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## **MEMORANDUM**

January 17, 2017

TO: George Bell, Chairman  
Lake County Zoning Board of Appeals

FR: Patrick S. Tierney, AICP  
Principal Planner/Project Manager  
Lake County Department of Planning, Building and Development

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CASE NO: 8014 and 8022

REQUESTED ACTIONS:

1. 8014- Rezone from the General Office (GO) District to the Limited Industrial (LI) District
2. 8022 - 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.

MEETING DATE: January 24, 2017

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## **GENERAL INFORMATION**

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OWNER: 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.

# OF PARCELS: Three

SIZE: Total acreage of 5.53 acres will be subject to the Conditional Use Permit for the PUD Preliminary Plan. Of that total, 1.85 acres is proposed to be

rezoned from the General Office (GO) District to the Limited Industrial (LI) District.

LOCATION: PIN 07-14-200-021; 35763 N. Barberry Lane, Gurnee, Illinois;  
PIN 07-14-200-023; 35801 N. Barberry Lane, Gurnee, Illinois;  
PIN 07-14-200-024; 35845 N. Barberry Lane, Gurnee, Illinois.

EXISTING ZONING: General Office (GO) and Limited Industrial (LI)

EXISTING LAND USE: An existing asphalt, concrete, redi-mix, rock and concrete crushing plant along with an existing caretaker’s residence and an existing nonconforming residence. In 2014 the use was expanded on PIN 07-14-200-023 (zoned General Office) in absence of proper permitting.

PROPOSED LAND USE: Expansion of the existing asphalt, concrete, redi-mix, rock and concrete crushing plant. Expansion of the existing caretaker’s residence. Request to retain an existing nonconforming residence, and a request to incorporate site enhancements to improve onsite circulation and overall business operations.

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**SURROUNDING ZONING / LAND USE**

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NORTH: Village of Gurnee / General Industrial District (I-2); vacant

SOUTH: Unincorporated / Limited Industrial (LI); single-family dwelling, agricultural, landscape contracting

EAST: Village of Gurnee / General Industrial District (I-2); office and warehousing

WEST: Village of Gurnee / Multi-family Residence District (R6) PUD (north and east); vacant; General Industrial District (I-2) PUD (northwest); various light industrial and office uses; and General Industrial (I-2) (south and east).

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**COMPREHENSIVE PLANS**

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LAKE COUNTY: Office and Research Parks and Industrial (PIN 07-14-200-021 and 07-14-200-023); Industrial (PIN 07-14-200-024)

MUNICIPALITIES

WITHIN 1 ½ MILES:

Village of Gurnee / Industrial-Office Research

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**DETAILS OF REQUEST**

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ACCESS:

Access to the development is provided from Barberry Lane, a right-of-way under the jurisdiction of the Village of Gurnee who has provided access approval for the new access point associated with PIN 07-104-200-023.

PHYSICAL

CHARACTERISTICS:

The subject property consists of a longstanding concrete crushing and bulk storage facility and two single-family dwellings; one being used as a caretaker's residence, the other is rented. The property contains a stand of evergreen trees determined to be a "nonwoodland" in accordance with Section 151.071 and scattered canopy trees associated with PIN 07-14-200-024 that will be protected. PIN 07-14-200-023 contained specimen trees that have been removed and will be reforested in accordance with Section 151.071(l)(6)(e) of the Lake County Code. The property drains from the south, southeast to the northeast.

The long-standing site activities were expanded onto PIN 07-14-200-023 in 2014, in absence of proper permitting.

FLOODPLAIN / WETLANDS:

County mapping sources and the applicant's Natural Resource Information letter provided by the McHenry-Lake County Soil & Water Conservation District indicate there are no mapped wetlands on the property. Engineering analysis has not revealed the presence of floodplain on the property.

SEWER AND WATER:

The property is served by private septic system and private water wells.

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**ADDITIONAL COMMENTS**

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- In 1994, the County granted the applicant a variation to allow an excavating business in the Urban Zoning District without connection to sanitary sewer. Upon adoption of the Unified Development Ordinance (UDO) the properties subject to this application, were zoned General Office (GO).

