

Staff Report



Zoning and Land Regulation Committee

Public Hearing: **July 25, 2023**

Petition 11960

Zoning Amendment Requested:

FP-1 Farmland Preservation District TO GC General Commercial District and UTR Utility, Transportation and ROW District

Town/Section:

COTTAGE GROVE, Section 27

Size: **18.5,9.4 Acres**

Survey Required: **No**

Applicant

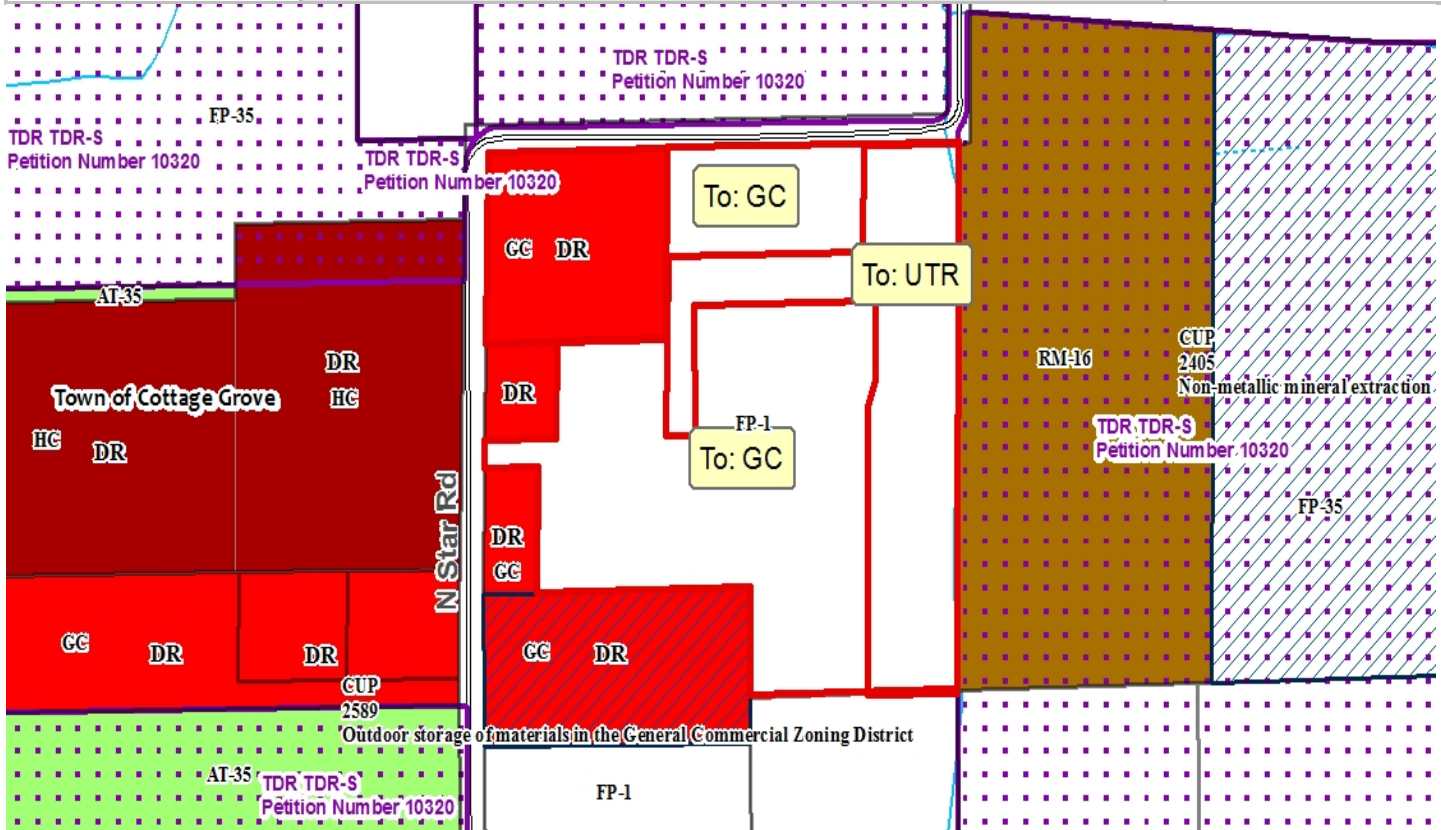
DUANE P & CANDACE J SWALHEIM 2011 REV TRUST

Reason for the request:

Zoning for a commercial business park development

Address:

NORTH OF 3436 N STAR ROAD



DESCRIPTION: Duane Swalheim proposes to rezone 27.7 acres of farm land from FP-1 to GC and UTR, as part of a proposed plat to subdivide the land for a commercial/industrial business park. The proposed plat contains 10 lots, including 9 lots that are 1 to 2 acres in size and one 5-acre lot, which would be zoned GC. In addition, a 9.5-acre outlet would contain sensitive environmental features and stormwater management areas, and would be zoned UTR.

