

TO: Village of East Troy Plan Commission  
CC: Eileen Suhm, Jason Equitz, Tim Lynch  
FROM: Orrin Sumwalt, Planning Consultant  
RPT DATE: April 28, 2025 (Updated on May 9, 2025)  
MTG DATE: May 12, 2025  
FOTH FILE: 25E020.01/10  
RE: East Troy Middle School –  
Conditional Use Permit (CUP)

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**BACKGROUND:**

1. Petitioner: East Troy Community School District
2. Agent: Christopher Gerrity, AIA (Performance Services, Inc.)
3. Property Owner: East Troy Community School District
4. Location/Address: 3143 Graydon Avenue
5. Tax Key Number: RXUP00202
6. Area: 29.95 AC
7. Existing Zoning: SR-4 Suburban Residential District
8. Proposed Zoning: N/A
9. Future Land Use: Institutional and Public Service

**OVERVIEW:**

The Petitioner is requesting approval of a Conditional Use Permit (CUP) for an indoor institutional land use for East Troy Middle School and an associated site plan amendment for a new car drop-off and bus drop-off proposed to alleviate traffic on Graydon Avenue for property located at 3143 Graydon Avenue. The site encompasses approximately 29.95 acres. The submittal materials include:

- Parking lot expansion and new car drop-off loop.
- Extend bus drop-off loop and create a new curb cut.
- A new sidewalk and crosswalk on Graydon Avenue aligned with the front door to the middle school.

**PLANNER COMMENTS:**

1. **Comprehensive Plan.** Future Land Use is Institutional and Public Service, which is consistent with the existing zoning of SR-4 Suburban Residential District.
2. **Zoning District Requirements.** The property is zoned SR-4 Suburban Residential District in which an indoor institutional land use is a conditional use per Section 510-20B. and the Table of Land Uses of the Village Zoning Code. Below is a description of this land use and the associated regulations from Section 510-41 A. of the Village Zoning Ordinance.

Indoor institutional. Indoor institutional land uses include all indoor public and not-for-profit recreational facilities (such as gyms, swimming pools, libraries, museums, and community centers), schools, churches,

funeral homes, nonprofit clubs, nonprofit fraternal organizations, convention centers, jails, prisons, and similar land uses. Indoor institutional land uses shall adhere to the following listed regulations:

- (1) Shall provide an off-street passenger loading area if the majority of the users will be children (as in the case of a school, church, library, or similar land use).
- (2) All structures shall be located a minimum of 50 feet from any residentially zoned property.
- (3) Minimum required parking: generally, one space per three expected patrons at maximum capacity; however, the following specific requirements may apply:
  - (e) Elementary and junior high: one space per two employees.

### 3. Conditional Use Permit

Petitioner has included the following items as part of their submittal:

- Conditional Use Permit Application
- Conditional Use & Zoning Permit Site Plan Exist. Building (A-001)
- Conditional Use & Zoning Permit Site Plan New Work (A-002)
- Demolition Plans (C100)
- Site Plan (C200)

**Guidance regarding 2017 Act 67.** With the adoption of 2017 Act 67, the State of Wisconsin has preempted municipal authority regarding conditional use permits in a number of respects, effective November 29, 2017. Decisions concerning conditional use permits now must be based upon "substantial evidence," which is defined as follows:

"Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion."

Note two additional requirements of the new law:

1. Any condition imposed must relate to the purpose of the ordinance and be based on substantial evidence.
2. If an applicant for a conditional use permit meets or agrees to meet all requirements and conditions specified in the ordinance, the conditional use permit must be granted.

The applicant must present substantial evidence demonstrating that the application and all requirements and conditions established by the Village relating to the conditional use are or shall be satisfied. Any condition imposed by the Village through ordinance or by the Village Board must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer or renewal. The Village's decision to approve or deny the application must be supported by substantial evidence.

**Review procedures.** The Plan Commission conducts the public hearing and acts in an advisory role to the Village Board which makes the final decision. Following the close of the public hearing, the Plan Commission may recommend (1) approval, (2) approval with conditions, or (3) denial. If approval is recommended, the Plan Commission can recommend conditions deemed necessary to protect the public health, safety, and welfare.

