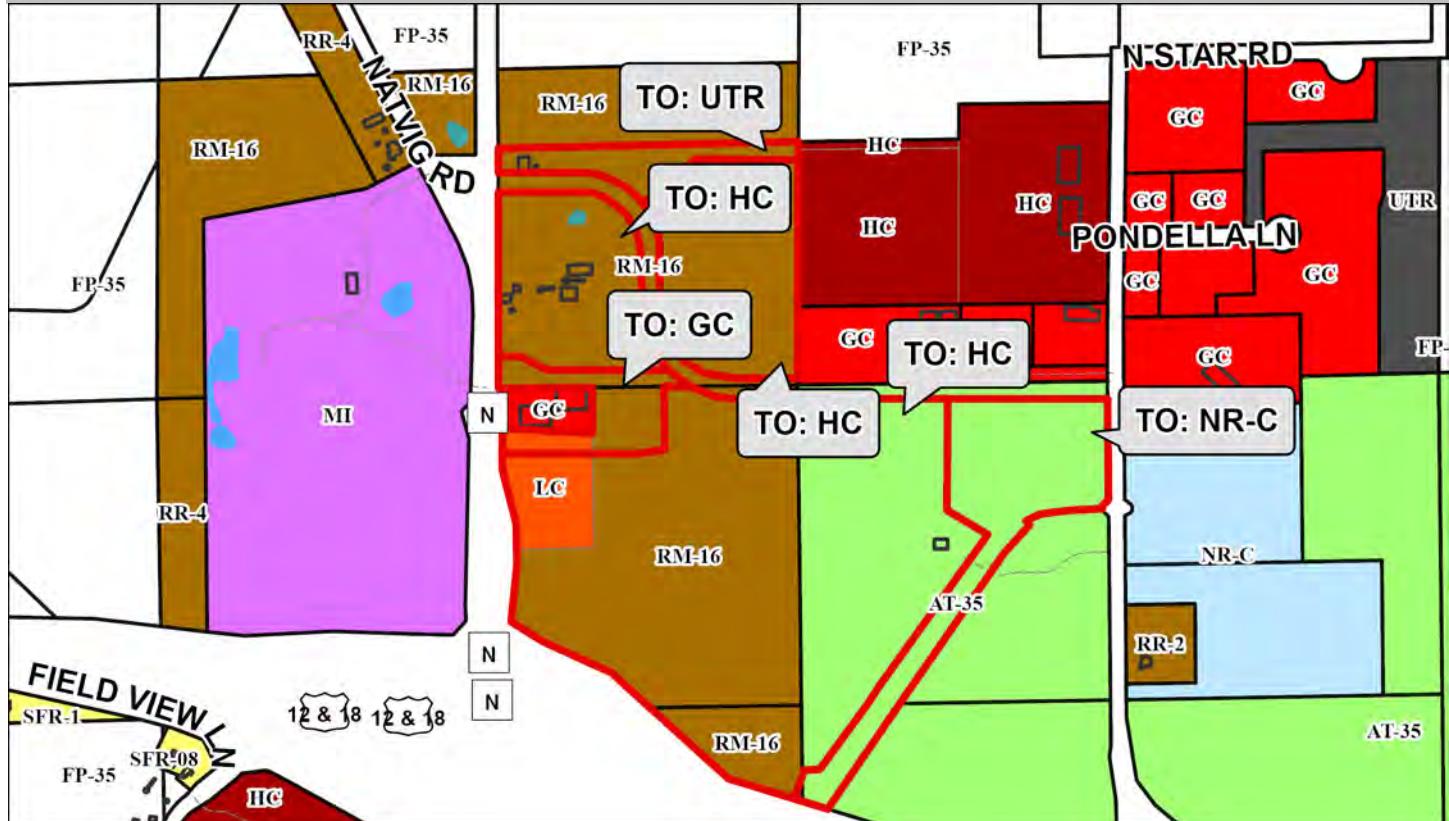


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| Staff Report  Zoning & Land Regulation Committee | Public Hearing: January 27, 2026 <u>Zoning Amendment Requested:</u> RM-16 Rural Mixed-Use, AT-35 Agriculture Transition, and LC Limited Commercial District TO: HC Heavy Commercial District, GC General Commercial District, NR-C Natural Resource Conservation District, and UTR Utility, Transportation and ROW District <u>Size:</u> 72.5,11.9,3,4 Acres <u>Survey Required:</u> No <u>Reason for the request:</u> CREATING A 7-LOT COMMERCIAL SUBDIVISION | Petition 12238 <u>Town, Section:</u> COTTAGE GROVE, Section 28 |
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DESCRIPTION: Skaar Pit LLC proposes to rezone 91.4 acres of land in order to facilitate a commercial business park in the Town of Cottage Grove. The proposed development contains 6 lots with HC Heavy Commercial zoning, one lot with GC General Commercial zoning, and three outlots for utilities and open space. The project would consist of mass site grading, a shared private on-site wastewater treatment system, stormwater management facilities, and a new town road to connect County Highway N to N. Star Road. The project is proposed to be built in one phase.

