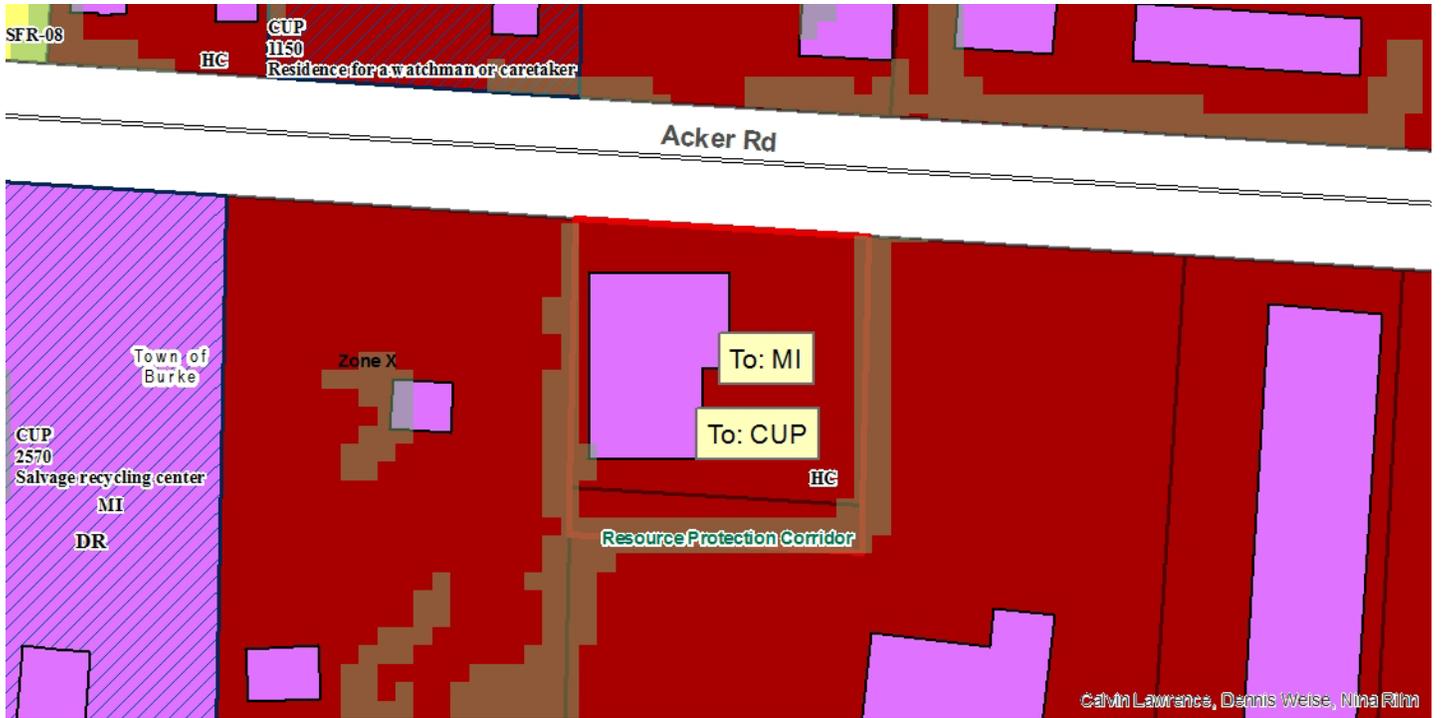


Staff Report  Zoning and Land Regulation Committee	Public Hearing: March 28, 2023		Conditional Use 02590
	<u>Zoning Amendment Requested:</u> Operation of a Salvage Yard		
	<u>Size:</u> 0.6 Acres	<u>Survey Required.</u>	<u>Applicant</u> LINDUS PROPERTIES LLC
	<u>Reason for the request:</u> A conditional use permit is required to be obtained in order to operate a DOT Type 1 salvage operation		<u>Address:</u> 4281 ACKER ROAD



DESCRIPTION: Matthew Hunter requests approval of a Conditional Use Permit in order to operate a Type 1 DOT vehicle salvage operation on the property located at 4281 Acker Road. This would be in addition to the existing vehicle repair and vehicle sales that are currently operated on the property. Salvage recycling is listed as a conditional use under the MI - Manufacturing and Industrial Zoning District. A zoning change, Rezoning petition 11931 is currently pending for the property.

The "Type 1" salvage yard consists of dismantling of vehicles with the resale of parts. Some of the vehicles will be stored outside. Recycled materials and solid waste will be removed weekly. The business would have 3 full time employees with proposed hours of operation of 8AM to 6PM Monday through Friday, and 8AM-Noon on Saturday. An average of 5-35 tow truck trips / day are anticipated.

OSERVATIONS/ FACTUAL INFORMATION: The property is currently zoned under the HC Heavy Commercial Zoning District. The property is currently being used for vehicle repair and auto sales as mentioned above. The surround land uses are a mixture of heavy commercial, contractor, and outdoor storage activities. There are four residences located 500 feet west on Acker Road, one being a caretaker's residence to a commercial operation. The property is located one mile from the Dane County Regional Airport runway and is in close proximity to the landing path.