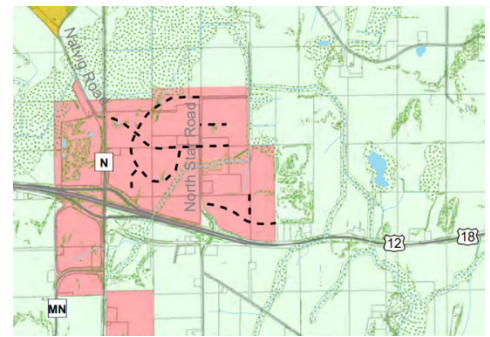
OBSERVATIONS: The proposed lots meet the requirements of the proposed zoning districts, including lot size and public road frontage. North Star Road was recently improved to a wider hard-paved road from US Highway 12 & 18 to where the road turns eastward just north of this property. This was done to accommodate heavier use. Most of the business park lots would be served by a new 128' long public road extending east from N. Star Road and terminating in a cul-de-sac bulb; three of the lots would have frontage on the east-west leg of N. Star Road, which is planned for improvements within a year.

Staff has consulted with the Town of Cottage Grove regarding future land uses in this area, in light of inquiries we have received from businesses in need of outdoor storage. The town's preferred approach is to allow GC zoning for commercial and light-industrial properties, and to allow outdoor storage as a conditional use, rather than allowing HC Heavy Commercial zoning which allows outdoor storage by right. This will allow the town to review proposals on a case-by-case basis. The town will also require each business to undergo a design review process to ensure that they will meet town standards for building design, landscaping, lighting, and signage, among other things.

COMPREHENSIVE PLAN: The property is located in a designated commercial planning area.

The town has established the following purposes for the commercial area:

- Enable a range of agricultural business, retail, commercial service, storage, light assembly, institutional, health care, research and development, institutional, and recreational uses.
- Require that new development meet high standards for site, building, landscape, lighting, stormwater, and signage design per Town and County ordinance requirements.
- Support development of an agricultural business center, to enhance rural research and production opportunities and build off similar initiatives in the area.
- Provide logical locations for highway-oriented commercial development consistent with the Town's character, population, needs, and public service capabilities.
- Minimize uses that focus on outdoor storage or display and that may someday require extensive public services and utilities.



Commercial Planning Area

The town plan indicates that GC zoning is a typical implementing zoning designation that *sometimes* may require the use of deed restrictions to limit the range of commercial uses. The GC district lists the following permitted and conditional uses:

Permitted Uses 10.272(2)		
<ul style="list-style-type: none">▫ Contractor, landscaping or building trade operations▫ Undeveloped natural resource and open space areas▫ Day care centers▫ Governmental, institutional, religious, or nonprofit community uses▫ Light industrial	<ul style="list-style-type: none">▫ Office uses▫ Indoor entertainment or assembly▫ Indoor sales▫ Indoor storage and repair▫ Personal or professional service▫ A transportation, utility, communication, or other use required by law.▫ Transient or tourist lodging	<ul style="list-style-type: none">▫ Utility services associated with a permitted use▫ Veterinary clinics▫ Agriculture and accessory uses (livestock not permitted)
Conditional Uses: 10.272(3)		
<ul style="list-style-type: none">▫ Airport, landing strip or heliport▫ Animal boarding, domestic pets▫ Cemeteries▫ Commercial Indoor Lodging▫ Contractor, landscaping or building trades operation (outdoor)▫ Communication towers	<ul style="list-style-type: none">▫ Drive-in establishment▫ Marinas▫ Outdoor active recreation▫ Outdoor entertainment▫ Outdoor storage▫ Offsite parking	<ul style="list-style-type: none">▫ Residential and associated accessory uses▫ Transportation, communications, pipeline, electric transmission, utility, or drainage uses, not listed as a permitted use above.▫ Vehicle repair or maintenance service

The applicant has indicated there are prospective buyers for several of the proposed lots, with uses including auto repair, light manufacturing, and contractor businesses providing different services. The proposed auto repair, and any business requiring outdoor storage would require a conditional use permit to be applied for and approved.

