

## Zoning Case #8014 #8022

### Summary of Testimony

A public hearing was conducted by the Lake County Zoning Board of Appeals on January 24, 2017, on the application of Robert Bradley Petersen and Linda L. Petersen as Co-Trustees of the Robert Bradley Petersen and Linda L. Petersen Revocable Trust Agreement dated April 30, 2013. The applicants have petitioned to rezone a 1.85-acre parcel being PIN 07-14-200-023 located on the south side of N. Barberry Lane, approximately 1,200 feet southwest of the intersection of N. Delany Road and N. Barberry Lane, from the General Office (GO) District to the Limited Industrial (LI) District. The applicants are also requesting a Conditional Use Permit for a Planned Unit Development (PUD) Preliminary Plan to: expand an existing asphalt, concrete, redi-mix, rock and concrete crushing plant; expand an existing caretaker's residence; retain an existing nonconforming residence; and incorporate site enhancements to improve onsite circulation and operations. Due to the nature of the business and the historic development of the site, several zoning inconsistencies are incorporated in the applicant's requests. The properties associated with this application are located on PIN 07-14-200-021, 07-14-200-023, and 07-14-200-024. Collectively, the Conditional Use Permit for a Planned Unit Development (PUD) and Preliminary Plan consists of 5.53 acres.

The subject properties are described as follows:

Parcel 1: located at 35801 N. Barberry Lane, Gurnee, Illinois, and containing 1.85 acres. PIN 07-14-200-023

Parcel 2: located at 35763 N. Barberry Lane, Gurnee, Illinois, and containing 1.24 acres. PIN 07-14-200-021

Parcel 3: located at 35845 N. Barberry Lane, Gurnee, Illinois, and containing 1.92 acres. PIN 07-14-200-024

The following is a summary of the testimony presented:

#### Rezoning Request

1. Mr. Adam Findlay, attorney for the applicant, Linda and William Petersen, stated in 2008 his client's applied for and obtained a rezoning for PINs 07-14-200-021 and 07-14-200-024 from General Office (GO) to Limited Industrial (LI). Since that time, the general area of the neighborhood has become an industrial corridor. The proposed rezoning is consistent with the Comprehensive Plans of the Village of Gurnee and Lake County. Additionally, the applicants have conducted a crushing and recycling facility since 1979 and rezoning would allow the applicant to expand this use and allow for future expansion. The proposed rezoning would allow for development that is compatible with existing zoning and uses of adjacent properties. Additionally, the

rezoning would allow for a “circulation path” with the existing properties onto the rezoned parcel which would limit the impact onto the roadway.

Member Raymond stated the following:

- A. If wetlands or floodplains were present?
- B. Where is the location of the rebar in the right-of-way?

Mr. Findlay stated there are no floodplains or wetland present and the applicant intends to construct a detention area at the front of the property. Mr. Steve Grant, of McClure Engineering, stated there is a section of the road apron towards the gate, which contains rebar and concrete.

Member Zerba stated the following:

- A. Requested clarification of the “unpermitted expansion” referenced in the staff report.

Mr. Findlay stated the applicant’s initially approached staff with an application in 2014 regarding the proposed work and there was a misunderstanding regarding the request. The County informed the applicant of the inconsistency in understanding and they retained legal counsel. The economy was poor and expansion occurred so the Petersen’s could maintain their business. Since that time, the Petersen’s have hired several consultants as well as counsel and have been attempting to achieve compliance with the permit requirements, including obtaining the proper zoning and approvals.

Member Westerman stated the following:

- A. In 2008 (after the initial rezoning) an adjacent property owner complained about the noise from the subject property.
- B. When did the applicant use the subject property PIN 07-14-200-023 as part of their business?

Mr. Findlay stated the applicants’ purchased PIN 07-14-200-023, and an attempt was made to rezone the property at that time. It was determined the diesel fumes came from a different location. The applicant conducted operations on the property in 2015.

Member Stimpson stated the following:

- A. In 2012 the County required a Conditional Use Permit for the existing use. How did the County enforce this requirement?
- B. Who is the caretaker on-site?
- C. Would the caretakers’ buildings be removed for expansion?

