

FILED
05-29-2026
Clerk of Circuit Court
Waukesha County
2026CV000978

STATE OF WISCONSIN

CIRCUIT COURT

WAUKESHA COUNTY

THREE VILLAGES ASSOCIATION, U.A.
P.O. Box 25
Village of Big Bend, WI 53103,

Plaintiff-Petitioner,

Case No. 26-CV-xxxx
Case Codes: 30955 (Petition -
Certiorari) 30607 (Agency Review)

VILLAGE OF BIG BEND
W230 S 9185 Nevins Street
Big Bend, WI 53103,

Defendant-Respondent.

SUMMONS AND COMPLAINT

THE STATE OF WISCONSIN, to each Person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached and is served upon you this day, states the nature and basis of the legal action.

Within 20 days of receiving this Summons and attached Complaint, you must respond with a written Answer or otherwise respond and take action as defined and described in Chapter 781 and 802 of the Wisconsin Statutes and applicable law to the Complaint. The Court may reject or disregard an Answer or other response that does not follow the requirements of the statutes. The answer or other response must be sent or delivered to the Court, whose address is, Waukesha County Circuit Court, 515 West Moreland Blvd, Waukesha, WI 53188 and to Plaintiffs' Attorney, Joseph R. Cincotta, whose address is 1200 East Capitol Drive - Suite 327, Shorewood, Wisconsin, 53211. You may have an attorney help or represent you.

If you do not provide a proper answer or other required response within 20 days, the Court may grant judgment against you for the award of money or other legal remedy requested in the Complaint as allowed by law, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 29th day of May, 2026

Electronically signed by Joseph R. Cincotta

Joseph R. Cincotta
State Bar No. 1023024

Attorney for Plaintiff

P.O. Address:

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COMPLAINT

Now comes Plaintiff, THREE VILLAGES ASSOCIATION, U.A., and as and for its Complaint against the grant of a Conditional Use Permit by the Defendant VILLAGE OF BIG BEND, states and alleges as follows:

NATURE OF ACTION

1. After multiple meetings during the past 90 days, all of which were attended by several hundred objecting property owners, and based on almost no substantial evidence or actual factual basis, the Village of Big Bend on April 30, 2026 adopted certain land use zoning approvals. These approvals include a so-called Planned Unit Development (“PUD”) and an associated Conditional Use Permit (“CUP”), and seek to allow the initial phase of construction of a very large sports complex development - the Breck Sports Complex - to be located on 110 acres of unspoiled and undeveloped agricultural lands at the corner of Highway 164 and Town Line Road in the Village.

2. The CUP was approved without sufficient substantial evidence supporting its approval, and more specifically, the record failed to demonstrate that the proposed use satisfied the specific requirements of the Village's Conditional Use ordinance.

3. The Village and its officials have been well aware of the circumstances regarding the objection to the proposed sports complex and the related legal claims, including the objection by Plaintiff to the granting of the CUP.

4. The Village and its officials have had and have actual knowledge of the nature of, and the specific facts which describe the circumstances of Plaintiff's objections and associated legal claim against the validity of the CUP, which claims are being made herein by many nearby and affected property owners through their membership in and as part of the Plaintiff, Three Villages Association, U.A.

PARTIES

5. Plaintiff, Three Villages Association, U.A. ("TVA") is a Wis. Stats. Chap 184 unincorporated association established by several members and property owners who live and own property within the Village of Big Bend, as well as the Village of Vernon and the Village of Waukesha. TVA's principal place of business is P.O. Box 25, Village of Big Bend, WI 53103.

6. Plaintiff TVA includes many members, several of whom own property immediately adjacent to and/or very near the proposed Breck Sports Complex development for which the CUP at issue was granted. That includes Matthew Welter, who is a long-time property owner and taxpayer who owns and resides at W235 S6385 Big Bend Drive, Waukesha, WI 53189.

7. The Welter property is immediately adjacent and directly abuts the location of the planned Breck Sports Complex development. The development of the complex will and already

is interfering with the use and quiet enjoyment of Mr. Welter's property and negatively impacting its value. His property will and has already suffered injury and economic harm and damages due to the potential development of the complex. The injury and damages being caused to Mr. Welter are special and different in degree than any general negative impact the proposed development will have on the entire community.

8. The assessor has already prepared his opinion on the impact to the Welter property. Mr. Welter's tax assessor's evaluation and opinion demonstrate the impact and injury that will be and is being caused to Mr. Welter and his property, and a copy of that correspondence is filed herewith as **Exhibit B.**

9. This same circumstance has already impacted another founding member of TVA, Jacqueline Trimborn, who owns and resides at the property at W235 S6270 Salem Court, Waukesha, WI 53189. Ms. Trimborn's property is located to the immediately adjacent and directly across skyline drive to the south of the proposed project site. Her assessor has already provided his written determination that her property value will be negatively impacted due to the proposed development, should it proceed. A copy of that correspondence is filed herewith in **Exhibit B.**

10. As a result of the injury and special damages being caused to Mr. Welter and Ms. Trimborn, they have legal standing to challenge and bring claims against decisions of the Village that harm the use and quiet enjoyment of their property and/or impact the value thereof, including the CUP as it will allow activity at the site that will continue and increase the impact and harm and damages to their properties. Both Ms. Trimborn and Mr. Welter are members of Plaintiff, TVA. Pursuant to statute and applicable law, based on the standing of its member, Mr. Welter and Ms. Trimborn, TVA also has standing to pursue legal claims challenging the

approvals and decisions of the Village and/or the developer and property owner, including challenging the April 30, 2006 approval of a CUP, as further described below.