The applicant created two other GC-zoned commercial lots in 2022 under [rezone petition 11838](#) that were subject to deed restrictions prohibiting residential use and limiting land uses to the following:

- Contractor, landscaping or building trade operations
- Undeveloped natural resource and open space areas
- Governmental, institutional, religious, or nonprofit community uses
- Light industrial
- Office uses
- Indoor sales
- Indoor storage and repair
- Personal or professional service
- A transportation, utility, communication, or other use required by law
- Utility services associated with a permitted use
- Veterinary clinics
- Agriculture and accessory uses (livestock not permitted)

Approval of previous petition 11838 also included a requirement addressing stormwater management: *“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 town has determined that a similar set of restrictions / limitations would be warranted for this proposed commercial subdivision plat. The town’s [building code ordinance](#) includes detailed design review requirements that would apply to the proposed development. Pending any concerns expressed at the public hearing, or by the town in the course of its review, the proposed rezoning appears reasonably consistent with comprehensive plan policies.

Consideration should be given to applying a similar set of conditions/restrictions regarding allowable land uses and stormwater management as required for petition 11838, with the addition of the following conditional uses: auto maintenance / repair, and outdoor storage.

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

RESOURCE PROTECTION: Resource Protection corridor is mapped along the east edge of the property, reflecting the water features in that area. A perennial stream is located along the eastern lot line of Lot 4, which has had a navigability determination done to verify its status. Shoreland zoning regulations apply within 300’ of the stream and 75’ of the delineated wetlands. They have applied for a shoreland zoning permit for construction of the stormwater wet ponds, as those are partially within 300 feet of the stream, and therefore subject to impervious surface limits which wet ponds are considered impervious. The stormwater management plan was approved by the Land and Water Resources Department in March.

TOWN ACTION: On July 3rd, the Town Board recommended approval of the rezone subject to the following conditions:

1. All permitted uses in the General Commercial zoning district would be allowed EXCEPT: Day care centers, Indoor entertainment, or assembly and Transient or tourist lodging.
2. Only the following conditional uses could be proposed: Contractor, landscaping or building trades (outdoor), Communication towers, Outdoor Storage, Transportation, communications, pipeline, electric transmission, utility, or drainage uses, not listed as a permitted use above, Vehicle repair or maintenance service. None of the residential uses by conditional use permit could be proposed.
3. The rezone will not be effective until a final plat and developer’s agreement are approved and fully executed.

STAFF RECOMMENDATION: Staff notes that contractor uses are permitted by right in the GC district and are not specifically listed under the conditional uses; the outdoor storage often associated with these operations would be handled through the conditional use permit process. For this reason, listing “outdoor storage” as an allowable conditional use is consistent with the wording in the Chapter 10 Zoning Ordinance, and is also consistent with the Town’s intended use restrictions.

Pending any comments at the public hearing, staff recommends approval of the rezone petition subject to the following conditions:

1. A deed restriction shall be recorded on the lot stating the following:
 - a. Land uses on the property shall be limited exclusively to the following permitted uses:
 - i. Agricultural uses (livestock not permitted)
 - ii. Agricultural accessory uses (livestock not permitted)
 - iii. Contractor, landscaping or building trade operations
 - iv. Governmental, institutional, religious, or nonprofit community uses
 - v. Indoor sales
 - vi. Indoor storage and repair
 - vii. Light industrial
 - viii. Office uses
 - ix. Personal or professional service

- x. A transportation, utility, communication, or other use that is:
 - 1. Required under state or federal law to be located in a specific place, or;
 - 2. 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.
 - xi. Undeveloped natural resource and open space areas
 - xii. Utility services associated with, and accessory to, a permitted or conditional use
 - xiii. Veterinary clinics
 - b. Land uses on the property shall be limited exclusively to the following conditional uses:
 - i. Communication towers
 - ii. Outdoor Storage
 - iii. Transportation, communications, pipeline, electric transmission, utility, or drainage uses, not listed as a permitted use above
 - iv. Vehicle repair or maintenance service
 - c. Residential and associated accessory uses are prohibited.
2. The applicant shall submit a preliminary plat and final plat for the proposed lots to Dane County for review and approval, and shall record the final plat with the Dane County Register of Deeds.
3. The rezone will not become effective until a final plat and developer's agreement are approved and fully executed by the Town of Cottage Grove.

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