



Staff Report

Zoning and Land Regulation Committee

Public Hearing: **November 28, 2023**

Staff report updated for January 9, 2024 ZLR meeting

Zoning Amendment Requested:

TO CUP: Outdoor storage of materials and equipment

Size: **5.25 Acres**

Survey Required.

Reason for the request:

Outdoor storage of materials and equipment

Conditional Use 02609

Town/Section:

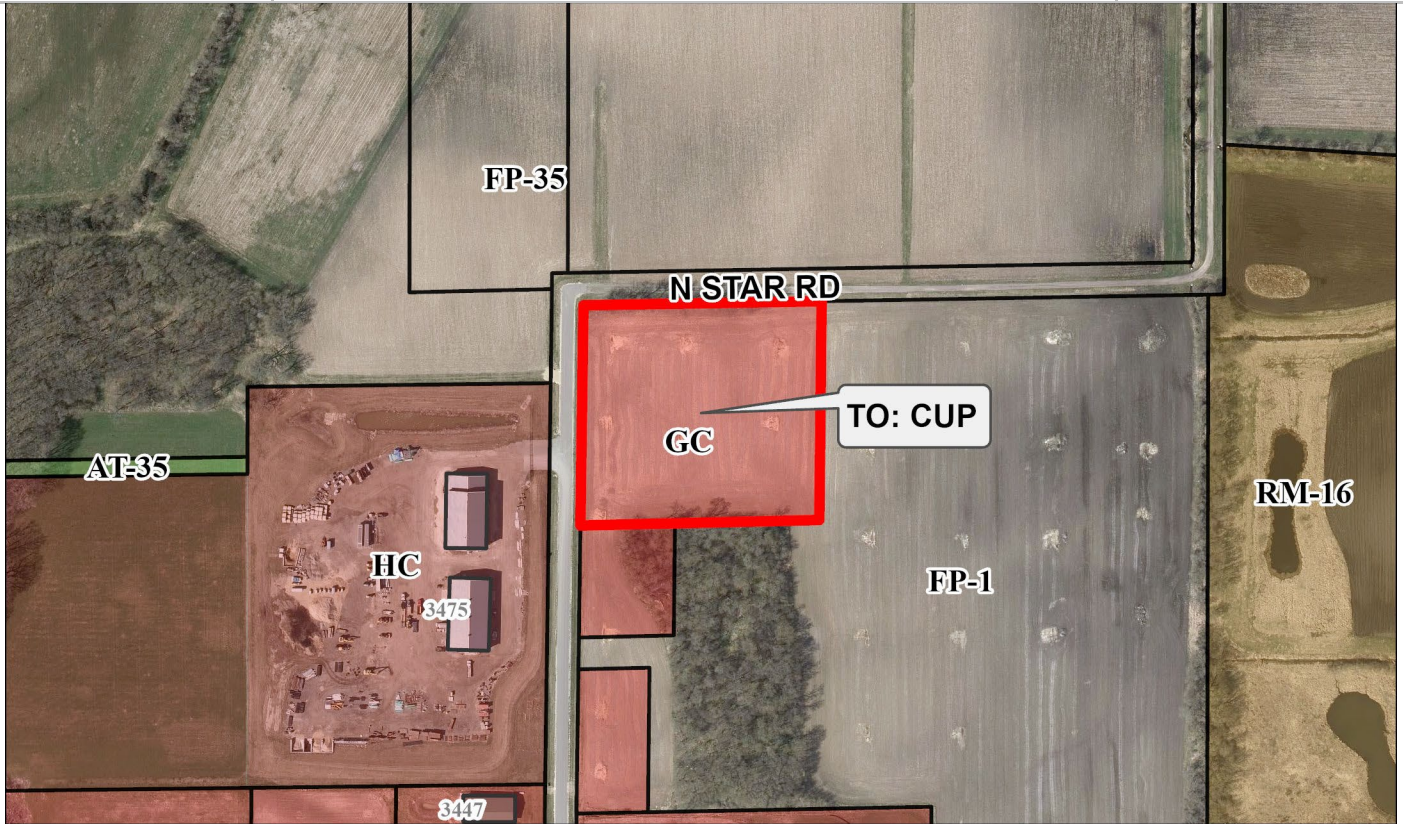
COTTAGE GROVE, Section 27

Applicant

EQUIPMENTSHARECOM INC

Address:

EAST OF 3475 N STAR ROAD



DESCRIPTION: The applicants request a conditional use permit for an outdoor storage yard for EquipmentShare, a construction equipment rental company. The proposed use would be part of a new development on a 5.3-acre lot in the Town of Cottage Grove’s emerging business park on North Star Road. The project includes a new 9,400 square foot office and maintenance building and fenced-in gravel storage yard where the equipment would be stored when not in use.