11. Defendant Village of Big Bend is a municipal organization organized under Wis. Stats. § 61.01 *et seq* and applicable law. The Village's principal place of business is W230 S 9185 Nevins Street Big Bend, WI 53103.

JURISDICTION

12. The Court has jurisdiction of this matter pursuant to Wis. Stats. § 781 *et seq* and Ch. 801 stats., and other applicable law. The determination at issue arose from an approval by the Village of Big Bend, which is located in this County.

FACTS RELEVANT TO CLAIMS FOR RELIEF

13. The proposed Breck Sports Complex is a multi-phased and multi-faceted development to be located on approximately 150 acres at the corner of Highway 164 and Townline Road located primarily in the Village of Big Bend. An aerial view of the property as it currently exists is filed herewith as **Exhibit A.**

14. At some point in 2025, or before that time, the owner of the subject property determined to try to develop a large Sports complex at the site.

15. The owner engaged consultants to help generate design plans and other documents describing the proposed complex. Much of that information was supplied to staff members at the Village of Big Bend, but was not initially released to the public.

16. After this time in approximately summer of 2025, and upon information and belief, Village staff had and was continuing to have substantial email and other communications with representatives of the developer and owner of the property. Based on that communication, a plan was developed to amend certain ordinances, including an amendment to the Village's

comprehensive plan, its Zoning code and other changes so as to enable the full phase development of the Breck Sports Complex that the owner was seeking. The full build out calls for several sports field for various sports, a hotel and retail shopping area and restaurants.

17. The plan to facilitate the development through multiple amendments and changes to the zoning code was discussed, and, in an effect, agreed to between staff and the owner prior to any Plan Commission or Village Board review, and prior to revealing the proposal to the public.

18. Eventually, the plan was made public in late 2025. Several hearings were held starting in January of 2025 regarding the proposed development. Those meetings and hearings included addressing a proposed change to the Village comprehensive plan, and a related change to the zoning of a portion of the site from R-1 Residential to B-4 Business district.

19. A third action planned for and discussed at these meetings was the adoption of a so-called Planned Unit Development or PUD to overlay the entire site.

20. Finally, a conditional use permit (“CUP”) was also required to operate a recreational for-profit Sports Complex within the B-4 district.

21. The Plan Commission and Village Board had a joint meeting which included a public hearing regarding the CUP on March 19, 2026.

22. Several hundred property owners, taxpayers, and citizens from Big Bend, Vernon, Waukesha and elsewhere attended the meeting, which was held at an alternative and larger capacity location - a local church - due to the large numbers of attendees anticipated to be present. That prediction proved correct and many people attended and spoke against the proposed development during the public hearing.

23. After the public hearing the Plan Commission voted to defer review of the proposed Comprehensive Plan and rezoning amendment. Plan Commission recommended approval of the PUD and deferred action on the CUP.

24. After a second Plan Commission meeting the CUP eventually went forward to a further meeting of the Village Board on April 30th 2026. By this point Plaintiff had filed multiple written objections into the record. These include specifically opposing adoption of the CUP covering a portion of the proposed development. Copies of these written objections dated March 18, 2026 and April 30, 2026 are filed herewith as **Exhibits C and D.**

25. Plaintiff's objections regarding the CUP were described in some detail in its written submissions including as shown in Exhibit D. Those details and facts demonstrated that the nature of the operation being proposed would be unsuitable for the lands upon which the development would be built, causing excessive light pollution, noise pollution, and creating stormwater runoff and flooding risks.

26. As set forth in Claimant's April 30th objection letter:

The proposed CUP does not satisfy the Village's ordinances. State Statute (known as Act 67) requires that a proposed CUP may only be approved if the applicant agrees to meet and can satisfy both ordinance *requirements* and *conditions*. The key language of Acts 67 is noted above.

The facts in support of the CUP do not demonstrate or provide substantial evidence that the proposed use will satisfy the requirements of the CUP ordinance. Below are the requirements of the Village's conditional use ordinance and a description of the issues and facts showing that the ordinance standard cannot be satisfied by the current proposal.

The Village ordinance requires as follows:

1. Evaluation. In making its recommendation, The Planning Commission **shall** evaluate the effect of the proposed use upon such things as, but not necessarily limited to:

a. The maintenance of safe and healthful conditions.

Attached are photos of recent and recurring flooding in the area of the proposed development. The stormwater drainage plan is incomplete and relies on infiltration to mitigate increased storm run-off. This is clearly inadequate.

b. Existing topography, drainage, and vegetative cover.

