in the photometric plan to ensure no light was spilling over.

In response to a follow up question by Chairman Morris, Mr. Meany stated the lights would be recessed. He added that during peak hours the order would be taken by a team member using a tablet outside. They would be able to take payment. During non-peak times customers would order at the menu board. He also confirmed that some of the parking lot lights would be shifted slightly to allow the drive thru curb to be shifted.

Commissioner Hezner requested additional information on the paving plan. Mr. Meany explained that “magnetic delineators” referred to 3’ tall removable posts that snap in place with magnets in the pavement. They reinforce lane markings. He confirmed that the pavement is not failing and is being replaced because they need to raise the elevation of the whole area.

In response to a question by Commissioner Heidner, Mr. Meany indicated that the clearance bar would be replaced with a double bar.

Chairman Morris asked about the design of the menu board. Mr. Meany explained that it would be lighted, and that it faces north. He confirmed that the concern the business is trying to address is the function of the drive-thru, and that the parking would be adequate even with the loss of several stalls.

At the request of Chairman Morris, Director Jennings confirmed that Staff did not have a concern with menu board. It doesn’t face traffic and is well below the level of the street. Director Jennings concurred that the parking would be adequate and that it would meet the required ration of the RPUD. The staff report used the wrong ratio. He also confirmed that additional storm water detention would not be required.

#### **PUBLIC NOTICE**

Public notices were sent out and no responses were received.

#### **THE HEARING WAS OPENED FOR PUBLIC COMMENT**

No one from the public spoke, therefore, public comment was closed by Chairman Morris.

Chairman Morris stated before the Commission that there is a standing motion to recommend approval, and read the draft motion from the staff report. Commissioner Cotton seconded the motion to:

**Make Findings and Fact and Recommend Approval of the following variations from Appendix C, Zoning, for the property located at 701 N. Milwaukee Avenue, Suite 360, Vernon Hills, Illinois, as required by Section 21.5 (Variations), as described in the application by the application by GBC Design Inc., on behalf of Chick-Fil-A, received October 18, 2022, as illustrated on Sheet C-200, Site Plan, by GBC Design Inc., dated July 27, 2022:**

1. Section 13.6, Yard regulations in the B-1 District to allow a canopy structure with a front yard setback of 28.0' feet (60.0' required); and
2. Section 13.6, Yard regulations in the B-1 District to allow a canopy structure with a side yard setback of 12.0' feet (35.0).

**And to Recommend Approval of Site Plan, Landscaping, and Appearance Approval**, for the property located at 701 N. Milwaukee Avenue, Suite 360, Vernon Hills, Illinois, as required by Chapter 16, Article IV, and Appendix C, Section 4.12, with the work to be completed in substantial accordance with the following plans:

- Sheet C-110, Demolition Plan, GBC Design Inc., dated July 27, 2022
- Sheet C-200, Site Plan, GBC Design Inc., dated July 27, 2022
- Sheet C-201, Site Plan Detail, GBC Design Inc., dated July 27, 2022
- Sheet A-2.1, Exterior Elevations, Chipman Design, dated April 7, 2002
- Sheet L-100, Landscape Plan, Manley Landscape Architecture, dated July 27, 2022

And with the following conditions of approval:

1. All grading and landscaping shall be subject to the final review and approval of the Village Engineer; and
2. The photometric plan for the modified parking lot light placement and new canopy lighting shall be reviewed for compliance with the code.

Prior to the vote, Commissioner Heidner requested an additional condition of approval (#2 above). Chairman Morris and Commissioner Cotton, as the second, concurred.