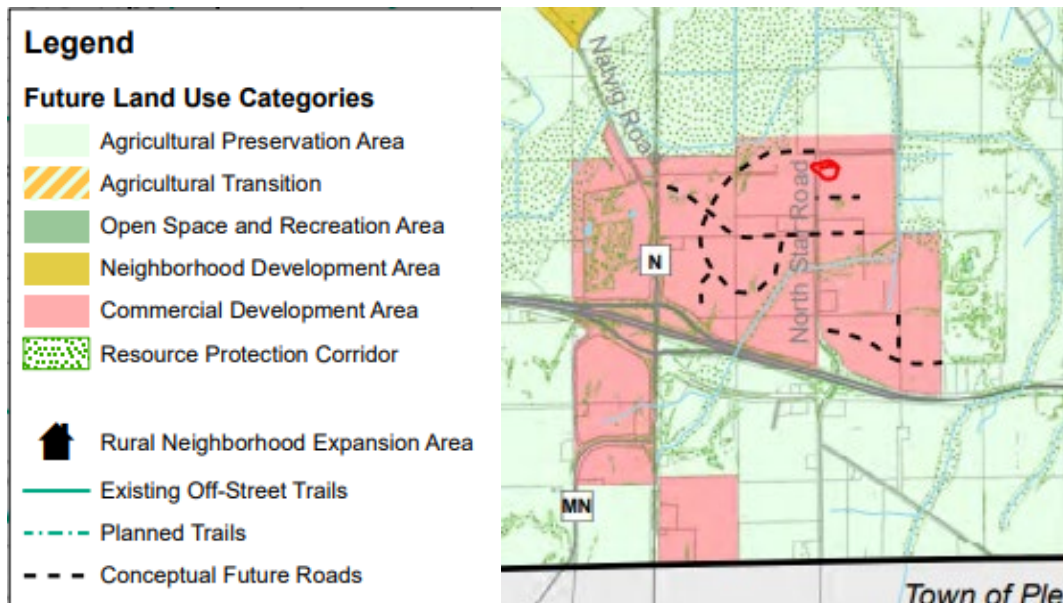
OBSERVATIONS: The GC zoning district allows outdoor storage with an approved conditional use permit; indoor sales and office uses are permitted by right. The proposed site plan generally complies with GC zoning district requirements and other ordinance requirements, subject to comments below on lighting. A related rezone petition ([petition #11964](#)) was recently approved to modify a deed restriction on the property to allow for outdoor storage.

Staff has been working with the applicants since the spring to provide guidance on the zoning and other permit requirements for the development. The applicants were made aware that the site design must incorporate stormwater management and septic facilities, and meet the Town of Cottage Grove’s standards for outdoor lighting, screening and landscaping, among other things.

The property is located ½ mile north of US Highway 12 & 18 and ½ mile east of County Highway N (CTH N). N. Star Road is a dead-end road that serves several properties, most of which are currently used and zoned for agricultural purposes although lands to the west and south are planned for commercial use. Some properties on N. Star Road are already zoned and used for commercial purposes. There is one residential home roughly 1,800 feet south of this site.

RESOURCE PROTECTION: There are no resource protection corridors mapped on or within 300 feet of the property. Erosion control and stormwater management permits will be required from Dane County Land and Water Resources for this commercial development. The applicant has begun working with LWRD staff to obtain a preliminary review.

COMPREHENSIVE PLAN: The property is located in one of the town’s planned “commercial development” areas. The proposed conditional use appears reasonably consistent with comprehensive plan policies, and the anticipated nature and pattern of commercial development for the area. Town plan policies require new development to conform to standards and criteria in the town’s design review ordinance. Staff would advise that the permit be subject to conditions of approval similar in nature to those required of other neighboring outdoor storage uses. (For questions about the comprehensive plan, please 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 s.10.101(7)(d) of the Zoning Code, and a summary of relevant facts 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.**

The CUP application describes the proposed operation. The applicants state that all equipment will be stored on site, within designated property boundaries. Site plans show the proposed yard enclosure. The application states that all equipment maintenance will be performed indoors, and that hazardous materials such as motor oil, transmission fluid (etc.) will be used and stored indoors. The site plan also includes a fuel island in the middle of the storage yard east of the building.

