



Zoning Board of Appeals

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April 14, 2023

TO: Gregory Koeppen, Chair
Lake County Zoning Board of Appeals

FROM: Brad Denz
Lake County Department of Planning, Building, and Development

CASE NO: #RZON-000804-2022 and #CUP-000803-2022

REQUESTED ACTION: 1. Rezoning from the Residential-3 (R-3) zoning district to the General Commercial (GC) zoning district.

2. Conditional Use Permit (CUP) for a Planned Unit Development (PUD) Preliminary Plan to construct a 5,000 square foot office/storage building, and the associated parking and grading for contractor's equipment storage building and future office space.

HEARING DATE: April 19, 2023

GENERAL INFORMATION

PETITIONER: Chicago Title Land Trust Company, Trustee under Trust Agreement #8002382433, record owner, with Kyle Davis, of 617 Deerpath, Lindenhurst, Illinois, being the sole beneficiary of the trust, record owner.

OF PARCELS: One

SIZE: 1.95 acres, per Lake County's GIS Calculated Average

LOCATION: 39660 N Illinois Route 59, Lake Villa, Illinois; PIN 02-30-100-082

EXISTING ZONING: Residential-3 (R-3)

EXISTING LAND USE: Vacant

PROPOSED LAND USE: Construct a 5,000 square foot office/storage building, and the associated parking and grading for contractor's equipment storage building and future office space in the General Commercial (GC) zoning district.

SURROUNDING ZONING / LAND USE

SOUTH:	Residential-3 (R-3)/vacant; open space area of the Petite Highwood Pines Homeowners Association
SOUTHWEST:	Residential-3 (R-3)/single-family dwellings; Petite Highwood Pines Subdivision
WEST:	Residential-3 (R-3)/vacant; owned by the applicant
NORTH:	Residential-3 (R-3)/single-family dwelling
EAST:	Agricultural (AG)/single-family dwelling

COMPREHENSIVE PLAN

LAKE COUNTY:	Residential Single-family Medium Lot (1-to-3-acre lot density)
MUNICIPALITIES WITHIN 1 ½ MILES:	Village of Lake Villa: Single-family Detached

DETAILS OF REQUEST

ACCESS:	Direct access to the property is provided via Illinois State Route 59.
LOT CONFORMITY:	The proposed General Commercial (GC) zoning would meet the minimum lot area and width.
FLOODPLAIN / WETLAND:	Based on Lake County's GIS, the subject property is not in a floodplain. The property does contain a 0.50 wetland which runs diagonally from the northwest corner to the southeast corner.
SEWER AND WATER:	The property is served by a public sewer and private water well.

STAFF COMMENTS

Lake County Public Works – Comments by Marc Bourgault

- Lake County Public Works has conditionally approved the plans. Final technical reviews, permit fees, IEPA permits, etc. shall be required before the final permit is issued. Lake County Public Works does not object to this request.

Lake County Health Department – Comments by Jeff Schrei

- The Health Department has no objections to this request.

Lake County Environmental Engineering Division - Comments by Joel Krause

- The Engineering Division has no objection to the granting of this request.

Lake County Building Division – Comments by Bob Springer

- The Building Division has no objection to the granting of this request.

ADDITIONAL COMMENTS

- In 2019, the applicant purchased the subject property, which was part of a larger 7.95-acre parcel tract of land. In 2020, the applicant divided the parcel which created the subject property (39660 N Illinois Route 59, Lake Villa, Illinois, consisting of 1.95 acres) and the parcel to the west (39654 N Bishop Court, Lake Villa, Illinois, containing 6 acres). The applicant retains ownership of both properties.
- The applicant has met the technical requirements for Site Capacity/Site Plan Review for the proposed use. Based upon this completed review by the project team, it has been determined that the proposed use can be spatially accommodated on the subject property. Listed below are pertinent aspects relating to the CUP request:
 - The property immediately north of the subject property (at 39708 N. IL Route 59) is improved with a single family dwelling. The standard landscape transition yard for a nonresidential use abutting a residential use is three plant units per 100 linear feet and a 6-foot-high fence or a 3-foot-high earthen berm. The plant units, combined, would total three canopy trees, six understory trees, six evergreen trees, and twenty-one shrubs, per 100-linear feet. However, the Lake County, Illinois Code of Ordinances (Lake County Code) allows for property owners to enter into a landscape waiver (or modification) agreement. Both the applicant and adjacent property owner have prepared and signed a landscape waiver/modification agreement which waives all planting requirements and instead only requires an 8-foot-high board-on-board fence, 175 linear feet in length. If the rezoning and CUP-PUD are approved, this agreement would be recorded with the Lake County Recorder of Deeds and would thereby become effective.
 - The subject property abuts a vacant parcel to the south (39584 Illinois Route 59, Lake Villa, Illinois) located in the Residential-3 (R-3) zoning district (consisting of platted open space within the Petite Highwood Pines subdivision). The standard planting requirement for a nonresidential use abutting a vacant residentially zoned property is three plant units per 100-linear feet. However, the applicant has entered into a transition yard waiver agreement with this property owner, the Petite Highwood Pines Homeowners Association, which waives all planting requirements along the 235-foot southern property line abutting the subdivision's open space area. If the rezoning and CUP are approved, this agreement would likewise be recorded with the Lake County Recorder of Deeds and would thereby become effective.
 - As the vacant residentially zoned parcel immediately to the west of the subject property is owned by the applicant, landscape transition requirements do not apply to the common property boundary.