Mr. Findlay stated a violation was issued in 2015 for truck parking on PIN 07-14-200-023, which is currently, zoned General Office (GO). The Petersen live on-site and would be considered the caretakers. Any expansion of the business within 5 or 10 years would likely require the removal of the nonconforming residence.

Chairman Bell stated the following?

A. How was the violation brought to the County's attention?

Pat Tierney stated in 2015 the Department received a complaint and an inspector verified the violation. The Department has worked with the applicant since that time to obtain compliance.

Chairman Bell asked the Board members if they had any further questions or comments on the rezoning application. After hearing none, the Board agreed to move into the Conditional Use Permit phase of the hearing and would make a separate motion on the rezoning at the conclusion of the hearing.

Conditional Use Permit

2. Mr. Findlay stated other than expanding into the parcel to be rezoned, other new features of the Planned Unit Development include the expansion of a bathroom in the single-family dwelling used by the caretaker and the construction of a garage. Additionally, the applicant is seeking the following bulk and density code modifications:

- 20 feet to 10 feet for the single-family caretakers dwelling unit;
- 20 feet to 4 feet for the existing rock crusher;
- 20 feet to 0 feet for the perimeter wall;
- Increase the maximum impervious surface from 0.60 to 0.75;
- The application also requests a variation of the 1,000 lineal foot separation from a rock crushing operation to a residential use.

Mr. Findlay indicated the Village of Gurnee and the County anticipated this area as industrial in their comprehensive plans, and the proposed use in its proposed location complies with the intent of those plans. The hours of operation for the business are 7:00 a.m. to 8:00 p.m. Monday through Friday, and 8:00 a.m. to 6:00 p.m. Saturday and Sunday. The applicant utilizes water to control on-site dust. For reducing noise emissions, the applicant will use sound suppression on their excavators as well as dust suppression on the excavators. On-site access was approved from Barberrry Lane by the Village of Gurnee. The residential use on the adjacent property to the south has existed since 1961 and is part of a mix-use parcel as well. The property to the north and east of the site is vacant residential within the Village of Gurnee, and to the immediate west is nonresidential within the Village of Gurnee. The property to the west is accessed via St. Paul Avenue which is 10 feet lower than Barberrry Lane.

Open space resources are connected on the applicant's site plan which includes an evergreen tree cluster, which will be protected. In the event there is an expansion, it would be to the north and west of the evergreen grove. In 2015 the applicant removed significant trees, which will be reforested in accordance with the County Code to compensate for the loss of those trees. The proposed plan ultimately allows the applicant to create a circular pattern within the property, which would decrease the number of trucks accessing Barberrry Lane for turn-arounds.

Member Zerba asked the following questions:

- A. What will be the hours of operation?
- B. What type of lighting is required for the facility?
- C. Would expanded hours disturb residents along Barberry Lane?
- D. Stated in-favor of the CUP.

William Petersen stated they occasionally conduct emergency work for municipalities which necessitates varying hours. For emergency situations, there could be truck-trips during off hours, but trips are more predictable during weekday operations. There is currently lighting placed on the residential structure and barn. The expanded hours would not have an affect on residents along Barberry Lane as the facility is placed towards the rear of the property and landscape buffers will be in place along the street. The standard hours of operations are 7:00 a.m. to 8:00 p.m. Monday through Friday, and 8:00 a.m. to 6:00 p.m. Saturday and Sunday, unless there is an emergency.

Member Westerman asked the following questions:

- A. Is rock crushing the primary operation?
- B. Does the applicant conduct landscape recycling?
- C. What is the maximum height of the stockpiles?
- D. Is there a mitigation of dust from the crushing?
- E. The hours of operation are not a concern as the property is surrounded by other industrial uses.
- F. Stated in-favor of the CUP with the exception of allowance of 12-foot-high concrete blocks.