Development of this site will be subject to the town’s design review process, which occurs after the CUP process and includes requirements for site landscaping, screening, lighting, and other items to ensure aesthetic quality. Staff asked the applicants to review the town’s Chapter 12 Ordinance and show how they will comply with the

requirements, as they are relevant to the CUP standards. The revised site plan (v. 11/17/23) addresses safety by modifying the location of the proposed driveways, per town requirements (see additional comments on ingress and egress under standard #5 below).

However, staff finds the proposal does not yet meet this standard because the applicants have not provided enough information on lighting to confirm it will meet zoning code requirements to minimize glare visible from off-site (possibly impacting comfort and general welfare). Light pole locations in the photometric plan match the locations shown on the site plan, and fixture details were provided for pole-mounted and building-mounted lights that are shielded and downcast. However the lighting plan does not identify the property boundaries, and the revised lighting plan received 11/17/23 increases the brightness at the edge of the storage yard compared to the first lighting plan submitted. Dane County code s. 10.102(5) and s. 10.102(8) requires outdoor lighting to be directed downward and away from adjacent properties and public rights-of-way, and designed to minimize ambient light spill. While the site plan will be subject to adjustments and a more detailed design review by the town after the CUP process, this application does not include enough information to verify the basic requirements will be met.

Update for 1/9/24 ZLR: Staff requested adjustments to the photometric lighting plan to clarify fixture height, show the property lines, list the luminaires and their wall mounting height, and reduce the wall packs to 4000k temperature intensity (more neutral/less impactful). The revised plans dated 12/20/23 still do not correctly show the lot boundary, and do not illuminate all parking areas in front of the building, but appear to meet the basic lighting requirements based on the information provided and thus meet this CUP standard. Staff notes that the approved lighting plan is used as a basis for construction permitting and for future zoning enforcement.

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 applicants state that the outdoor storage will not impact surrounding properties because the business will operate from 7:00am to 5:00pm Monday through Friday, and movement of equipment on site will not disturb abutting properties during off-hours. They state that surrounding properties are currently vacant and are planned for general commercial use, so the outdoor storage will not adversely affect neighboring properties with similar planned uses.

The lot is located in an emerging business park where the surrounding properties include a mix of commercial and farmland preservation zoning; an existing business exists across the road. The proposed hours appear reasonable to meet this standard. However, a storage yard of this size may have negative aesthetic impacts on surrounding properties unless attention is paid to screening and site lighting. Based on the terrain in this area, the developed site will likely be most visible from Highway 12 & 18 to the south, from the lot abutting to the south (where a European auto repair and sale shop is proposed), and from the home to the south. When illuminated, it may also be visible from the northwest as far as CTH N.

The information provided is not sufficient to address this standard. The updated plans propose 6-foot tall fencing made of Trex composite material on the north and west sides, and chain link with slats on the south and east sides, a handful of trees in the front parking lot, and light poles 28 feet tall. Lighting plans were modified to reduce the light pole height from 38 feet to 28 feet, which is less likely to produce glare on the adjacent properties and roadways. However, without knowing the light intensity at property lines it is hard to verify this standard. Staff requested lighting information multiple times and recommended shorter light poles; poles 20 to 28 feet in height would be more consistent with other similar developments and with town standards. It is not known if, during its design review, the Town will agree that a 6-foot tall fence is adequate to screen the large equipment, or if chain link fencing will be acceptable on the south side where the site is most visible. The Town has approved the CUP but did not comment on these aspects of the plan.

Update for 1/9/24 ZLR: As noted above, the lighting plans were modified to reduce light intensity at the edge of the property and the intensity of wall-mounted lights. Applicants have provided details for the proposed screening with 6-foot tall Trex and chain link fencing. This standard can be deemed to be met.

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 applicants state this standard will be met because the outdoor storage will be contained on site and “screened as required to prevent visibility from rights-of-way and surrounding properties.” They also state the surrounding properties are currently vacant and are planned for general commercial use.