**AYES: 5 – Mulcrone, Cotton, Hezner, Heidner, Chairman Morris**

**NAYS: 0 – None**

**ABSENT: 0 – None**

**Motion approved.**

**THE PUBLIC HEARING WAS CLOSED BY A VOICE VOTE AT 7:57 PM.**

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Chairman Morris called for the opening of the following second public hearing:

**CONTINUED FROM NOVEMBER 30, 2022: Case #2022-013**, is a petition filed by Neil R. Hoffner, dba Wynn-Hoff Air, Inc., contract lessee, requesting approval of a Special Use Permit to allow for a “Children’s Recreation Facility” and “Amusement, Recreation or Training Facility for Adults” known as Urban Air Adventure Park, on the property described below, in accordance with Appendix C, Zoning, of the Village of Vernon Hills Code of Ordinances, Article 13, Section 13.3, Article 18, Article 21, Section 21.6.

*Subject Property:* 413 N Milwaukee Ave, Suite 200, Vernon Hills, IL, 60061, zoning B-1, General Business District. Property is located within the Marketplace Shopping Center.

**ALL PERSONS PROVIDING TESTIMONY WERE SWORN IN**

Neil R. Hoffner, dba Wynn-Hoff Air, Inc. as Urban Air  
Adam Stein, Logic Design & Architecture, Corporate Architect for Urban Air  
Dean Siampos, Marketplace at Vernon Hills property manager  
Stephen Polozola, attorney representing Urban Air  
Attorney Lenny Asaro of Faegre Drinker Biddle & Reath LLP, representing Sky Zone at 701 Milwaukee in Vernon Hills

Chairman Morris stated that extensive testimony and questioning of the petitioner and staff had been completed on the original petition materials and staff report. He stated that testimony at the continued hearing would be limited to the new materials provided. He announced that following the testimony and cross examination, the petitioner and objecting party would each have ten minutes to make a closing statement. They could reserve a portion the time as rebuttal.

Mr. Hoffner provided a description of the new materials. A sign package illustrating the conceptual signage for the business has been provided, along with a site plan showing the parking area, a reciprocal easement agreement (REA), information on inspections, and information to illustrate the differences between Urban Air and Skyzone.

Mr. Siampos addressed the Commission, stating that he provided incorrect information at the original hearing. He had previously stated that he the property management company does not have signed waivers from the other tenants to indicate their approval of the amusement use. He learned after the meeting that they do have the waivers. In response to a question from Commissioner Mulcrone, Mr. Siampos stated that he has not yet provided the waivers to the Village.

Mr. Stephen Polozola addressed the Commission. He stated that the subject location satisfies all of the requirements of Urban Air in terms of total size, access to parking, traffic patterns, and distance from another Urban Air park. He is attending in support of the petition.

Attorney Lenny Asaro of Faegre Drinker Biddle & Reath LLP, addressed the Commission. He stated that he is attending on behalf of Sky Zone at 701 Milwaukee in Vernon Hills. He stated that he did not have any follow up questions.

Chairman Morris asked the Commission if there were additional questions. There being none, he requested closing statements.

Mr. Hoffner and Mr. Polozola indicated that the petitioner would reserve time for rebuttal.

Mr. Asaro stated that a record of testimony and evidence had been established, and that the application clearly does not satisfy the requirements of the standards. He stated that there had been no factual evidence presented on two of the six standards, and therefore the Commission

should not provide a positive recommendation. In response to a question from Chairman Morris, Mr. Asaro read the two standards that he believed had not been met:

Standard 2 (18.3.2). The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity, for the purposes permitted, nor substantially diminish and impair property values within the adjacent neighborhood;

Standard 6 (18.3.6). The special use shall in all other respects conform to applicable regulations of this ordinance.

For Standard 2, Mr. Asaro stated that the property manager provided testimony that he is a licensed real estate broker, but has not developed an opinion as to the impact that the business might have on the value of adjacent property.

For Standard 6, Mr. Asaro referred to two nonconformities: (1) the parking requirement utilized is within a Regional PUD and not in the code itself; and (2) the proposed use would exceed the maximum square footage of a non retail use in the core retail overlay.

Chairman Morris noted that the petitioners had reserved time from their closing statement. Mr. Polozola and Mr. Hoffner requested time to discuss a response, and Chairman Morris called for a five minute recess. The Commission went into recess at 8:10 PM.