OBSERVATIONS: The property is currently a cropped agricultural field. The site abuts US Highway 12/18 and County Highway N and is highly visible from US Highway 12/18. The application includes the proposed development concept plan/exhibit, preliminary plat, preliminary stormwater management plan (which includes site grading and road construction plans), proposed deed restrictions/ restrictive covenants, and a Traffic Impact Analysis (TIA) for the development's impacts on the surrounding roads. The existing agricultural buildings are being removed from the property. Comments below on the proposed development are organized by topic.

Lots and Land Use: The proposed lots appear to meet county ordinance requirements including lot size, proposed use, and public road frontage. Lot 3 would be platted as a stand-alone lot, but is intended for the expansion of the Paul Davis Restoration business at 3432 CTH N. The applicants' plat would place all sensitive environmental areas within outlots to protect them from development. In the [review comments for the town](#) for this proposal, the Town Planner notes that minor adjustments may be needed to Outlot 2 to ensure that septic and stormwater facilities are contained in separate

lots with separate zoning (UTR for septic, NR-C for stormwater), which will also facilitate the future dedication of stormwater facilities to the town. In addition, he notes that the proposed new town road would involve land dedication by adjacent land owner Oremus 3447, LLC (for the condominium property addressed at 3433 N Star Rd).

Restrictive covenants are proposed to govern future land uses, and regulate outdoor storage and outdoor display/sales areas in a manner consistent with town policies. The proposed zoning, preliminary plat, and covenants have received approvals from the Town of Cottage Grove. There is no city or village extraterritorial jurisdiction over this land division.

Sanitary Wastewater Management: For all lots except the Paul Davis lot, waste water would be treated by a common private on-site wastewater treatment system (POTWS), using a gravity sanitary sewer interceptor that leads to a mound drain field located in Outlot 2. This is because rock blasting for mass grading will disturb the natural soils across most of the site. The Paul Davis lot already has a septic system that will continue to serve that business. The developer has also identified a location on each plat lot for a backup mound system, in case the shared system fails or in case an individual lot requires additional treatment of effluents before they enter the shared system. Applicants state that a maintenance agreement will be recorded for ongoing maintenance of the shared system. Applicants will need to confirm with the Public Health Sanitarian that the proposed shared POWTS and backup mound systems are acceptable.

Stormwater Management: The stormwater plan is being reviewed by Dane County Land and Water Resources Department (LWRD). The plan needs to address TSS (total suspended solids) and peak rate control for the proposed road and all plat lots through “regional” stormwater practices (i.e. facilities that receive water from multiple lots). Engineering plans are designed based on an assumed amount of impervious surface per lot. A developer may choose to provide regional infiltration practices or (more typical) leave infiltration and oil/grease control to the individual lots to be satisfied with on-site practices at the time each lot is developed. In addition, each lot in the plat will need a stormwater management permit that demonstrates the impervious area is consistent with the assumptions of the plat and provide infiltration and oil/grease control on-site. Comments are still pending from LWRD staff; applicant will need confirmation from LWRD that the stormwater plan will meet requirements.

Highway Access and Traffic Safety: Traffic safety is a concern that must be addressed for additional development that will impact North Star Road and the abutting highways. North Star Road is currently a dead-end and is the only access to this area north of Hwy 12/18, and the current intersection with Hwy 12/18 appears inadequate to support the additional development as it has no acceleration/deceleration lanes or turn lanes that are typically found in commercial areas. This plat would add a critical east-west road connection between North Star Road and CTH N at Natvig Road. A traffic impact analysis (TIA) was submitted by the developer to estimate the impacts this development will have at nearby intersections, so that safety improvements can be planned accordingly. The formal TIA was just submitted in early December and is being reviewed by WisDOT, Dane County Highway Department, and the Town of Cottage Grove. Dane County Highway Department comments are pending. A development agreement will need to be executed with the Town for the necessary infrastructure improvements.

Other comments: This petition is one of several zoning petitions that are under active review for this area. Rezone petition #[12237](#) was submitted concurrently with this petition, to enable the purchase of land in the north end that would be made part of this plat for stormwater purposes. Rezone petition #[12208](#) was approved by the County in December for lands the applicant owns in the east end of this proposed plat; that petition was submitted to resolve an illegal land division that occurred when that land was purchased from the adjacent owner (Viney Acres LLC). Rezone petition #[12170](#) is currently under review for another commercial plat proposed by Viney Acres LLC along N. Star Road.