RESOURCE PROTECTION: No sensitive environmental features observed.

COMPREHENSIVE PLAN: The property is located in the town’s Industrial / Business planning area. The town plan provides the following description:

Industrial / Business

Description: This future land use category includes indoor manufacturing, warehousing, distribution, and office uses, with outdoor storage areas. Also included in this category or uses like retail sales or service businesses, medical, dental and veterinary clinics, banks, offices, and office buildings, to list a few.

The property is covered by the City of Madison’s [Hanson Road Neighborhood Development Plan](#). The plan designates the property and surrounding area as “Industrial”.

The property is in an area that will transition to the City of Madison pursuant to the cooperative planning agreement between the town of Burke and the City of Madison, City of Sun Prairie, and Village of DeForest. The [cooperative plan](#) requires that all “development”, as the term is defined in the plan, be subject to review and approval in accordance with the respective city/village development requirements. Development is defined as:

“Develop” or “development” refers to division of land, or construction of more than one principal structure on a parcel of land, or rezoning a parcel from a residential or agricultural classification to a non-residential classification. Use or division of land by the Town or Madison, Sun Prairie or DeForest for governmental purposes does not constitute development.

The applicant is not proposing to construct more than one principal building. While staff is recommending recording of a Certified Survey Map to clean up the existing property boundary, it’s unclear that it that it would constitute a “division” of land since no new / additional parcel would be created. Given the circumstances of the proposal, it does not appear the requested zoning change and related CUP would trigger review by the city of Madison per the terms of the cooperative plan.

Pending any concerns expressed by the town in the course of its review, or by the city of Madison, the proposed conditional use – subject to appropriate conditions of approval – appears reasonably consistent with comprehensive plan policies.

(For questions about the comprehensive plan, contact Senior Planner Majid Allan at (608) 267-2536 or allan@countyofdane.com)

CONDITIONAL USE PERMIT DECISION MAKING: “Conditional uses” are those land uses which, because of unusual nature and potential for impacts on neighboring lands, public facilities, the environment or general welfare, warrant special consideration and review.

Prior to granting or denying a conditional use, the zoning committee shall make findings of fact based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the standards required to obtain a conditional use permit. Below is the list of the applicable standards from Section 10.101(7)(d) of the Zoning Code, including the applicant’s testimony with regards to meeting the standards.

- 1. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.***

We will be recycling vehicles which reduces waste and promotes a public interest. Stored vehicles are screened from view and noisy operations will be performed inside the building

- 2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.***

The neighborhood is almost entirely Heavy Commercial or other industrial use types.

3. *That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.*

The area of the Town of Burke will eventually be attached to the City of Madison pursuant to the cooperative plan between the municipalities. The city currently has this area planned for future industrial uses.

4. *That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.*

Fences are being replaced with corrugated steel walls of adequate height and setback to prevent sight of stored vehicles and a screened gate installed.

5. *That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.*

There will be little traffic generated. On average 5 to 35 trips per day.

6. *That the conditional use shall conform to all applicable regulations of the district in which it is located.*

The property can accommodate the specific conditions as listed for salvage yards.

7. *That the conditional use is consistent with the adopted town and county comprehensive plans.*

The City of Madison's future plan is industrial. The Town's and County's plans show it as Commercial with Industrial adjacent.

8. *If the conditional use is located in a Farmland Preservation Zoning district, the town board and zoning committee must also make the findings described in s. 10.220(1).*

Not applicable.

POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE: The Dane County Zoning Ordinance has specific requirements for the placement of salvage operations under Section 10.103(17). The operation cannot be within 100 feet of a residentially zoned property; The operation cannot be within a zone of contribution of a municipal well; The materials stored outside must be screened from public view.

The property is located 300 feet from a residentially zoned property. In checking with CARPC mapping, the property is not within a zone of contribution of a municipal well. The proposed request includes screening so that the outside materials will be hidden from public view. It appears that the proposal will meet the specific requirements for potential nuisances.

TOWN ACTION: The Town of Burke has approved this CUP with 33 conditions as listed below.

MARCH 28TH ZLR MEETING: The Committee postponed action due to concerns of the operator obtaining the necessary permits in order to operate a Type 1 Salvage operation. The applicant has been in contact with the DNR and the State DOT in regards to the necessary permits and has all permits underway. As noted under Condition 3 of the suggested conditions, the operator is required to obtain all the necessary State and Local permits. The condition should address the concern.

STAFF RECOMMENDATION

Staff has prepared suggested findings of fact and a list of conditions if the Committee decides that the proposal meets the 8 standards of obtaining a conditional use permit.

Findings of Fact

1. The property is currently being used for vehicle repair and vehicle sales. Outdoor storage of materials is currently permitted within the zoning district.