- In order to permit an expansion of the business, parcels 07-14-200-021 and -024 were rezoned in 2008 from the General Office (GO) District to the Limited Industrial (LI) District. In 2012 the County amended the use standards for Asphalt, Concrete, Redi-Mix, Rock and Concrete Crushing Plants requiring they obtain a Conditional Use Permit in the Limited Industrial (LI) District.
- Following an Early Assistance Meeting in April 2014, in June 2015, the applicant was cited for a violation for expanding the existing business on to PIN 07-14-200-023 without obtaining a rezoning or Conditional Use Permit. Subsequent to the above-mentioned citation, staff has reviewed the expansion plans, assessed the natural resources on the property, existing uses, and site plan-related elements (i.e. landscaping and engineering), and determined the Planned Unit Development approach would allow flexibility to address various inconsistencies related to the business that otherwise would require independent actions by the County to approve either a rezoning, conditional use permit or variances. These inconsistencies consist of:
  1. rezoning from the General Office (GO) District to the Limited Industrial (LI) District for PIN 07-14-200-023;
  2. permitting an increase in the amount of impervious surface above the maximum amount permitted by Site Capacity Calculations;
  3. permitting continued access to a local street and not a collector or arterial street, provided access is approved by the local roadway authority;
  4. permitting expansion of a concrete, rock crushing plant less than 1,000 feet from a lot containing a residential use;
  5. permitting a reduction of setbacks from the side and rear property line for bulk storage materials, concrete block walls, and the existing caretakers residence;
  6. permitting an expansion of an existing caretakers residence that already exceeds the maximum permitted 1,000 sq. ft.; and
  7. permitting a single-family residence in the Limited Industrial (LI) District as a nonconforming use.

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### RECOMMENDATION ON REZONING

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Staff recommends approval of the rezoning and finds the request meets Standards for a Map Amendment Approval contained in Section 151.047(G)(2) of the Lake County Code:

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- Standard 1: The proposed amendment is consistent with the stated purpose and intent of Section 151.005
- Comment: The activities on PINs 07-14-200-021 and -024 have existed in the current location for approximately 30 years in an area that has gradually developed with office and warehouse uses. The Lake County Regional Framework Plan states the Industrial Future Land Use is intended for industrial, warehousing, wholesale trade, and mining uses.

Office / Research future land use includes individual office buildings and office and research parks. The Gurnee Comprehensive Plan states industrial and office research uses would include businesses such as light manufacturing, assembly operations, warehouses, along with individual office buildings and office and research parks containing a variety of office uses (i.e. medical, office, insurance). Rezoning of PIN 07-14-200-023 integrates a previously isolated property into the existing business and in conjunction with the PUD process will protect surrounding properties from adverse impacts and serves to implement the Regional Framework Plan by expanding and industrial use in an area already influenced by the business.

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

Comment: 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 rezoning will correct this inconsistency and permit a business already zoned Limited Industrial (LI), to expand onto a property previously surrounded by the business, which will unify the boundaries of the business and ensure more land use continuity to the area.

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

Comment: The proposed map amendment will enable the owner to expand their business in to property already predominately industrialized or planned for industrial development. Properties in the Village of Gurnee east and south of the subject property are zoned General Industrial. Developed property in Gurnee west of the subject property is zoned General Industrial PUD. The vacant property in Gurnee north and east of the subject property is zoned R6 PUD and is vacant. Vehicle access for the properties in Gurnee west of the subject property is via St. Paul Avenue, not Barberry Lane. The Village of Gurnee has approved access to Barberry Lane. Any future expansion on the property subject to the Conditional Use Permit for a Planned Unit Development must comply with the site development requirements of the Lake County Code. The rezoning will be compatible with nearby properties.

Standard 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 is currently developed with impervious surface consisting of 60% of the site, with an anticipated increase of 75%. The site plan submitted by the applicant provides for stormwater management improvements to accommodate the existing concrete crushing business and proposed future expansion. An onsite waste disposal systems serve both the existing single-family residence and the caretakers residence.

The homes share a private well. Access to the site has been approved by the Village of Gurnee. There exists sufficient right-of-way to provide emergency services and waste collection for the business and surrounding properties.