Mr. Petersen stated they have an excavating and demolition business along with recycling and concrete recycling. Landscape waste recycling is not accepted. Mr. Findlay stated the stockpiles would be under the maximum 30-foot height requirement for an accessory use. Pat Tierney stated staff was recommending a height no greater than 25 feet. Mr. Petersen stated two trucks are fitted with 4,000-gallon water tanks and the tucks and equipment are sprayed for the dust. Ultimately the applicants want to mitigate the amount of dust leaving the site and corroding their equipment. Mr. Findlay requested 12-foot-high walls for the storage area to keep the yard secure, control dust, and to abate noise. Pat Tierney stated he would verify with the Building Division the walls meet the structural requirements.

Chairman Bell asked the following questions:

- A. Clarification of the stockpile height requirement
- B. Will all truck traffic be circulated occur on the new property?
- C. The initial hearing in 2007 stated a portion of the rock crushing occurs off-site. Will this still occur?
- D. Have there been complaints about the on-site noise?
- E. Stated a concern of stockpiling at the property line.
- F. Stated in favor of the CUP with the conditions presented and discussed by staff.

Brittany Sloan stated the former zoning administrator had made a determination the stock piles should be no greater than 25 feet in height with a setback of 20 feet at the time. A 25-foot height would be acceptable for this use. Mr. Petersen stated the building would relocate the existing stockpile to the corner of the new property and it would be blocked from the adjacent property; obscuring visibility. Additionally, other piles will be moved to a central location on the new property. Mr. Tierney stated the minimum street yard setback is 50 feet. Mr. Petersen stated the traffic would occur only on the new parcel. The amount of rock crushing occurring off-site has decreased from 2007; it currently represents approximately 30% of their business. The applicant was not aware of noise complaints. Ms. Sloan stated the Department examined the history of the property and noise complaints have not occurred on a regular pattern. Ms. Sloan suggested leaving the stockpiles behind the concrete walls with the understanding the block wall would remain at zero feet. Even if the applicant uses a different block design in the future, staff would require the stockpile to remain behind the wall.

Member Koeppen stated the following:

- A. The majority of his concerns were addressed at the initial hearing in 2007. Given the nature of the business, he was comfortable with the proposed changes.
- B. Stated in favor of the CUP with the conditions presented and discussed by staff.

Member Stimpson asked the following questions:

- A. Is snowplowing part of the business?
- B. How many trucks arrive and leave the site each day?
- C. Will the existing truck entryway be widened to accommodate the traffic?
- D. The relocation of the piles and new landscaping would be an improvement to the site.
- E. Stated a need for this type of business and will vote in favor of the CUP with the conditions presented and discussed by staff

Mr. Petersen stated they do not conduct snowplowing. The number of trucks arriving and leaving the property fluctuates; however, on average there are approximately 15 truck-trips per day. The existing driveway will be widened to accommodate the additional traffic.

Member Raymond stated the following:

- A. Stated in favor of the CUP with the conditions presented and discussed by staff.

Member Hockney stated the following:

- A. Stated in favor of the CUP with the conditions presented and discussed by staff.

**Decision:**

**Rezoning Request:**

A motion was made by Member Koeppen on zoning case 8014 to rezone PIN 07-14-200-023 from the General Office (GO) District to the Limited Industrial (LI) District as the request meets the standards for a rezoning as outlined in the County Code. The motion was seconded by Member Stimpson and unanimously approved 7-0.

### Conditional Use Permit for PUD Preliminary Plan

A motion was made by Member Koeppen on zoning case 8022 to permit a Conditional Use Permit for a PUD Preliminary Plan to expand an existing asphalt, concrete, redi-mix, rock crushing plant; to permit an expansion of an existing nonconforming caretakers residence; to permit a second nonconforming residence and to allow the requested bulk and density variances proposed in the applicant's petition, subject to the modifications approved by the Board in Exhibit A namely: 1) change (1)(a) from 30 ft. to 50 ft.; delete (2)b; (3)(a) to remove maintenance shop to (3)(b); amend (4)(a) from 8 ft. to 12 ft. block walls, (4)(b) from 16 ft. to 25 ft.; delete (4)(c); and amend condition 5. To require bulk storage stockpiles to be behind block walls or landscaped.

