
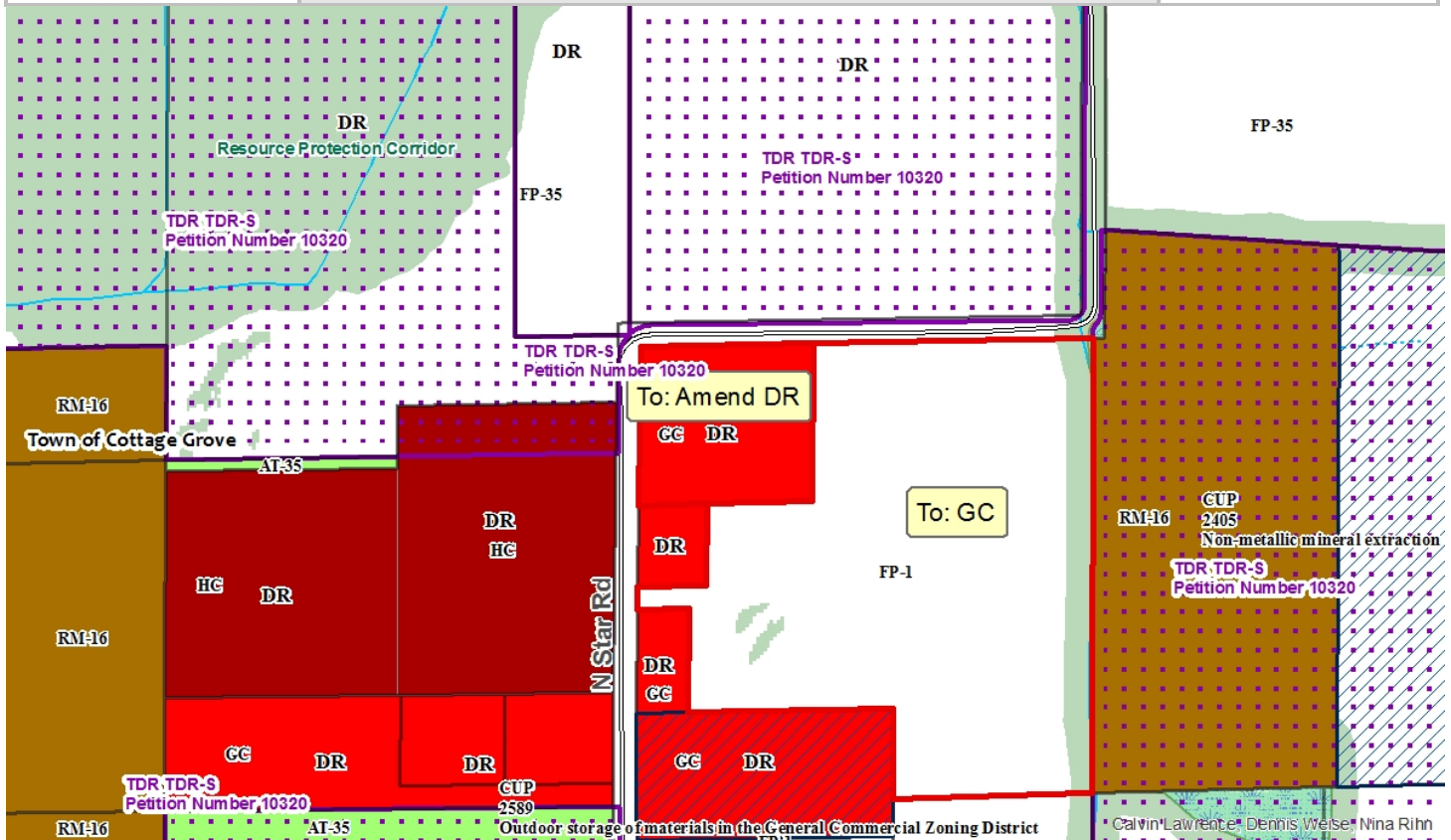


<b>Staff Report</b>    <b>Zoning and Land Regulation Committee</b>	<i>Public Hearing:</i> <b>July 25, 2023</b>		<b>Petition 11964</b>
	<i>Zoning Amendment Requested:</i> <b>GC General Commercial District TO GC General Commercial District</b>		<i>Town/Section:</i> <b>COTTAGE GROVE, Section 27</b>
	<i>Size:</i> <b>5.2 Acres</b>	<i>Survey Required:</i> <b>No</b>	
	<i>Reason for the request:</i> <b>ZONING TO MODIFY DEED RESTRICTION TO ALLOW OUTDOOR STORAGE</b>		<i>Applicant:</i> <b>DUANE P &amp; CANDACE J SWALHEIM 2011 REV TRUST</b>
			<i>Address:</i> <b>NORTH OF 3436 N. STAR ROAD</b>



**DESCRIPTION:** Applicant Amy Miles of pb2 architecture + engineering has submitted a rezone petition for a new development on a 5.3-acre lot within the Town of Cottage Grove’s emerging business park. This petition would modify an existing deed restriction that is associated with the property’s current GC zoning. If approved, the change would allow outdoor storage of materials as a conditional use. The site is being purchased by EquipmentShare, a construction equipment rental company that rents various types of construction equipment to general contractors.