Chairman Morris called for the meeting to resume at 8:15 PM.

Mr. Polozola spoke on behalf of the petition in rebuttal to the closing statement made by Mr. Asaro. He referred to Standard 2 and stated that there had been no evidence presented that Urban Air would be injurious to adjacent properties. With regard to Standard 6, the evidence provided in the form of that staff report is that 806 stalls would be required and there are 840-862 provided. In addition, the building use certificate had been applied for. He noted that the question asked by Standard 2 is whether the use is injurious to property values.

Chairman Morris opened the floor to Commissioner deliberation and questions for Staff.

Commissioner Heidner referred to Standard 2. He stated that there was previous testimony that Jo-Ann's told the property manager that they thought the new use would improve business.

There being no additional questions or comments, Chairman Morris requested that the Commission review each of the six standards and discuss whether a finding of fact could be made. He noted the objecting party had not contested Standards 1, 3, 4, and 5. Standard 2 and 6 had been contested and would be discussed last.

Standard 1 (18.3.1): The establishment, maintenance and operation of the special use will not be detrimental to or endanger the public health, safety, morals or general welfare;

The Commission did not have a concern with Standard 1 and found it had been met.

Standard 3 (18.3.3): The establishment of the special use will not impede normal and orderly development and improvement of surrounding property for uses permitted in the zoning district;

Chairman Morris stated that the owner of the property is supportive of the use. There is no likely impact on the development of the area as it is fully developed. The use would be subject to the building conversion certificate. The Commission did not have a concern with Standard 3 and found it had been met.

Standard 4 (18.3.4): Adequate service utilities, access roads, drainage and other necessary facilities are in existence or are being provided;

Chairman Morris requested Staff's opinion. Director Jennings stated that the road network was adequate and the question of the grease basin on the sanitary line would be reviewed by the County. The Commission did not have a concern with Standard 4 and found it had been met.

Standard 5 (18.3.5): Adequate measures have been, or will be, taken to provide ingress and egress designed to minimize traffic congestion in the public streets;

Chairman Morris stated that the driveways to serve the development were already constructed. He asked for Staff's assessment of the configuration and Director Jennings confirmed that no changes to the shared collector drives are needed. The Commission did not have a concern with Standard 5 and found it had been met.

Chairman Morris requested that the Commission return to Standard 2. The primary concern stated by the objector is that it has not been demonstrated that it would not substantially diminish or impair property values.

Commissioner Mulcrone stated that KFC is near Chick-fil-A and Menards is near Lowes. Commissioner Hezner agreed.

Chairman Morris identified two aspects of the finding: (1) would it be injurious to the use and enjoyment of other property? There has been testimony that it would not be. The larger question is (2): whether it would substantially diminish or impair property values in the adjacent neighborhood. He requested comment on whether it would diminish, and if so, whether it would be considered substantial.

Commissioner Hezner stated that the subject unit is vacant and occupying it enhances the surrounding property, not diminish it.

In response to a question from Chairman Morris, Village Attorney Forte confirmed that there is no requirement in the municipal code or State statute that the Commission have an appraisal. They can be included in the evidence but not required. Chairman Morris repeated the standard

and asked whether there would be substantial diminishment or impairment of property value. The Commission did not indicate that there would be substantial diminishment, and found Standard 2 had been met.

Chairman Morris read Standard 6 (18.3.6): The special use shall in all other respects conform to applicable regulations of this ordinance. He noted “ordinance” is not capitalized. In response to a question from Chairman Morris, Village Attorney Forte confirmed that the reference is interpreted to include the zoning ordinance and the regional PUD.

In response to Chairman Morris, Director Jennings confirmed that the proposed business would meet the requirements of the PUD. The Commission did not indicate a concern with the interpretation, and found Standard 6 had been met.