**Required findings.** As required by the Section 510-157(H) of zoning code, a number of findings must be made. They are listed in the conditional use order beginning on the first page and below for your convenience. A motion recommending approval should make reference to these.

1. The proposed conditional use (the use in general, independent of its location) is in harmony with the purposes, goals, objectives, policies and standards of the comprehensive plan, the zoning code, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the Village.
2. The proposed conditional use (in its specific location) is in harmony with the purposes, goals, objectives, policies and standards of the comprehensive plan, the zoning code, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the Village.
3. The proposed conditional use, in its proposed location and as depicted on the required site plan does not result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of the zoning code, the comprehensive plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the Village or other governmental agency having jurisdiction to guide development.
4. The proposed conditional use would maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
5. The proposed conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities, or services provided by public agencies serving the subject property.
6. The potential public benefits of the proposed conditional use outweigh any and all potential adverse impacts of the proposed conditional use after taking into consideration the applicant's proposal and any requirements recommended by the applicant to ameliorate such impacts.

#### **STAFF RECOMMENDATION:**

Depending on confirmation by the Village of East Troy Plan Commission of the above-described comments, the Village of East Troy Plan Commission may take the following actions:

##### **Conditional Use**

The Village of East Troy Plan Commission recommends to the Village Board **Approval** of the Conditional Use Request for an indoor institutional land use for East Troy Middle School and an associated site plan amendment for a new car drop-off and bus drop-off prop at 3143 Graydon Avenue for East Troy Community School District for the property located at 3143 Graydon Avenue, (RXUP00202) subject to the following conditions:

1. The Conditional Use approval is limited to RXUP00202.
2. The Conditional Use approval shall not be in full force and effect until such time as the Petitioner obtains the necessary approvals and satisfies all comments, conditions, and concerns of the:
  - a. Village of East Troy Plan Commission and Board, Village Engineer, Village Planner and Village Attorney with respect to the submitted plans, documents, and specifications.

3. The Conditional Use Permit shall be filed with the Walworth County Register of Deeds and approved as to form by the Village Attorney.
4. The Petitioner and/or Property Owner shall, on demand, reimburse the Village of East Troy for all costs and expenses of any type incurred by the Village in connection with the review and approval of this application, including, but not limited to, the cost of professional services incurred by the Village for the review and preparation of required documents, attendance at meetings or other related professional services as well as to enforce the conditions in this approval due to a violation of these conditions. Additionally, any unpaid bills owed to the Village of East Troy by the Subject Property Owner and/or Agent, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees or forfeitures owed to the Village of East Troy must be paid on demand and prior to issuance of any permits and shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Village of East Troy, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Village of East Troy, including possible cause for termination of the conditional approval.
5. Other Conditions.
  - a. No use is hereby authorized unless the use is conducted in a lawful, orderly, and peaceful manner. Nothing in this permit shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order, or rule of either the municipal governing body, the County of Waukesha, the State of Wisconsin, the United States of America, or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This permit shall not be deemed to constitute a building permit, nor shall this permit constitute any other license or permit required by Village ordinance or other law.
  - b. This Conditional Use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Village of East Troy Plan Commission as being in compliance with all pertinent ordinances.
  - c. Should the permitted Conditional Use be abandoned in any manner, or discontinued in use for twelve (12) months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to municipality, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the Conditional Use may be terminated by action of the Village of East Troy Plan Commission, pursuant to the enforcement provisions of this Conditional Use Permit.
  - d. Any change, addition, modification, alteration and/or amendment of any aspect of this Conditional Use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises, structures, lands, or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.
  - f. Should any paragraph or phrase of this Conditional Use Permit be determined by a Court to be unlawful, illegal, or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the Conditional Use and the remainder shall continue in full force and effect.
  - g. If any aspect of this Conditional Use Permit or any aspect of any plan contemplated and approved under this Conditional Use is in conflict with any other aspect of the Conditional Use or any aspect of any plan of the Conditional Use, the more restrictive provision shall be controlling as determined by the Village of East Troy Plan Commission.

**EXHIBIT:**

- A. Petitioner Application
- B. Public Hearing Notice
- C. Draft Conditional Use Order