Standard 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 proposed map amendment of the property will align the property with the existing business that has existed for approximately 30 years. Through the site plan review, site development permitting process, and the conditions imposed as part of the Conditional Use Permit, no significant adverse impacts will occur to other property or the environment.

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

Comment: 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.

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#### **RECOMMENDATION ON CONDITIONAL USE PERMIT – CASE # 8022**

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Staff recommends approval of the Conditional Use Permit because the application meets the Conditional Use Permit Approval Criteria in Section 151.050(F)(3) as follows:

Standard 1: The use in its proposed location will be consistent with the stated purpose and intent of Section 151.005.

Comment: The activities on PINs 07-14-200-021 and -023 have existed in the current location for approximately 30 years in an area that has gradually developed with industrial, office and warehouse uses. The Conditional Use Permit will implement the County Regional Framework Plan by enabling the regulated expansion of an existing business that is surrounded by warehousing and office uses so it will be compatible with the neighborhood. Through the site plan review process and the application of conditions to regulate the use, the intent of the Lake County Code will be met by controlling the intensity of the use and by protecting adjacent properties from the negative impacts associated with the existing use.

Standard 2: The proposed use in its proposed location complies with all applicable standards of this Ordinance, including any applicable Use Standards of Section 151.112.

Comment: As noted in the “Additional Comment” section of this report, 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. Exhibit “A” attached to this report has been prepared in an attempt to address these inconsistencies and provide realistic limits over anticipated business expansion in the future. Provided these conditions are met, staff believes this standard will be met by the applicant.

Standard 3: 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 Regional Framework Plan:

1. Adjacent property

Comment: The residential use located west of the property also 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. All other existing uses on the adjacent property are industrial uses and have gradually developed since the business began operations 30 years ago. The area subject to the rezoning and now incorporated into the business operations will allow for improved site circulation and stormwater management improvements not previously present for the business.

2. Character of the neighborhood

Comment: Both the Lake County Regional Framework Plan and the Gurnee Comprehensive Plan designate the area for industrial and office research uses. These have gradually developed over the time the existing business has been in place. Previous actions taken by the County (via Zoning Case 3677) recognized the duration of the use and the appropriateness of its use in the neighborhood. Given the industrial nature of the use and its unique operational attributes, the Planned Unit Development approach is the most appropriate method to manage the impacts of the business operations and enable the neighborhood to develop with warehouse or office uses. The conditions cited in Exhibit “A” have been prepared with a desire to manage the objectionable elements of the use and protect surrounding properties from potential adverse impacts associated with it as the neighborhood further develops.

3. Natural resources

Comment: There are no wetlands or floodplains present on the property. The property contains a stand of evergreen trees determined to be a “nonwoodland” and scattered canopy trees associated with PIN 07-14-200-024 that will be protected. PIN 07-14-200-023 contained specimen trees that have been removed and will be reforested in accordance with Section 151.071(l)(6)(e) of the Lake County Code. The property drains from the south and southeast to the northeast. The site plan associated with this application will bring PIN 07-14-200-023 into compliance with the natural resource protection standards of the Lake County Code.

4. Infrastructure

Comment: 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.

5. Public sites

Comment: There are no public sites in the vicinity of the subject property that will be impacted by the approval of the Conditional Use Permit.

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

Comment: The existing long-standing development has existed for approximately 30 years with no impact on the public health, safety, or general welfare. The improvements implemented by the applicant facilitate the business operations. The unpermitted expansion will be modified to satisfy the requirements of the Lake County Code, including, addressing stormwater management and water quality standards. The conditions expressed in Exhibit “A”, will control objectionable elements of the business and improve functionality of the business.

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**RECOMMENDATION ON PRELIMINARY DEVELOPMENT PLAN**

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Staff recommends approval of the Preliminary Development Plan because the proposal meets Standards for Preliminary Plan Approval in Section 151.051(C)(7):

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- a. The proposed development in its proposed location is consistent with the Regional Framework Plan;



Comment: The area property has a long-standing history of industrial development resulting in both the Regional Framework Plan and the Gurnee Comprehensive Plans envisioning industrial, office, warehouse uses in the area. The Conditional Use Permit for a PUD Preliminary Plan and associated conditions in Exhibit “A” manage future development and daily operations of the use to ensure compatibility for the area and consistency with the Regional Framework Plan.

b. The proposed development in its proposed location complies with the PUD standards of § 151.132.