The effect on drainage will be to make it worse. A large amount of the property will be stripped of vegetative cover, the site drains into the adjacent community and will impact existing artesian groundwater wells and resources.

c. The compatibility of the use with other uses on adjacent properties.

The proposal will and already is reducing property values of adjacent residential homes. See letter from the Town of Vernon assessor and related information attached.

d. Existing and proposed vehicular and pedestrian traffic generation and circulation.

The current plans are only conceptual and incomplete. There is not a proper basis to evaluate this standard based on the applicant's submissions

e. The adequacy of existing and proposed parking areas and driveway locations.

Same as letter d above.

f. The adequacy of existing and proposed public utilities and other public services.

The applicant's materials state that both public and private utilities will be needed but provides no firm factual details beyond conceptual plans and promises to firm things up as the project proceeds. This is not sufficient.

g. The compatibility of the use with the Village's Comprehensive Plan.

The proposed use is incompatible with the Village Comprehensive Plan. This area calls for residential in all surrounding properties and on the bulk of the eastern portion of the subject site.

h. The suitability of the subject site for the type and density or intensity of the proposed use(s).

A massive sports complex with 70-foot-high indoor facility and similar large hotel is well beyond the intensity of use for the property as it is currently used and the neighboring properties.

i. The creation of noise, traffic, odors or other conditions that may be detrimental to the public.

The information provided provides no assurance that light pollution and noise nuisance will be compatible with the adjacent properties. Photos of lights and the glare from them emitting from a similar local sports facility are attached as an example. No similar photos or examples were provided by the applicant.

See Ord. § 16.25 (A)(17)(a)(1)(a-i).

27. In addition, the record shows the Village has received expert engineering analysis showing that the lands upon which the complex is to be constructed are unsuitable for the proposed sports field and other structures. The very significant increase in impervious area throughout the site will cause significant, excessive, and likely dangerous stormwater runoff because the clay content of the soils is too high to allow for sufficient absorption so as to avoid downgradient harm to neighboring properties.

28. The permeable pavers proposed to be used, along with the artificial turf that will be installed throughout, will not allow for sufficient absorption, because the underlying clay soils will not allow it either. This was known to the Village prior to its approval of the CUP.

29. In addition, the proposed 85-foot-high industrial scale light poles are contrary to the base district zoning requirements and restrictions, and also contrary to the zoning code's lighting specific standards that apply throughout the Village.

30. Finally, the developer represented that traffic analysis issues were being addressed by the Wisconsin DOT as part of seeking approval of the CUP. As of this date, the facts show that there has been no application or submission of any traffic impact analysis ("TIA") to the Wisconsin DOT.

31. As a result, the nature and operation of the proposed development would not satisfy, and indeed, would violate and are in violation of the requirements necessary to obtain a CUP.

32. The approval of the CUP was thus contrary to law because it lacked sufficient substantial evidence to be approved, and is thus invalid and void. Based on the above the following claims for relief are brought.

FIRST CLAIM FOR RELIEF

(CUP is invalid as does not meet requirements)

33. The allegations above are incorporated into this claim for relief.

34. The Village Board adopted a conditional use permit on April 30th 2026 covering a portion of the proposed Breck Sports Complex site.

35. The CUP as approved was sought so that the owner could operate a private for-profit recreational complex in the B-4 zoning district.

36. As noted above, several requirements in the Village's CUP ordinance must be met and satisfied through the submission of substantial evidence by the applicant, in order to be granted a CUP

37. As the record shows several of these requirements were not addressed and cannot be met given the current record. This includes as follows:

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1. Evaluation. In making its recommendation, The Planning Commission **shall** evaluate the effect of the proposed use upon such things as, but not necessarily limited to:

a. The maintenance of safe and healthful conditions.

Attached are photos of recent and recurring flooding in the area of the proposed development. The stormwater drainage plan is incomplete and relies on infiltration to mitigate increased storm run-off. This is clearly inadequate.

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See Ord. § 16.25 (A)(17)(a)(1)(a-i).

38. As a result, there is insufficient substantial evidence to support the finding that the requirements under the Village ordinances as set forth above are or can be satisfied so as to allow for the grant of a CUP.

39. The CUP, as granted, is therefore void and should be declared as such by the Court.

WHEREFORE Plaintiff requests the following relief in this matter:

1. That the court enter an order directing the Village to promptly assemble and produce the complete record regarding the review and approval of the CUP approved on April 30, 2026 so as to allow for review by certiorari by the Court.
2. That after review and any supplementing of the record as deemed appropriate by the Court, the Court enter an order declaring the Conditional Use Permit approved by the Village on April 30, 2026 lacked sufficient substantial evidence showing that the proposed use would satisfy the applicable ordinance requirements and is therefore void
3. Enter an order directing that the Village and any other interested party cease any further action in reliance upon or in furtherance of the now voided CUP.
4. Costs as allowable by law; and
5. Such other relief as the Court deems proper.

Dated this 29th day of May, 2026

Electronically Signed by Joseph R. Cincotta

Joseph R. Cincotta

State Bar No. 1023024

Attorney for Claimant

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