In April 2022, the applicant removed trees from the west side of the subject property. The removed trees were not identified as part of a “woodland area” as defined by the Lake County Code and consisted of both invasive species and poor-quality specimens.

- The PUD process includes two phases: Preliminary Plan and Final Plan reviews. The Preliminary Plan includes a review of the rezoning and preliminary plan by the Zoning Board of Appeals (ZBA) at a public hearing. Following the ZBA’s review, the Preliminary Plan and rezoning request is presented to the Lake County Planning, Building, Zoning and Environment (PBZE) Committee and recommendations of both entities are then forwarded to the County Board for review and action for both the rezoning and Preliminary Plan. The Final Plan is reviewed by staff and subsequently reviewed by the PBZE Committee for final action.
- On July 21, 2022, the applicant presented a request for the subject property to the ZBA for a rezoning from the Residential-3 (R-3) zoning district to the General Commercial (GC) zoning district and a delegated Conditional Use Permit (CUP) to allow a contractor’s equipment storage use (outdoor). However, just prior to the August 31, 2022 ZBA hearing for the CUP and Rezoning actions, the applicant requested a continuance of the hearing to adjust his application given his future intention to potentially utilizing certain portions of the building for other commercial uses. As a result, the August 31 hearing was continued to a future date to allow time for the applicant to submit a revised application. As stated within this report, this revised application includes the previous rezoning and also includes a non-delegated CUP for a Planned Unit Development (PUD) to include an office/storage building, and the associated parking and grading for contractor’s equipment storage building and future commercial space. Staff has determined that the additional PUD request is an appropriate procedural mechanism to accommodate the applicant’s request for future commercial uses in a portion of the proposed building.
- The PUD takes into account certain site-specific features, surrounding compatibility with adjacent parcel characteristics, and patterns of development. Developments which qualify for a PUD are ones that encourage innovative land planning and site design that achieve a high-level of environmental protection, energy efficiency, aesthetics, high-quality development, and other goals by:
 - Reducing or eliminating the inflexibility that sometimes results from the strict application of zoning standards that were primarily designed for smaller, independent lots;
 - Allowing greater freedom in selecting the means to provide access, light, open space and design amenities;
 - Promoting quality design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and arrangements.

REZONING RECOMMENDATION

Although staff would have no objection to the proposed map amendment if subject to the recommended CUP conditions (see Exhibit A, below), staff is compelled to recommend denial of the map amendment request as is because, in staff’s opinion, the proposed map amendment does not comply with a preponderance of the Standards in the following manner:

Zoning Map Amendment Approval Criteria – Lake County Code Section 151.047(G)(2)

1. The proposed amendment is consistent with the stated purpose and intent of Section 151.005.

Comment- Lake County Code Subsection 151.005(A) states that a purpose of the ordinance is to implement the regional framework plan. A rezoning of the subject property to General Commercial (GC) would be inconsistent with the future land use plan which designates the subject parcel as single-family residential. The abutting properties to the north and south are zoned and likewise designated by the Future Land Use Map as single-family residential. Beyond the immediately abutting properties, none of the parcels within several hundred feet of the subject property to the north and south along Route 59 are designated nonresidential (nor zoned/used for nonresidential purposes) with the exception of Forest Preserve District property on the east side of the highway. Consequently, in staff's opinion, this standard is not met.

2. The proposed amendment corrects an error or inconsistency or meets the challenge of some changing condition in the area.