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

(1) Greater choice in the type of environment and living units to the public;

The proposed use and future growth is planned in conjunction with the site plan review process incorporating stormwater management features, landscaping, bulk and density limits to protect the neighborhood and environmental features in the area. The site is better managed by an “onsite” caretaker who occupies the existing single family residence. The proposed expansion of the residence and reduction in side yard setback improves the living conditions for the applicant and has an imperceptible impact on the neighbor with a reduction in setback being proposed.

(2) More open space through conservation development practices;

The site plan restricts the development area to the eastern and southeastern portions of the site leaving the remaining area in relative open space conserving some of the residential character of the area created by the existing single-family residence and caretaker residence. The conditions imposed for the project are designed to retain open space in the vicinity of residential buildings/uses on the property and in the area.

(3) Open space resources connected to one another;

The stormwater detention facility and landscaped frontage integrate necessary open space with natural resources and open space for the residential elements of the site. Limiting the amount of impervious surface for future expansion will assist in preserving the open space and the connectivity of these resources in the future.

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

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.

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

The existing residential uses, landscape improvements and stormwater management elements of the site preserve necessary open space and limit development of the property to already disturbed areas creating a more efficient design.

(6) Promotion of mixed use development;

The mixed use elements of the project are the result of historic gradual expansion of the property and the desire to protect the existing residences from the intense daily operations. These are reflected in the site plan proposed by the applicant as part of their Conditional Use application.

## **EXHIBIT A**

### **Proposed Conditions Zoning Case No. 8022 Conditional Use Permit for PUD Preliminary Plan Petersen Excavating - Initial Staff Conditions for Public Hearing January 24, 2017**

1. The PUD Final Plan shall be constructed in substantial conformance with the approved PUD Preliminary Plan and the conditions approved by the County Board for the PUD Preliminary Plan.
2. Any future expansion of the business shall be reviewed as part of the site capacity and site plan review process and shall be limited to 152,000 square feet of impervious surface and 114,000 square feet of floor area, based a net site area of 5.06 acres (220,414 square feet). Any planned expansion of impervious surface shall be located easterly of the southernmost driveway currently serving the caretakers residence.
3. Any reforestation materials removed as part of the future expansion of the property, shall be replaced with plant materials consistent with the approved Landscape Plan submitted with the PUD Final Plan.
4. Bulk and Density Standards
  - a) Street Yard Setback
    - (a) 30 feet for residences and accessory buildings
  - b) Rear Yard Setback
    - (a) 0 feet for block walls
    - (b) 0 feet bulk storage stockpiles
  - c) Side Yard Setback
    - (a) 20 feet for maintenance shop, accessory buildings and non-conforming residence
    - (b) 10 feet for caretaker's residence
    - (c) 0 feet for block walls
    - (d) 0 feet bulk storage stockpiles
  - d) Height
    - (a) 8 feet block walls
    - (b) 16 feet bulk storage stockpiles
    - (c) 20 feet recycled aggregate storage
5. Bulk storage shall be confined to the area designated on the PUD Preliminary Plan and shall be buffered by either block walls, or in the alternative, earthen berms containing landscaping consisting of 2 plant units.
6. Hours of operation shall be limited to 7:00 a.m. to 8:00 p.m. Monday – Friday and 8:00 a.m. to 6:00 p.m. Saturday and Sunday. Hours of operation will be reviewed by the Planning

Director at the time of future expansion and may be adjusted if reasonably warranted by area conditions.