On completion of the discussion of the standards, Chairman Morris read the draft motion from the Staff report.

Chairman Morris stated before the Commission that there is a standing motion to recommend approval. Commissioner Heidner seconded the motion, to:

**Make Findings of Fact and Recommend Approval of a Special Use for Children’s Recreation Facility / Amusement, Recreation or Training Facility for Adults**, for the property located 413 N. Milwaukee Avenue, Unit 200, Vernon Hills, Illinois, as required by Section 13.3 (Special Uses in the B-1 District) and Section 21.6 (Special Use Procedures), as described in the application by Neil Hoffner, Wynn-Hoff Air, Inc., dba Urban Air Adventure Park, received October 7, 2022, and supplemental materials provided December 6, 2022, and incorporating the Findings by the Commission that the standards for a special use as listed in Section 18.3 of the Zoning Code had been met;

And with the following conditions of approval:

1. The tenant buildout plan shall be reviewed by the fire department for egress requirements prior to occupancy;
2. The permit plans for the proposed tenant buildout shall be reviewed by Lake County for requirements including, but not limited to, required size of water service to the unit, grease basin location/sizing, and food service establishment requirements;
3. The petitioner and property manager shall provide documentation to demonstrate that the existing tenants have waived the prohibited use provision of the reciprocal easement agreement; and
4. The use is subject to the granting of a certificate of use conversion by the Village Board.

**AYES: 5 – Hezner, Cotton, Heidner, Mulcrone, Chairman Morris**

**NAYS: 0 – None**

**ABSENT: 0 – None**

**Motion approved.**

Chairman Morris explained that the minutes would be prepared for approval and the Commission's report would be provided to the Board. Director Jennings stated that the minutes would be distributed before the Committee of the Whole date is determined.

**THE PUBLIC HEARING WAS CLOSED BY AT 8:31 PM.**

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**IV. Approval of the November 30, 2022 Planning & Zoning Commission minutes**

Chairman Morris motioned, second by Commissioner Heidner to approve the minutes, as corrected, for the November 30, 2022 Planning & Zoning meeting.

All in favor vote, Chairman Morris abstained.  
Motion was unanimously approved.

**V. Development Review**

DCD Jennings updated the Commissioners on the December 13<sup>th</sup> Committee of the Whole meeting.

- A request by Royal Birkdale residents to amend the development permit to allow solar roof tiles was positively received.
- The petition for Funflatables at the mall was approved.
- Belle Tire will be reviewed on January 3<sup>rd</sup>.

**VI. General Public Comments**

There were no comments.

**VII. Adjournment**

With no further items on the agenda, Chairman Morris motioned, second by Commissioner Cotton, to adjourn the meeting.

All in favor vote.  
Motion was unanimously approved.

The meeting adjourned at 8:36.

Respectfully submitted,

Andrew Jennings  
Director of Community Development

Distribution:  
President and Board of Trustees  
Village Manager/Village Clerk  
Commission Members

\_\_\_\_\_  
Approval Date

\_\_\_\_\_  
Chairperson Morris

\_\_\_\_\_  
Secretary Heidner

## Urban Air Adventure Park Project Narrative for Vernon Hills, IL

Urban Air Adventure Park serves as a venue for indoor recreation activities geared to children and adults. Currently, there are 230+ Urban Air Adventure Parks with 153 operational and 80+ in development. Urban Air Adventure Park is an award-winning venue for kids' birthday parties, corporate gatherings, preschool field trips, or a day out for some family fun. Urban Air Adventure Parks are ideal for ages 4 – 15 years old yet suitable for adults and offers its guests a wide variety of physical activities. These activities include Indoor Go-karts, Wall Climbing, Sky Rider, Climbing Hill, Virtual Reality, Warrior Obstacle Course, Adventure Hub, Bumper Cars, Laser Tag, Ropes Course, and various trampoline attractions. These attractions can be offered with options such as Day Passes, Memberships, Birthday Outings, and Special Events allowing members to choose their experience level and tier rate. Hungry? The Café is setup to prepare and replenish guests quickly with familiar and favorite foods such as pizza, fries, pretzels, chicken tenders, and funnel cakes. The drink menu has bottled water, Gatorade, Juice, Slushies, and Fountain Drinks. Adults can find a small selection of bottled beer and wine available on the menu as well.