Comment- As noted above, the Future Land Use map designates the subject property and the majority of the nearby parcels as single-family residential (specifically "Single-family Medium Lot"). The subject property's parent parcel was in fact stubbed for residential street access by way of Bishop Court to the southwest in anticipation of potential future residential development. IL Route 59, in the general vicinity of the subject property to the north and south, has remained primarily residential and open space for decades and there has been no recent commercial trend along Route 59 in this area. Consequently, there does not appear to be any error/inconsistency nor any changing conditions to justify a rezoning of the subject property.

3. The proposed amendment will allow development that is compatible with existing uses and zoning of nearby property.

Comment- The subject property does not immediately abut nonresidential zoning districts or parcels which contain nonresidential uses. To the north and east contain single-family residential uses in the Residential-3 (R-3) zoning district. Abutting the subject property to the west is vacant within the Residential-3 (R-3) zoning district. To the south is a vacant open space area owned by the Petite Highwood Pines Homeowners Association, zoned Residential-3 (R-3).

The nearest commercial zoning and development is at a significant distance to the subject property to north and south: specifically, the nearest GC-zoned parcel is approximately 550 feet to the south (containing a boat repair shop). Given the subject property's isolation from commercial zoning/uses, the request may be considered "spot zoning".

4. The County and other service providers will be able to provide adequate public facilities and services to the property, while maintaining adequate levels of service to existing development.

Comment- The property would receive public sewer service from Lake County Public Works. The applicant has received approval from the Illinois Department of Transportation to access Illinois State Route 59.

5. The proposed amendment will not result in significant adverse impacts on other property in the vicinity of the subject tract or on the environment, including air, water, noise, stormwater management, wildlife and natural resources.

Comment- The applicant's current proposal consists of an "office/storage building, and the associated parking and grading for contractor's equipment storage building and future office space". A rezoning of the subject property from Residential-3 (R-3) to General Commercial (GC) zoning district would also technically accommodate any use otherwise permitted within the GC Zone, whose impacts on the surrounding area may vary significantly in intensity and effect. From the applicant's own representations, a secondary commercial use may be considered for a portion of the building in the future. In the aggregate, such commercial intensity could adversely affect the surrounding predominantly residential properties. Further, approval of the rezoning of the subject property could set a precedent in the vicinity of the subject property for future nonresidential rezoning, in conflict with the predominant residential character of the area. In any case, staff's recommended CUP conditions, which incorporate the applicant's volunteered conditions, *could* potentially mitigate the degree of impact of these proposed and foreseeable commercial uses.

6. The subject property is suitable for the proposed zoning classification.

Comment- Given the area's predominant residential development pattern and future land use designation, the subject property does not appear strictly suitable for the proposed zoning classification. However, staff's recommended CUP conditions *could* sufficiently mitigate any impacts of the proposed use on surrounding properties.

CONDITIONAL USE PERMIT RECOMMENDATION

Although staff would have no objection to the CUP-PUD application if subject to the Recommended CUP Conditions (see Exhibit A, below), staff is compelled to recommend denial of the CUP request as is, because in staff's opinion, the request does not comply with a preponderance of the Standards in the following manner:

Conditional Use Approval Criteria – Section 151.050(F)

- A. The use in its proposed location will be consistent with the stated purpose and intent of Section 151.005 of the Lake County Code:

Comment- Among the stated purposes and intent of the Ordinance is the goal to protect landowners from adverse impacts resulting from development in the unincorporated areas. The use of the property for contractor's storage (and secondary commercial uses in the future) could create foreseeable negative impacts on surrounding homes to the north and southwest, and would be inconsistent with the established residential character and development pattern of the area. In any case, staff acknowledges that staff's recommended conditions, which incorporate the applicant's volunteered conditions, *could* potentially mitigate the degree of impact of these proposed uses on the surrounding area.

- B. The proposed use in its proposed location complies with all applicable standards of this Ordinance, including any applicable use standards of Section 151.112 of the Lake County Code.

Comment- Staff has completed their review of the site plans related to the site capacity/site plan review process and the application meets the technical requirements of that review. If the proposed rezoning and CUP-PUD were approved, the use would be required to comply with all other associated permit requirements.

C. The proposed use in its proposed location will not have a substantial adverse impact on any of the following, either as they exist at the time of the application or as they may be developed in the future due to implementation of the Comprehensive Plan:

1. Adjacent property:

Comment- The application consists of a contractor's storage yard, including indoor and outdoor storage of contractor's vehicles and equipment and office/storage building, and the associated parking and grading for contractor's equipment storage building including the ongoing staging and movement of such vehicles/equipment on-site and to/from the property, and future secondary commercial space within the proposed building. The proposed use's adjacency to residential development to the north and south could create substantial adverse impacts on these homes. Staff acknowledges that the Recommended CUP Conditions could potentially limit the degree of impact of these proposed uses on the surrounding area.