If this petition is approved, it would enable the applicants to submit a conditional use permit (CUP) petition for the outdoor storage.

**OBSERVATIONS:** The property was deed restricted to limit the potential land uses when the property was rezoned to GC in 2022 with rezone petition #[11838](#) (see recorded document #5870099 included in this application). When the town approved the GC zoning, they had indicated that certain conditional uses would be allowable. However, when preparing the deed restriction County staff omitted mention of the conditional uses based on the advice of legal counsel at the time. This issue has been further investigated and approval of this petition would resolve the matter by clarifying that both permitted and conditional uses are allowable.

The current deed restriction specifies the following:

1. *Uses of the GC zoned property are limited exclusively to the following:*
  - a. *Contractor, landscaping or building trade operations*
  - b. *Undeveloped natural resource and open space areas*
  - c. *Governmental, institutional, religious, or nonprofit community uses*
  - d. *Light industrial*
  - e. *Office uses*
  - f. *Indoor sales*
  - g. *Indoor storage and repair*
  - h. *Personal or professional service*
  - i. *A transportation, utility, communication, or other use required by law*
  - j. *Utility services associated with a permitted use*
  - k. *Veterinary clinics*
  - l. *Agriculture and accessory uses (livestock not permitted)*
2. *Residential use or related use of the property is prohibited.*
3. *Evidence of compliance with Dane County stormwater management regulations shall be required prior to development, including arrangements for ongoing maintenance of the regional stormwater facilities.*

The deed restriction does not list outdoor storage as an allowable use, although it is normally an allowable conditional use in the GC zoning district.

**COMPREHENSIVE PLAN:** The property is located in a designated commercial planning area. As indicated above, approval of previous rezone petition 11838 was conditioned on recording of a deed restriction limiting the range of land uses. Since the restriction did not list outdoor storage as an allowable land use, the present petition by EquipmentShare seeks to amend the current deed restrictions to add outdoor storage to the list of uses. If approved, the amendment to the restrictions would facilitate a future Conditional Use Permit application for outdoor storage.

Pending any concerns expressed at the public hearing, or by the town in the course of its review, the proposal to amend the existing deed restrictions appears consistent with comprehensive plan policies. (For questions about the town plan, contact Senior Planner Majid Allan at (608) 267-2536 or [allan@countyofdane.com](mailto:allan@countyofdane.com))

**RESOURCE PROTECTION:** There are no resource protection corridors mapped on or within 300 feet of the subject property.

**TOWN ACTION:** On July 3<sup>rd</sup> the Town Board recommended approval subject to amending the current deed restriction to allow application for a CUP for outdoor storage to be considered.

**STAFF RECOMMENDATION:** Pending any comments at the public hearing, staff recommends approval of the petition subject to the following condition:

The existing deed restriction shall be terminated for this lot, and a new deed restriction shall be recorded on the lot stating the following:

1. *Uses of the GC zoned property are limited exclusively to the following:*
  - a. *Contractor, landscaping or building trade operations*
  - b. *Undeveloped natural resource and open space areas*
  - c. *Governmental, institutional, religious, or nonprofit community uses*
  - d. *Light industrial*
  - e. *Office uses*
  - f. *Indoor sales*
  - g. *Indoor storage and repair*
  - h. *Personal or professional service*
  - i. *A transportation, utility, communication, or other use required by law*

- j. Utility services associated with a permitted use
  - k. Veterinary clinics
  - l. Agriculture and accessory uses (livestock not permitted)
2. Land uses on the property shall be limited exclusively to the following conditional uses:
    - a. Outdoor Storage
  3. Residential use or related use of the property is prohibited.
  4. Evidence of compliance with Dane County stormwater management regulations shall be required prior to development, including arrangements for ongoing maintenance of the regional stormwater facilities.

Any questions about this petition or staff report please contact Rachel Holloway at (608) 266-9084 or [holloway.rachel@countyofdane.com](mailto:holloway.rachel@countyofdane.com)