This standard pertains to whether the proposed conditional use would affect *how the surrounding properties could be developed and improved, considering what they are currently zoned for*. The site is part of a larger business park development that will use a new shared road extending off of N. Star Road, as well as shared stormwater management facilities. The surrounding area consists of lands with similar land uses and zoning. The proposed conditional storage use would not appear to impede the development of surrounding properties.

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

The applicants state that access roads have been improved and utilities, drainage and other necessary site improvements will be made as construction proceeds.

Staff notes that this site has been determined to be suitable for well and septic, which would be permitted as the project progresses. The business park is being developed on a “regional” stormwater plan so each lot will use some shared stormwater facilities located off-site to meet most requirements; however, this lot still needs to meet certain stormwater requirements on-site. Because the regional plan has been reviewed by Land and Water Resources Department (LWRD), staff believes the site can be developed to meet the requirements of County Code Chapters 11 and 14. However, the preliminary review by LWRD staff indicates that the plans are not yet sufficient to show this site development will meet the stormwater requirements. For example, additional space will need to be dedicated for infiltration practices. Applicants provided additional information to LWRD on 11/17/23 and is still pending review as of the time of issuing this report.

There is already an access road to the site; however the east-west leg of N. Star Road is not yet built to town road standards and this may affect the timing of constructing a second northern driveway, which was proposed in the September site plan that the town approved. The November site plans removed the second access, so it may never be constructed. Despite this issue, there is a fully constructed town road along the west side of the site where the primary access is proposed.

Based on the insufficient state of the stormwater management plans, we feel this standard is not yet met. The applicants have not yet demonstrated that the drainage and other site improvements will be sufficient to support the conditional use.

Update for 1/9/24 ZLR: The revised plans dated 12/20/23 address some but not all of the concerns of Land and Water Resources staff. Their new review comments indicate that the current design would not meet requirements for infiltration and oil and grease control, and they recommend additional bio-retention areas as well as adjustments to the stormwater model. However, the plans are beginning to address the basic requirements, and a condition of CUP approval would help ensure that the site design will meet the county’s requirements before a stormwater management plan is approved and before a zoning permit is issued. Staff also noticed that the previous plans from November did not properly locate the proposed septic field in keeping with the soil testing previously done for this property; this concern is addressed in the plans dated 12/20/23 which located the septic field in the northwest corner of the site. Based on this, this CUP standard can be deemed to be met.

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.*

The applicants state that ingress/egress has been designed to minimize traffic and congestion on N. Star Road.

Off street parking is provided on site in 25 parking stalls. This appears adequate for the 15 employees and a limited number of customers and visitors; the applicants also estimate 102 vehicle trips per day to and from the site. Minimum parking requirements for this business are based on the building size, storage yard size, and employee count.

The plans for access to the site appear to be resolved at this time, based on the latest site plan. Per Ch. 10 s. 10.102(8)(d), access drives shall be spaced a safe distance from street intersections and each other, shall not be located within vision corners, and may be limited in number and location according to applicable local, county,

state and federal standards. The town identified that the original location of the northern driveway was too close to the bend in N. Star Road; the applicants modified the plan to meet town requirements (see revised site plan from 11/2/23 showing the second driveway along the east-west leg of N. Star Road). However, an access restriction on CSM 16140 (recorded in 2022) prohibits the business from taking access there until the roadway is fully improved to town standards. A note on the CSM reads: "Access to N. Star Road along the North lines of Lots 3 and 4, except for agricultural purposes, is prohibited until N. Star Road is improved to town road standards."

Town staff has confirmed that the road has not yet been improved, and it is not known what the timeline is for this to occur and if the developer of the business park (Duane Swalheim) will be responsible for doing this work. The applicants modified the driveway plans in the plans received 11/17/23 to remove the second access. In the future, the town will have the option to allow a second access, if one is determined to be necessary. Based on this modification, zoning staff feels this standard is met.

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

The applicants state that contractor, landscaping or building trade operations (outdoor) is listed as a conditional use in the GC district, and that they have submitted a rezone application to remove the existing deed restriction.

Staff notes that contractor, landscaping or building trade operations are permitted by right in the GC district; only the outdoor storage aspect requires the conditional use permit. The site plan depicts an incorrect building setback along the north lot line, and the lighting must be verified to meet ordinance requirements. However, the proposed site plan conforms to the applicable regulations of the GC zoning district specifically.

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

As noted above, the proposal appears consistent with the Town and County Comprehensive Plans.