The commercial buildings would be subject to state plan review and review by the Town Building Inspector. Buildings 8,000 square feet or larger are required to have fire suppression (sprinklers or fire walls).

COMPREHENSIVE PLAN: The property is located in the town’s commercial planning area. The town has established a range of purposes for the commercial area, along with detailed policies intended to ensure development occurs in a responsible manner that respects the character of the area and protects the public health, safety, and general welfare.

The plan identifies HC zoning as one of several typical implementing zoning districts, though one that will “often” require the use of deed restrictions to limit the range of commercial uses. GC zoning is requested for proposed Lot 3, which would be used to expand the Paul Davis Restoration property. No specific end users have been identified for the other 6

commercial lots. Note that the town's [building code ordinance](#) includes detailed design review requirements that would apply to the development.

A recently adopted amendment to the town's comprehensive plan underscores the town's interest in ensuring commercial development protect the rural atmosphere and natural resources of the area:

"As the Commercial Development Area is predominately mapped near main community entryways and other highly visible and sometimes wetter locations, the Town is particularly concerned that commercial development contributes to the Town's aesthetic quality and environmental health. Maximizing commercial development served by conventional on-site waste treatment systems and maintaining attractive views to and from highways like 12, N, AB, and North Star Road are of particular importance to the Town."

The applicant has provided a [proposed deed restriction document](#) limiting allowable commercial uses in an attempt to satisfy various policies in the town plan, including the plan's emphasis that outdoor storage uses be minimized. At least two other recent commercial GC rezoning proposals were subject to deed restrictions prohibiting residential use and limiting land uses to the following:

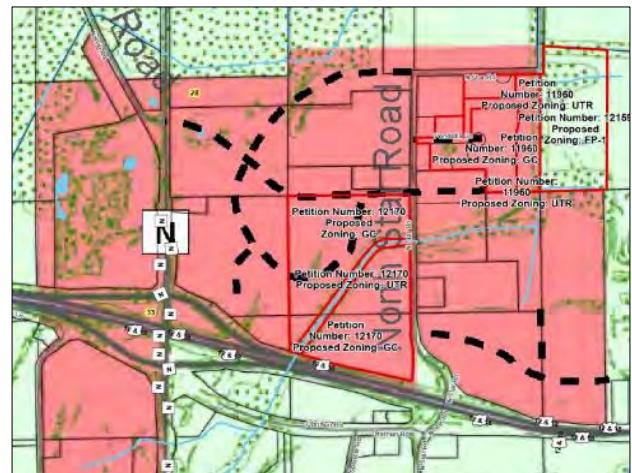
- Contractor, landscaping or building trade operations; undeveloped natural resource and open space areas; governmental, institutional, religious, or nonprofit community uses; light industrial; office uses; indoor sales; indoor storage and repair; personal or professional service; a transportation, utility, communication, or other use required by law; utility services associated with a permitted use; veterinary clinics; agriculture and accessory uses (livestock not permitted)

The [town's planning consultant report](#) on the proposal notes that the deed restrictions address both the town plan policies for outdoor display/storage and the more permissive HC zoning. As depicted in the town's future land use map (see inset excerpt, above at right), the applicant's preliminary plat includes a road connection between North Star Road and CTH N at Natvig Road. This aspect of the proposal would implement the town's longstanding objective to provide greater access to, and connectivity within, the planned commercial area. The town planner recommends the town not pursue the depicted northerly road connection given both topographical challenges and limited utility of the connection.

A common private onsite wastewater treatment system is proposed to serve the lots, though the preliminary plans show for each lot an area planned for a mound system. As noted in the town planner's report, *"It is not clear whether soil tests support these alternative system locations as of yet, which probably should be verified with final platting. The Town's Plan requires would plat adjustments [sic] where necessary to achieve a non-holding tank solution for all lots."*

The following are applicable [town plan policies](#) and requirements to ensure town objectives are achieved:

4. *Jointly work with the Wisconsin Department of Transportation, the Dane County Highway and Transportation Department, and developers to ensure that adequate rights-of-way for future roadway expansions and extensions*



Cottage Grove Commercial Planning Area



are provided and that proper controls on vehicle access (especially the number, design and location of access driveways and intersecting local roadways) are provided...