2. The proposed activities are similar in nature to the activities that are currently being conducted on the property or allowed under the zoning district.
3. The surrounding neighborhood primarily consists of heavy commercial activities including an abundance of outdoor storage of materials.
4. The property is in near proximity to the landing path for the Dane County Regional Airport.
5. The Town of Burke Comprehensive Plan and the City of Madison Comprehensive Plan identify this area to be used for commercial and industrial purposes.
6. The salvage operation is required to obtain a license and be regulated under the Wisconsin Department of Transportation.

Standard conditions for all conditional use permits

- 1) The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan, phasing plan, and following conditions.
- 2) New and existing buildings proposed to house a conditional use must be constructed and maintained to meet the current requirements of the applicable sections of the Wisconsin Commercial Building Code or Uniform Dwelling Code.
- 3) The applicant shall apply for, receive, and maintain all other legally required and applicable local, county, state and federal permits. Copies of approved permits or other evidence of compliance will be provided to the zoning administrator upon request.
- 4) Any ongoing business operation must obtain and continue to meet all legally required and applicable local, county, state, and federal licensing requirements. Copies of approved licenses or other evidence of compliance will be provided to the zoning administrator upon request.
- 5) Existing onsite wastewater sewage disposal systems, if any, serving the conditional use must be inspected by a licensed plumber to determine its suitability for the proposed or expanded use. Deficient systems must be brought, at the owner's expense, into full compliance with the current requirements for new development of the state plumbing code and Chapter 46, Dane County Code.
- 6) All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
- 7) Off-street parking must be provided and be consistent with Dane County Zoning Ordinance Section 10.102(8).
- 8) If the Dane County Highway Department, Department of Transportation, Public Works Department, or the town engineer determine that road intersection improvements are necessary to safely accommodate the conditional use, the cost of such improvements shall be born by the landowner. Costs born by the landowner shall be proportional to the incremental increase in traffic associated with the proposed conditional use.
- 9) The Zoning Administrator or designee may enter the premises of the operation in order to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. Zoning staff conducting inspections or investigations will comply with any applicable workplace safety rules or standards for the site.
- 10) The owner must post, in a prominent public place and in a form approved by the zoning administrator, a placard with the approved Conditional Use Permit number, the nature of the operation, name and contact information for the operator, and contact information for the Dane County Zoning Division.
- 11) The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site, available for inspection to the public during business hours.
- 12) Failure to comply with any imposed conditions, or to pay reasonable county costs of investigation or enforcement of sustained violations, may be grounds for revocation of the conditional use permit. The holder of a conditional use permit shall be given a reasonable opportunity to correct any violations prior to revocation.

Conditions unique to CUP 2590

- 13) This conditional use is strictly for Matthew Hunter, doing business as Madison Auto Recycling, LLC located at 4281 Acker Road in the Town of Burke.
- 14) Owner must provide sanitary facilities such as well and septic.
- 15) The Town Board and Plan Commission approve the following hours of operation.
 - 8:00 a.m. to 5:00 p.m., Monday through Friday
 - 8:00 a.m. to 12:00 p.m., Saturday.
 - No outdoor operations of any kind shall take place on Sundays or legal holidays.

- 16) The property must be screened with privacy fencing per photo provided in application such as corrugated steel panels. The fence shall be painted in a consistent color. Front fence will be 6 feet in height and 8 feet on the sides with no fence in back where the 8-foot berm already exists.
- 17) Dismantling of vehicles shall take place inside the building.
- 18) All business vehicles and machinery shall be kept in running condition and in good maintenance.
- 19) Driveway improvements must be permitted by the Town and must be with storm water runoff in mind. Neighbor properties must not be negatively impacted. There shall be an asphalt apron, size and placement approved by the Town engineer, to mitigate mud and gravel to travel out onto Acker Road.
- 20) Property must contain lighting. The lighting shall be direct down-lighting.
- 21) Outdoor signage must meet Dane County zoning requirements.
- 22) Owner shall meet DNR standards for indoor and outdoor storage of salvaged vehicles.
- 23) An on-site hazardous material spill containment kit large enough to capture a complete spillage is required.
- 24) Outdoor storage of salvage materials, merchandise, vehicles, and equipment shall be done in an orderly manner.
- 25) The existing trees bordering the property shall be maintained and serve as screening between the outdoor storage areas and adjoining properties.
- 26) All hazardous materials or liquids must be stored properly.
- 27) Fuel storage. All fuel storage must comply with ATCP 93, Wisconsin Administrative Code, including provisions for secondary spill containment.
- 28) The applicant shall apply for and receive all other required local, state, and federal permits including storm water runoff permits for auto repair and auto salvage.
- 29) The conditional use permit shall be for a Type 1 License Salvage Yard only.
- 30) The Conditional Use Permit (CUP) shall expire should Madison Auto Recycling LLC be sold or leave the property for any reason.
- 31) There will be no car crushing at this location.
- 32) There will be no vehicle storage (stacking) higher than fence height in front.
- 33) Screening of current trees or replacement with arborvitae in front of fence between Acker Rd and fence is required.

Any questions about this petition or staff report please contact Roger Lane at (608) 266-9078 or email at lane.roger@countyofdane.com.