7. All internal roads shall be maintained in a dust-free condition. Banberry Lane shall be monitored daily and kept free of dust, dirt, mud and other debris by the end of each work day. The ingress and egress drive from the site shall be paved with a surface of asphalt or concrete for a distance of at least 50 feet from the right-of-way of the public road from which access is taken. Provisions shall also be made to remove dust, dirt, mud, or other debris from the vehicles before they leave the site.
8. All site development improvements, including construction and stabilization of the detention basin, shall be completed no later than June 15, 2017. As-built record drawings shall be submitted to staff for review and approval no later than July 1, 2017. Any remedial corrections must be completed and verified no later than October 1, 2017.
9. All landscaping shall be installed no later than November 1, 2017.
10. The site shall be subject to annual monitoring inspections which have an associated administrative fee. The Director of the Planning, Building and Development Department may modify the frequency of monitoring inspections, as determined to be appropriate.
11. A performance assurance in the amount of \$294,281 shall be provided in acceptable form to assure the completion of stormwater management and landscape improvements prior to the issuance of a Site Development Permit for the project.

## EXHIBIT A-1

### Proposed Conditions Zoning Case No. 8022 Conditional Use Permit for PUD Preliminary Plan Petersen Excavating - Modified by Zoning Board of Appeals on 01/24/17

1. The PUD Final Plan shall be constructed in substantial conformance with the approved PUD Preliminary Plan and the conditions approved by the County Board for the PUD Preliminary Plan.
2. Any future expansion of the business shall be reviewed as part of the site capacity and site plan review process and shall be limited to 152,000 square feet of impervious surface and 114,000 square feet of floor area, based a net site area of 5.06 acres (220,414 square feet). Any planned expansion of impervious surface shall be located easterly of the southernmost driveway currently serving the caretakers residence.
3. Any reforestation materials removed as part of the future expansion of the property, shall be replaced with plant materials consistent with the approved Landscape Plan submitted with the PUD Final Plan.
4. Bulk and Density Standards
  - (1) Street Yard Setback
    - (a) ~~30~~ 50 feet for residences and accessory buildings
  - (2) Rear Yard Setback
    - (a) 0 feet for block walls
    - ~~(b) 0 feet bulk storage stockpiles~~
  - (3) Side Yard Setback
    - (a) 20 feet for accessory buildings and non-conforming residence
    - (b) 10 feet for caretaker's residence and maintenance shop
    - (c) 0 feet for block walls
    - (d) 0 feet for bulk storage stockpiles
  - (4) Height
    - (a) ~~8 feet block walls~~ Perimeter walls surrounding the temporary stockpile area and recycled aggregate material area shall not exceed 12 feet in height.
    - (b) ~~16~~ 25 feet bulk storage stockpiles and recycled aggregate storage area
    - ~~(c) 20 feet recycled aggregate storage~~
5. Bulk storage and stockpiled materials shall not be subject to side and rear yard setbacks, provided they are confined to the area designated on the PUD Preliminary Plan and buffered by either block walls or earthen berms containing landscaping consisting of 2 plant units.
6. Hours of operation shall be limited to 7:00 a.m. to 8:00 p.m. Monday – Friday and 8:00 a.m.

to 6:00 p.m. Saturday and Sunday. Hours of operation will be reviewed by the Planning Director at the time of future expansion and may be adjusted if reasonably warranted by area conditions.

7. All internal roads shall be maintained in a dust-free condition. Barberry Lane shall be monitored daily and kept free of dust, dirt, mud and other debris by the end of each work day. The ingress and egress drive from the site shall be paved with a surface of asphalt or concrete for a distance of at least 50 feet from the right-of-way of the public road from which access is taken. Provisions shall also be made to remove dust, dirt, mud, or other debris from the vehicles before they leave the site.
8. All site development improvements, including construction and stabilization of the detention basin, shall be completed no later than June 15, 2017. As-built record drawings shall be submitted to staff for review and approval no later than July 1, 2017. Any remedial corrections must be completed and verified no later than October 1, 2017.
9. All landscaping shall be installed no later than November 1, 2017.
10. The site shall be subject to annual monitoring inspections which have an associated administrative fee. The Director of the Planning, Building and Development Department may modify the frequency of monitoring inspections, as determined to be appropriate.
11. A performance assurance in the amount of \$294,281 shall be provided in acceptable form to assure the completion of stormwater management and landscape improvements prior to the issuance of a Site Development Permit for the project.