
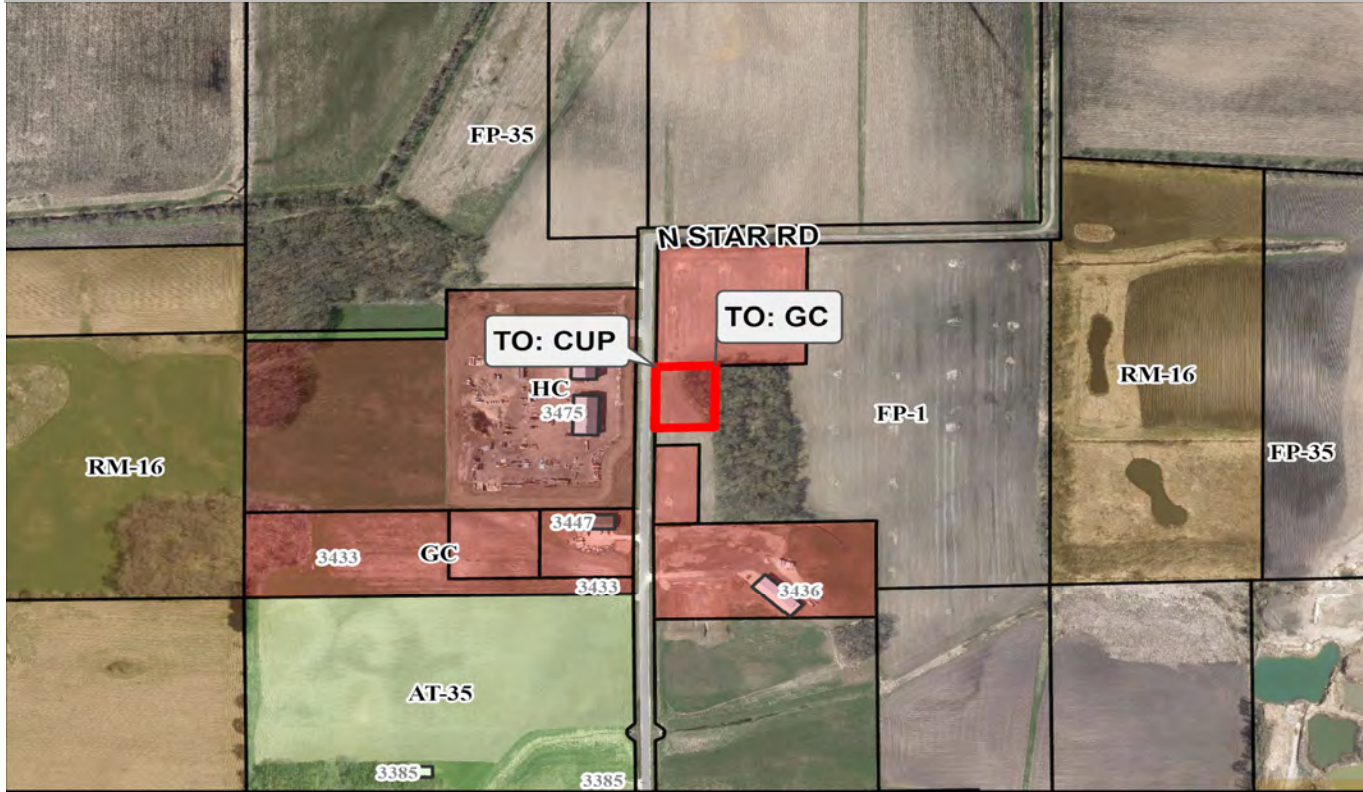


<b>Staff Report</b>    <b>Zoning and Land Regulation Committee</b>	Public Hearing: <b>September 26, 2023</b>		<b>Petition 11977</b>
	Zoning Amendment Requested: <b>GC General Commercial District TO GC General Commercial District</b>		Town/Section: <b>COTTAGE GROVE, Section 27</b>
	Size: <b>1.07 Acres</b>	Survey Required. <b>No</b>	Applicant <b>KRISTINE LEON</b>
	Reason for the request: <b>Modify existing deed restriction to allow vehicle repair or maintenance as a conditional use</b>		Address: <b>EAST OF 3475 N STAR RD.</b>



