

SEPTEMBER 28, 2017 BOA PUBLIC HEARING STAFF REPORT

Appeal 3685. Appeal by Wisconsin Fuel LLC, owner; Golden Green Properties LLC, owner; and Dave Uttech, Keller, Inc, agent, for a variance from minimum required setback to a wetland as provided by Section 11.06(5), Dane County Code of Ordinances, to permit proposed gas station with convenience store and fast food restaurant with drive-thru; auto repair and sales at 2741 & 2763 County Highway N being Lot 1 CSM 11192 & additional lands in the NE 1/4 of the SW 1/4, Section 9, Town of Pleasant Springs.

OWNER: Wisconsin Fuel LLC

AGENT: Dave Uttech, Keller, Inc

LOCATION: 2741 & 2763 County Highway N

ZONING DISTRICT: C-1 & C-2 Commercial (rezone pending)

COMMUNICATIONS: Town of Pleasant Springs: 7/17/2017 acknowledgement. 8/15/2017 action, minutes included in meeting packet.

WI DNR: Request for comment sent 8/14/2017

WI DNR: Wetland delineation concurrence status requested, DNR defaults to ACOE concurrence, ACOE determination provided with application materials.

Facts of the Case:

Existing:

- The proposed development is contained by two existing parcels of land located in the southwest quadrant of the Interstate 39 and County Highway N interchange.
- The northern parcel includes an automobile fueling station and fast food restaurant with a drive thru window; the south parcel has been used for automotive sales, service, and truck repair.
- The Wisconsin Wetland inventory indicates the presence of wetlands on both parcels.
- As part of the I-39/90 Expansion Project, WisDOT is almost complete in reconstructing the I-39/90 and County N interchange into a diamond interchange with three roundabouts. From 2012 to 2015 during the design stage of this project, a delineation of the wetlands in the southwest quadrant of the interchange was conducted to facilitate WisDOT in obtaining federal permits to deposit fill materials within the wetland. The conditions of the ACOE permit required mitigation in the form of credits from the World Dairy Wetland Mitigation Bank.
- The aforementioned wetland delineation was submitted by the applicants as part of the variance request.

Proposed

- The applicant proposes to rezone the C-1 portion of the development to C-2 and combine the parcels into a single certified survey map lot for the propose of redevelopment.
- The redevelopment will include an auto/truck fueling station, truck scale, convenience store, food service, restrooms and showers, and a fast food restaurant with a drive thru window.
- The development proposes locating heavy duty asphalt and concrete, a fuel canopy, a truck scale, concrete curb, and retaining wall within 75 feet of the delineated wetland boundary.

Zoning Notes:

- Under DCCO 11.06(5)(a) the minimum setback for all buildings and structures from wetlands greater than 2 acres is 75 feet (as described in 11.03(2)).
- As adopted by the Dane County Board, for the purposes of shoreland and wetland zoning regulations, the definition of a structure is "anything constructed or erected, the use of which requires permanent or temporary location on the ground, or attached to something having a permanent or temporary location on the ground, including but not limited to any building dwelling, manufactured building, manufactured home, mobile home, house trailer, recreational vehicle, boathouse, boat shelter, advertising sign, deck, patios, driveways, fences retaining walls, or other improvements or any part of such structure. A structure includes any permanent or temporary appurtenance attached thereto.

- Wisconsin Statutes, for the purpose of shoreland regulation, define a structure to mean a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch, or firepit.
- Dane County Zoning requires a 75 foot setback from the boundary of a wetland to driveways and parking lots.
- When development is proposed in, around, or near wetlands or on sites where wetland indicators are present Dane County Zoning requires the wetland to be delineated. For the purpose of permitting, wetland delineations that meet the following are accepted:
 - Delineation was conducted within the past 5 years.
 - Delineation was performed by a Wisconsin DNR assured wetland delineator—OR—if not conducted by an assured delineator, was submitted to the Wisconsin DNR for review and concurrence.
- After a site visit and review of the 2015 delineation, it appears that a portion of the site that may contain wetlands was not within the area of review as indicated on Exhibit #35 of the study. Without further investigation it is unknown if the development proposes the filling of wetlands or would require greater relief than what is being requested. If the Board finds that a legal hardship exists and relief is warranted, staff recommend deferring approval until such a time that a delineation of the entire development site is complete.

History

- Pending Rezone: DCPREZ-2017-11194
- Pending CUP: DCPCUP-2017-02389
- Violation History: No violation history found on properties.

VARIANCES REQUESTED: Purpose: Allow for redevelopment as proposed

Setback from Wetland Variance:

Minimum setback from delineated wetland required: 75 feet.

Proposed Setback: 2 - 75 feet.

VARIANCE NEEDED: 73 feet.