It is estimated that this large 2.5 Park will have between 130 - 150 employees both fulltime and parttime. At a given time during operating hours it is expected to hold 30-50 employees at time, fluctuating between peak and non-peak hours and low (Monday through Thursday) vs high traffic (Friday through Sunday). The number of employees is high as the majority of them will be high school and college age working a flexible schedule rather than fulltime employment. Management and other lead positions will require fulltime staff. The maximum occupancy per code is set at 779 people, but crowd levels can be reduced by enforcing timelimits more strictly and delaying walk-in availability.

Hours of Operations are Monday – Thursday 3:00 – 8:00pm, Friday – Saturday 10:00am – 11:00pm, and Sunday 10:00am – 8:00pm. An exception to these hours would be due to Summertime and Special Events which would support earlier weekday hours for Monday through Thursday. With the age group being 5 to 14 years old, our schedule is set to not conflict with the typical in school sessions. Special events will be offered typically once a month and the promotions are usually established at a minimum by the Franchise for each Urban Air location at the same time.

## Urban Air Adventure Park for Vernon Hills, IL Hearing Continuance Memo

Recall, Urban Air Adventure Park's initial hearing before Planning and Zoning was held on November 30, 2022. Due to the length of the November 30 hearing, the Planning and Zoning Commission continues the hearing on December 14, 2022. As requested by the Village's Planning and Zoning Commission and in support of the upcoming hearing, the following additional items have been submitted to Andrew Jennings with the Village of Vernon Hills:

- Propose Signage for the Building Frontage, and Plaza Monument example
- Parking Lot Site Plans
- Marketplace at Vernon Hills details for the Non-Exclusive Easement and Required Parking Stalls among shared building tenants
- Tenant Reciprocal Easement and Operating Agreement

In response to questions regarding Inspections and frequency for Urban Air, the following is required by the franchisor:

1. Urban Air has an Online/App platform in which all inspections are logged and fully documented electronically.
  - a. Each inspection is completed Daily, before opening to guests in accordance with Manufacturer required inspection points for each attraction
  - b. There is a Monthly inspection as well also based on manufacturers required inspection points
2. Third party Inspections are carried out Annually in accordance with State Regs and the Franchise agreement.
  - a. Third Party Inspections.
  - b. An insurance inspection from the insurance will be conducted as well

In response to questions regarding Urban Air having similar attractions as Sky Zone the distinction for the Urban Air Vernon Hills location is, but not limited to, the following:

Go-Karts, Sky Rider, Laser Tag, Wipeout, Tubes Playground, Leap of Faith, Spin Zone Bumper Cars, Flip Zone Cars, and Virtual Reality.