**DESCRIPTION:** Applicant Kristi Leon has submitted a rezone petition in order to modify an existing deed restriction, in order to operate a new European-auto repair shop in the Town of Cottage Grove’s emerging business park on N. Star Road. The property is Lot 2 of Certified Survey Map #16140. The proposal includes:

- A new 5,000 square foot building with office, indoor storage and auto repair space with 3 auto bays with lifts
- A roughly 4,000 square foot storage building (proposed as Phase 2 / future construction)
- 24 surface parking stalls, and associated site landscaping
- Site to be served by new well and septic facilities
- Hours by appointment

Applicant has also submitted a separate conditional use permit ([CUP Petition 2605](#)) to operate an auto repair shop. If this rezone petition is approved, it would enable the CUP petition to move forward.

**OBSERVATIONS:** The GC zoning district allows vehicle repair and maintenance with an approved conditional use permit, and allows office uses, indoor sales, and indoor storage and repair as permitted uses. The application indicates that outdoor sales and display of vehicles is proposed. In initial conversations with the applicant, staff advised that the GC zoning district does not allow outdoor sales, display or repair because businesses that conduct those primary activities outdoors require HC Heavy Commercial zoning. However, the zoning ordinance definition of “outdoor sales, display or repair” specifies that this definition does not include uses where the outdoor sales or display area is *less than 15 percent* of the gross floor area of any principal building where sales are also conducted, which are instead classified in the

"indoor sales" land use category. Fifteen percent of the initial 5,000 square foot building would be 750 square feet, enough space for five (5) parking stalls for vehicle display and sales. To comply with the requested zoning and the land use restrictions adopted by the Town of Cottage Grove, the business operation will need to stay within the 15% limit. See deed restriction information below, as well as staff recommendations on the associated CUP 2605.

No "outdoor storage" of vehicles or other materials is proposed. The business will only be allowed to have vehicles outdoors that they are actually working on, and a limited number of vehicles for sale. By ordinance no "junk" or inoperable vehicles may be kept outside.

The property was deed restricted in 2022 to limit the potential land uses when the property was rezoned to GC 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 had 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 vehicle repair and maintenance as an allowable use, although it is normally an allowable conditional use in the GC zoning district.

The site plan submitted with the application generally conforms to ordinance requirements. More detailed site plan comments are included in the review of the applicant's CUP Petition 2605.

**COMPREHENSIVE PLAN:** The property is located in the town's commercial planning area. The proposed amendment to the deed restrictions is consistent with comprehensive plan policies.

Staff recommends that the petition be conditioned on recording of an amendment of restrictions document listing permitted and prohibited commercial uses identical to those that apply to adjoining property, see Staff Recommendations section below. (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:** No sensitive environmental features on or within 300' of the subject property. Erosion control and stormwater management permits will be required from Dane County Land and Water Resources for this commercial development. The property is located in a closed watershed, which has additional stormwater requirements. The applicant has been advised to work with LWRD staff to obtain preliminary review.

**TOWN ACTION:** On September 5, 2023 the Town Board recommended approval of the petition with no conditions.

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

An amendment of deed restrictions shall be recorded on the lot stating the following:

1. Land uses on the property shall be limited exclusively to the following permitted uses:
  - a. Agricultural uses (livestock not permitted)
  - b. Agricultural accessory uses (livestock not permitted)
  - c. Contractor, landscaping or building trade operations
  - d. Governmental, institutional, religious, or nonprofit community uses
  - e. Indoor sales
  - f. Indoor storage and repair
  - g. Light industrial
  - h. Office uses
  - i. Personal or professional service
  - j. A transportation, utility, communication, or other use that is:
    - i. Required under state or federal law to be located in a specific place, or;
    - ii. Is authorized to be located in a specific place under a state or federal law that specifically preempts the requirement of a conditional use permit.
  - k. Undeveloped natural resource and open space areas
  - l. Utility services associated with, and accessory to, a permitted or conditional use
  - m. Veterinary clinics
2. Land uses on the property shall be limited exclusively to the following conditional uses:
  - a. Communication towers
  - b. Outdoor Storage
  - c. Transportation, communications, pipeline, electric transmission, utility, or drainage uses, not listed as a permitted use above
  - d. Vehicle repair or maintenance service
3. Residential and associated accessory uses are 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)