2. Character of the neighborhood:

Comment- As noted above, the proposed use would be inconsistent with the character of the surrounding area as the nearest commercial zoning/development is more than 500 feet distant. In contrast with the proposed use, the predominant character of the more immediate area is single family residential.

3. Natural resources:

Comment- The applicant will provide full protection of the 0.50-acre wetland. No other natural resources as defined by the Lake County Code are present on the subject property.

4. Infrastructure:

Comment- The property would receive public sewer service from Lake County Public Works. The applicant has received approval from the Illinois Department of Transportation to access Illinois State Route 59. No negative impacts on infrastructure are foreseeable.

5. Public sites:

Comment- Although Forest Preserve property is located on the east side of Route 59 in the vicinity of the property, IL Route 59 buffers and separates the open space from the proposed use. Additional street landscaping/buffering may be necessary to minimize any impact to the use and enjoyment of this open space.

6. Any other measures affecting the public health, safety, or general welfare:

Comment- No additional concerns have been identified.

PUD PRELIMINARY DEVELOPMENT PLAN RECOMMENDATION

While staff would have no objection to the Preliminary Development Plan if subject to the Recommended CUP Conditions (see Exhibit A, below), staff is compelled to recommend denial. In staff's opinion, the request as is does not comply with a preponderance of the Standards of Section 151.051(C)(7) of the Lake County Code in the following manner:

Standard A: The proposed development in its proposed location is consistent with the Regional Framework Plan;

Comment: The property's future land use is designated on the Regional Framework Plan as *Residential Single-family Small Lot* (<0.25-acre lot density). If the property is rezoned to General Commercial (GC) and developed with the proposed commercial uses, the property's use would be inconsistent with this residential designation.

Standard B: The proposed development in its proposed location complies with the PUD standards of § 151.132.

Comment: The proposed PUD meets the intent standards in Section 151.132(B) in the following manner:

(1) Greater choice in the type of environment available to the public;

The proposed use for a contractor's equipment storage building and future secondary commercial space provides an efficient and consolidated space available to clients within one building and minimally sized parking lot adjacent to Illinois State Route 59.

(2) More open space through conservation development practices;

The site concentrates the full scale of development within the northeastern quarter of the subject property (approximately 0.27 acres) of the 1.99 acre parcel.

(3) Open space resources connected to one another;

Concentrating the development to the northeastern portion of the site retains the wetland area on the west side of the property, thereby maintaining the integrity of the natural resource base. The limit of the project footprint to the northeastern portion of the site similarly preserves, to a degree, the parcel's currently open character.

(4) A creative approach to the use of land and related physical development;

The principal purpose of the PUD concept is to allow for innovative design in return for benefits that cannot be achieved through the standard zoning regulations. Given the wooded and wetland areas of the subject property, the site currently functions as wildlife habitat and harbors birds. In light of the site's habitat characteristics, and the applicant's flexibility to design the building with a minimal amount of window area, the applicant has volunteered to utilize a "bird-friendly" building design (which is currently not required by the ordinance). The applicant likewise proposes a creative solution to limiting the otherwise wide impact of commercial zoning on the subject property: the rezoning and PUD application combined, if approved subject to the Recommended Conditions (see Exhibit A, below) will ensure *only* the proposed use of a contractor's equipment storage building and future secondary commercial space can be located on the subject property.

(5) An efficient use of land resulting in smaller networks of utilities and streets;

The natural resources limit development of the property controlling the extent and density of the development to the northeastern portion of the property. This limited footprint may reduce the extent of public services that will need to be provided to serve the property.

(6) Promotion of mixed use development;

The site's natural resource limitations spatially confine development to the site's northeast corner. In light of the resulting diminished project footprint, the applicant has proposed a shared building space that meets the goal of mixed use development: specifically, the co-location of future secondary commercial space within the proposed contractor's equipment storage building can be considered an efficient mixed-use design.