Staff would advise that the CUP be subject to conditions of approval similar in nature to those required of other neighboring outdoor storage uses. Other recent CUPs have included conditions such as: compliance with the town's design requirements, compliance with stormwater management permit requirements, limits on outdoor display, and the construction of berms for visual screening.

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 potential nuisances that pertain to outdoor storage most likely involves site aesthetics. The applicant's CUP application addresses how these potential nuisances are handled, as noted above. Under Dane County Zoning Ordinance section 10.103, there are no special requirements for outdoor storage uses. CUP conditions should be used to mitigate the potential impacts, if any, of the storage yard.

TOWN ACTION: On November 6, 2023 the Town Board approved the CUP with the following conditions:

1. All equipment to be stored in the transport (down) position.
2. The property will need to undergo Design Review under TCG s. 12.08 before any building permits will be issued.

STAFF RECOMMENDATION (NOV 28th): At this time, staff finds that the petition does not provide sufficient evidence to address the CUP standards. More information is needed to ensure compatibility with the surrounding neighborhood and the GC zoning district regulations. Specifically:

1. More information on the proposed site lighting (the intensity at property lines) in order to meet standard #1 and standard #2.
2. A positive review of the preliminary stormwater management plan, in order to meet standard #4.

Staff feels that other aspects of the proposal do support the CUP standards. This includes the fact that the proposed building meets GC zoning district requirements, the approved status of the regional stormwater management plan that this site will be part of, the lighting plan modified to reduce light pole heights to a maximum of 28 feet, the fact that no driveway access is proposed on a substandard stretch of town road, and the fact that the development of this lot will be subject to the Town of Cottage Grove's design review standards.

If the ZLR Committee requires additional information on which to base a decision, members could request specific information of the applicant or staff at the public hearing.

Pending any comments at the public hearing, staff recommends that the ZLR Committee makes a finding as to whether the proposed conditional use meets the applicable CUP standards, and staff recommends denial of the petition. If the ZLR Committee wishes to grant the applicants more time to address the concerns noted above, they may choose to postpone action to a future meeting.

NOVEMBER 28TH ZLR MEETING: The ZLR Committee held a public hearing on the proposal, and postponed action at the applicant's request to allow them more time to address the issues identified by staff. No other specific information was requested at that time.

STAFF UPDATE: As noted in the updated comments above, the CUP standards can be deemed to be met based on the revised plans dated 12/20/23 which sufficiently address the staff concerns raised to date, noting the standard CUP conditions would require the additional engineering needed to completely meet the requirements for this development. The findings above, and the suggested conditions below, would help ensure compatibility with the surrounding neighborhood and the GC zoning district.

Staff recommends that the ZLR Committee makes findings as to whether the proposed conditional use (outdoor storage) meets the applicable CUP standards. If the committee agrees the standards are sufficiently met, staff recommends approval with the conditions listed below.

Possible CUP Conditions:

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, operation plan and phasing plan.
2. New and existing buildings proposed to house a conditional use must be constructed and maintained to meet current requirements of applicable sections of 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 county 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 county 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 and circulation must be provided, consistent with s. 10.102(8) of County Ordinances.
8. If Dane County Highway Transportation and 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 borne by the landowner. Costs borne by the landowner shall be proportional to the incremental increase in traffic associated with the proposed conditional use.
9. The County Zoning Administrator or designee may enter the premises of operation in order to inspect those premises and to ascertain compliance with these conditions or 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 county zoning administrator, a placard with the approval of the 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 reasonable opportunity to correct any violations prior to revocation.
13. If any use allowed by an approved conditional use permit is not commenced within one year of issuance of the permit or is abandoned for one year or more, the associated conditional use permit shall be terminated. Future re-establishment of an abandoned conditional use shall require approval of a new conditional use permit.

Conditions Unique to CUP 2609

14. All equipment to be stored in the transport (down) position.
15. The landowner is responsible for obtaining site plan approval per the Town's Chapter 12 Design Review process. Exterior lighting, landscaping, and screening shall comply with the Town of Cottage Grove Chapter 12 ordinance requirements.
16. A stormwater management plan shall be approved by Dane County Land and Water Resources Department within one year of CUP approval. 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.
17. This CUP shall become effective only upon Rezone petition 11964 becoming effective to modify the current deed restriction.
18. The outdoor storage area shall be screened with a combination of fencing and landscaping, to the satisfaction of 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