5. *Require developments to address off-site traffic, environmental, and neighborhood impacts.*

6. *If the business requires levels of service or roads greater than what the Town can provide, the proposal will have to be modified, it may be rejected, or it may be required to fund required service or road improvements.*

7. *As necessary, apply appropriate limitations preventing unacceptable future commercial or industrial uses (or conditions such as outdoor storage) on an approved development site through a deed restriction.*

11. *If the business is to operate at night, design all outdoor lighting so as not to create glare, not to shine directly on neighboring residences or into the dark sky, and otherwise to meet Town Design Review Ordinance requirements.*

12. *[G]enerally require use of on-site waste treatment systems as the means of sanitary waste treatment and disposal, and direct new development to sites and to portions of sites that allow for onsite waste treatment wherever practical. Work with the County Sanitarian to permit holding tanks in the Commercial Development Area only as a system of last resort..."*

The application materials include a stormwater and erosion control plan, soil study, and a detailed traffic impact analysis. Pending WisDOT, Dane County Highway, and Town consideration of the completed TIA, any recommended intersection and other roadway/right of way improvements could be incorporated as possible conditions of zoning and/or plat approval.

Staff concurs with the town planner's determination that the proposal is consistent with the comprehensive plan. For questions about the plan, please contact Senior Planner Majid Allan at (608) 267-2536 or Allan.Majid@danecounty.gov.

RESOURCE PROTECTION: The property contains waterways, mapped wetlands, and regulatory floodplain, making parts of the property subject to shoreland, wetland, and floodplain zoning regulations. The property's northern border abuts Little Door Creek and its associated floodplain. This area also contains wetlands as indicated on the development plan. The southern portion of the site contains a waterway mapped as an intermittent stream flowing north east. The point of navigability was determined to be downstream of the stream's intersection with North Star Road. As a result, the lands within 300 feet of the stream's intersection with the downstream road right-of-way is within the shoreland zoning district and subject to shoreland regulations (see image below). All environmentally sensitive areas are proposed to be placed within outlots and used for stormwater management or open space.

Development within wetlands will generally be prohibited. Any development within the shoreland areas will require a shoreland zoning permit as well as shoreland erosion control from LWRD. Development occurring within the regulatory floodplain may require further engineering analysis of the flood profile and will require a floodplain development permit.



TOWN ACTION: The Town Board has recommended approval of the petition, subject to the applicant recording deed restrictions to govern the future land use (see Town Action Report).

STAFF RECOMMENDATION: Staff acknowledges that the developer is working diligently with multiple reviewing agencies on the infrastructure plans for this development. This includes the stormwater, septic system, and roadways to serve the business park. At this time, confirmation is still pending from the Public Health Department and LWRD regarding the proposed septic and stormwater plans. As noted above, review of the TIA is still pending and comments are anticipated from WisDOT, Dane County Highway, and the Town of Cottage Grove. The applicant intends to enter into a developer agreement with the Town for the roadway improvements; however, the specific scope of the improvements

is not yet known or agreed upon. Any roadway improvements required by these entities may be incorporated as conditions on the zoning and/or plat approval.

As noted above, new documents may need to be recorded for the adjacent property owned by Oremus 3447, LLC (the commercial condominium property addressed at 3433 N Star Rd) in order to facilitate the dedication of town road right-of-way for the new road. The landowners will need to remove land from condominium status prior to dedication; the County Surveyor may assist with this.

Staff recommends that action on this petition be postponed until the developer can provide the following:

1. An agreement with the Town of Cottage Grove, Dane County Highway Department, and Wisconsin DOT for the construction of necessary roadway improvements.
2. Confirmation from the Public Health Sanitarian that the proposed shared POWTS and backup mound systems are acceptable.
3. Confirmation from Land and Water Resources that the stormwater management plan will be able to meet County requirements.

Once the above items are resolved, staff would suggest the following potential conditions for rezone petition 12238:

1. A developer's agreement between the developer and town shall be approved and executed prior to recording of the final plat.
2. A final plat shall be recorded within 2 years of the rezoning approval.
3. Applicant shall record a maintenance agreement for the ongoing private ownership and maintenance of the shared private onsite wastewater treatment system (POWTS).
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. In addition, individual (site-specific) stormwater management permits shall be required prior to the issuance of zoning permits for the development of each individual lot within the business park.
5. Applicant shall record deed restrictions / restrictive covenants as recommended by the Town in the Town Action Report. The covenants shall include a restriction that states: "The installation of off-premise advertising signs (billboards) are prohibited on the property. Business signage shall require a sign permit and shall comply with all applicable restrictions of the Dane County Zoning Ordinance sign regulations."

Please contact Rachel Holloway at (608) 266-9084 or holloway.rachel@danecounty.gov if you have questions about this petition or staff report.