Member Koeppen's motion was seconded by Member Stimpson and passed 6-1 with Member Westerman voting nay on the proposed 12 ft. height of the perimeter block walls.

## Summary of Department Comments

### Zoning Case #8014 #8022

Rezoning from the General Office (GO) District to the Limited Industrial (LI) District. Conditional Use Permit (CUP) for a Planned Unit Development (PUD) to: expand and existing asphalt, concrete, redi-mix, rock and concrete crushing plant; expand an existing caretaker's residence; retain a second nonconforming residence; and to incorporate site enhancements to improve onsite circulation and overall business operations.

#### **Department of Planning, Building and Development**

1. This Department recommends approval of the rezoning because the request complies with the required standards.

The Office / Research designation in the Framework Plan and the existing General Office (GO) zoning are inconsistent with development in the area which is predominately industrial. The amendment is consistent with the purpose and intent of the ordinance. Likewise, it complies with the comprehensive plan of Village of Gurnee whom has designated the area as Industrial-Office Research. The rezoning will correct this inconsistency and permit a business already zoned Limited Industrial (LI), to expand onto a property previously surrounded by the business and industrial development in the area. This action will unify the boundaries of the business and ensure more land use continuity to the area. The property is surrounded by industrial uses and is adjacent to property previously zoned Limited Industrial (LI) by the County; as such, it is suitable for the proposed zoning classification.

2. This Department recommends approval of the Conditional Use Permit for a Planned Unit Development because the request complies with the required standards.

Both the Lake County Regional Framework Plan and the Gurnee Comprehensive Plans designate the area for industrial and office research uses. The area has gradually developed over the time the existing business has been in place. Staff believes the requested expansion of the existing asphalt, concrete, redi-mix, rock and concrete crushing plant will continue a use suited for the area. Further, the proposed expansion of the existing caretaker's residence, accessory building, the requests for bulk and density modifications to the County Code, and the incorporation of site enhancements to improve onsite circulation, will improve the overall business operations. Conditions recommended by staff and modified by the Zoning Board of Appeals will mitigate objectionable elements of the use and allow flexibility in operating the business.

The site plan proposed by the applicant and requested site improvements; indicate several areas where the applicant is unable to meet the Lake County Code standards and the use standards prescribed by Section 151.112. It is staff's opinion these

inconsistencies with the Code are necessitated by the uniqueness of the business, its operational requirements, and the historic siting of the business in the current location.

The use is served by septic systems and private wells. Access has been approved by the Village of Gurnee and emergency services can be delivered to the area utilizing existing transportation infrastructure. These conditions will remain unchanged upon approval of the Conditional Use Permit for the PUD Preliminary Plan. The approved conditions address these inconsistencies and provide realistic limits over anticipated business expansion in the future.

The residential use located west of the subject property serves as a caretaker's residence and is buffered by a landscape berm that was installed by the property owner as part of their landscape contracting business. The residence is further buffered from the expansion area by existing structures and uses in place at the time of the 2008 rezoning. Given the proximity of the property associated with the expansion and the existing buffering in place, any negative impacts attributed to the use are minimized and no worse than what previously existed. Despite the industrialized nature of the business, the applicant minimized the impact of the business on the existing residences on the property by focusing daily operations to areas already developed and necessary for operations.

The applicant has initiated the site plan review process with the Lake County Development Review Team. Compliance with all requirements of the Lake County Code and all applicable permitting agencies will ensure that no significant adverse impacts to other property or the environment will occur.

#### **Lake County Division of Transportation**

##### **Joe Meyer**

Barberry Lane is a Village Street under the jurisdiction of the Village of Gurnee; therefore, LCDOT has no comments on the requested rezoning and CUP.

#### **Planning, Building and Development**

##### **Eric Steffen – Engineering Division**

The Engineering division has no objection to the proposed Rezoning request provided that the outstanding requirements/site plan review comments are addressed for the project.

#### **Environmental Health Services**

##### **Mark Mussachio**

The Department has no objections to the Conditional Use Permit. For the maintenance shop, the sink and any floor drains must be investigated to show where they drain.