Standard C: The proposed development in its proposed location will not result in a substantial adverse effect on any of the following, either as they exist at the time of application or as they may in the future be developed as a result of implementation of the Regional Framework Plan:

1. Adjacent property

Comment: In staff's opinion, this standard is not strictly met. See Conditional Use Permit Approval Criteria - Standard C.1, page 6

2. Natural resources

Comment: In staff's opinion, this standard is met. See Conditional Use Permit Approval Criteria - Standard C.3, page 6

3. Infrastructure

Comment: In staff's opinion, this standard is met. See Conditional Use Permit Approval Criteria - Standard C.4, page 6

4. Public sites

Comment: In staff's opinion, this standard is met. See Conditional Use Permit Approval Criteria - Standard C.5, page 7

5. Any other matters affecting the public health, safety, or general welfare.

Comment: The applicant's development proposal, bound by significant open space preservation, intensity limits, setbacks, lighting controls, stormwater and water quality best management practices, if approved subject to the Recommended CUP Conditions (see Exhibit A, below) would *potentially* help mitigate the degree of negative impacts on public health, safety and welfare. The site's proposed commercial use *could* enhance and balance the local tax base, add a service option for the area population, and will not add to population growth directly. As currently proposed, aside from C.1 above, staff has not identified additional concerns related to the public health, safety or general welfare.

EXHIBIT A

RECOMMENDED CONDITIONS

Notwithstanding staff's recommendation to deny the applicant's requests, if the Zoning Board of Appeals is inclined to recommend approval of the rezoning request to the General Commercial (GC) zoning district and the requested CUP-PUD, staff recommends that the approval of the requests be subject to the conditions contained in Exhibit A herein, as volunteered by the applicant. While in staff's opinion, these conditions may still not necessarily meet the rezoning and CUP-PUD criteria, the conditions below would provide additional safeguards to help limit disruption of the residential character and quality of life in the surrounding neighborhoods, and would help mitigate any harm to the natural environment:

1. The property shall be developed in accordance with the approved plans submitted as part of SCSP-000543-2020.
2. Above and beyond the one-plant unit requirement along Illinois State Route 59, additional landscaping along the highway *may* be required as determined by staff following a site visit within 90 days after completion of the building and outdoor storage area, in order to soften the view of the development from Illinois State Route 59 and thereby preserve the predominantly residential character of the area as viewed from the highway and the east side of IL Route 59.
3. Although the trees removed from the property in April of 2022 were not required to be protected under the Lake County Code standards for natural resource protection, those trees did provide visual screening buffer between homes at the northern end of Bishop Court and the proposed location of the contractor's storage use and building. To restore the visual barrier, as necessary, between the proposed development and these homes, additional landscaping and fencing and/or berming *may* be required in locations and in numbers/types as determined by staff following a site visit within 90 days after completion of the building and outdoor storage area to ensure year-round screening of the development from these homes.
4. No operation of equipment (i.e. idling, truck movement, etc.) shall occur outside the hours of 6:00 a.m. to 8:00 p.m., Monday through Friday, and 8:00 a.m. thru 8:00 p.m. on Saturdays, Sundays, and legal holidays. This condition does not apply to the use of employees' personal vehicles.
5. No customer traffic shall be permitted on the site other than pre-arranged meetings.
6. The applicant shall implement "dark sky" exterior lighting in any lighting provided on-site, consistent with "dark sky" industry standards, to staff's satisfaction.
7. The applicant's building shall incorporate bird-friendly building design to staff's satisfaction. The applicant shall demonstrate compliance with this condition by constructing the proposed building in substantial conformance to the building design reflected in the applicant's application (see "Proposed Development Building Elevation" and associated window treatment description in "Additional Building/Site Amenities").
8. Any dumpsters located on the subject property must be screened with either a privacy fence or similar screening.
9. The outdoor storage or parking of trailers, vehicles, boats, or any other equipment not associated with contractor storage is prohibited.

10. The emission of sound from any source on the property shall not exceed 50db(A) (SLOW meter response) at the boundary of the property in such a manner as to disturb the peace and comfort of occupants of neighboring residential properties.
11. A CUP annual monitoring inspection is required to verify continued compliance with the conditions. The fee for the CUP monitoring inspection will be assessed annually per the Lake County Planning, Building and Development Department's current fee schedule.
12. In the event a future additional use is proposed (aside from the requested contractor and office use) for any portion of the building, absent the requirement of a Conditional Use Permit for such use, the Director shall have the authority to impose additional conditions on such use/activity to mitigate any reasonably foreseeable adverse impacts of the use/activity on the surrounding residential area. Such conditions shall be imposed as part of any applicable permitting process. These conditions apply to uses allowed by right in the General Commercial (GC) zone; any uses not allowed in the GC zoning district will require additional relief.