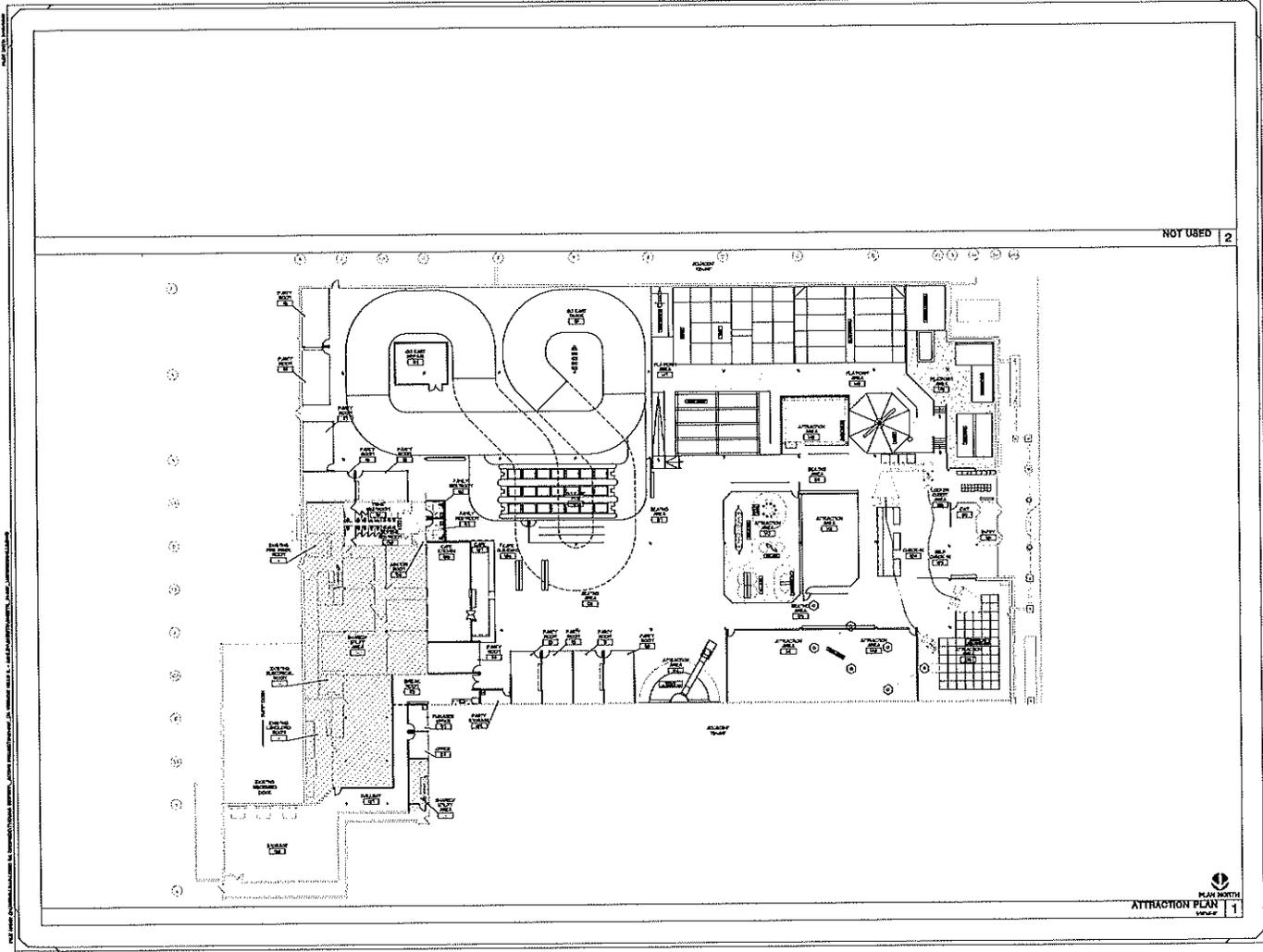
In response to questions regarding Urban Air security:

Depending on locations and ownership, Urban Air Franchisees often hire private security for weekends, high volume events, and/or as needed based on the owner's experience. Private security typically consists of off duty and duly licensed law enforcement agents familiar with local law enforcement rules.

Sincerely,

Neil Hoffner

Wynn-Hoff Air, Inc dba Urban Air Adventure Park



NOT USED 2

PLAN NORTH  
 ATTRACTION PLAN  
 1



Additional Info  
 Project Name  
 Tenant Buildout for:  
 Urban Air - Vernon Hills, IL  
 413 N. Milwaukee Road, Ste 200  
 Vernon Hills, IL 60055

Date/Revision  
 06.23.22  
 PERMAY REV

Drawing Title  
 ATTRACTION PLAN

A1.5

PERMIT/CONSTRUCTION SET  
 USE IN PROGRESS SET