

## Staff Report

Date: May 29, 2025

To: Town of Mukwonago Town Board

From: Ben Greenberg, AICP, Town Planner

Subject: Potential termination of Conditional Use approval 2022-05, granted to Robert and Melissa Sund for Commercial Vehicle Parking on the property located at S100W31420 CTH LO (MUKT1981997004)

Application: 2025-19 <https://s.zoninghub.com/BT90XAACTU>

Meeting: June 4, 2025 Plan Commission and Town Board meeting

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Upon petition, the Town Board approved conditional use 2022-05 in 2022 for Commercial Vehicle Parking at the subject property located at S100W31420 CTH LO. That approval was subject to several terms and conditions which were incorporated into a conditional use order, recorded with the County Register of Deeds as Doc. No. 4658003, on March 21, 2022.

One condition required a periodic review of the conditional use by the Plan Commission. In letters sent by the Town on December 15, 2024, and January 17, 2025, the permit holder was notified about specific action required on their part to meet the periodic review requirements of the Plan Commission as established in the conditional use order. Specifically, the permit holder was required to complete and submit an application to the Town by February 26, 2025 and was required to attend the March 5, 2025, Plan Commission meeting. To date, the required application has not been received; in addition, the permit holder failed to attend the March 5, 2025 Plan Commission meeting as mandated in the letter.

Therefore, pursuant to Section 36-362(c) the Town has initiated an involuntary termination of the conditional use due to a failure to comply with all conditions of approval.

**Public notice:** As required, a Class II notice was published in the Waukesha Freeman on May 21, 2025 and May 28, 2025. A certified letter (attached) was mailed to the property owner via Certified Mail on April 17, 2025.

**Decision:** After the public hearing has been closed, the town board shall either approve or deny the request to terminate. The town board may render its decision at the same meeting the public hearing is conducted or at a subsequent meeting, but no later than 40 days after the public hearing.

**Basis of Decision:** The Town Board in making its decision shall consider the following factors:

- (1) The nature of those buildings or other structures, if any, on the subject property that relate to the use and the extent to which they are or are not otherwise permitted in the district in which the subject property is located;
- (2) Effects of the existing use on surrounding properties, including detriment to the full and complete use of such properties and potential for concerns related to possible nuisances;
- (3) Effects of the existing use on the normal and orderly development and improvement of the surrounding properties for those uses permitted in the zoning district in which they are located; and
- (4) Any other factor that relates to the purposes of this chapter as set forth in section 36-5 or as allowed by state law.

### **Possible Town Board motions:**

1. Approve the termination of conditional use 2022-05, subject to the following conditions:
  - (1) The Town Board directs the Zoning Administrator to draft a decision notice to include the following:

- a) A statement that the specified use is terminated,
  - b) A description of the land use being terminated,
  - c) The reasons for the decision noted by the Town Board based on the decision criteria listed in this division,
  - d) Requirements for the removal of any building or other structure, if any, on the subject property that are related to the terminated use and that are not otherwise permitted in the zoning district in which the subject property is located,
  - e) A statement that the decision may be appealed as provided for in this division,
  - f) Other information the town board or zoning administrator deems appropriate,
  - g) The signature of the zoning administrator on behalf of the town board, and
  - h) The date of the decision.
- (2) The Zoning Administrator shall draft a conditional use termination order in a form approved by the Town Attorney.
- (3) The property owner shall sign the termination order within three (3) months of this date, and
- (4) the termination order is recorded at the Waukesha County register of deeds office if conditions 1-3 are satisfied.

**2. Deny the termination of conditional use 2022-05, subject to the following conditions:**

[1] The Town Board directs the Zoning Administrator to draft a decision notice to include the following:

- a) A statement that the specified use continues to be an approved use,
- b) A description of the land use,
- c) The reasons for the decision by the Town Board based on the decision criteria listed in this division,
- d) A statement that the decision may be appealed as provided for in this division,
- e) Other information the town board or zoning administrator deems appropriate,
- f) The signature of the zoning administrator on behalf of the town board, and
- g) The date of the decision.

**Attachments:**

1. Termination notification



# Town of Mukwonago Waukesha County

W320 S8315 Beulah Road • Mukwonago, WI 53149

Phone: (262) 363-4555 • Fax: (262) 363-8377

April 15, 2025

Robert Sund and Melissa Sund  
S100W31420 CTH LO  
MUKWONAGO, WI 53149

Subject: INITIATION OF PROCESS TO TERMINATE CONDITIONAL USE ORDER

Permit No: CUP No. 2022-05

Permit Type: Commercial Parking

Original Issuance Date: 3/2/2022

Enclosures: Conditional Use Order.

Dear Mr. and Mrs. Sund:

On December 15, 2024, a letter was sent to you, reminding you of the requirement for formal review of your permit by the Town Plan Commission. That letter requested your cooperation by completing and returning an application for formal review by January 17, 2025, as well as attending the February 5, 2025, Town Plan Commission meeting.

Since you did not respond to the first request, a second letter was sent on February 10, 2025, requesting your cooperation by completing and returning an application for formal review by February 26, 2025, as well as attending the March 5, 2025, Town Plan Commission meeting.

Pursuant to Section 36-362(c) of the town zoning code, I have initiated the process to terminate the above noted Conditional Use Permit due to a failure to comply with the permit requirements for periodic Plan Commission review.

As required by Section 36-363 of the town zoning code, you are hereby notified that the Town Plan commission and Town Board will hold a joint public hearing at its June 4, 2025, meeting to consider termination of the above referenced conditional use approval.

If you have any questions, feel free to contact me at 262-204-2350 or [ben.greenberg@cedarcorp.com](mailto:ben.greenberg@cedarcorp.com)

Best regards,

Ben Greenberg  
Planner and Zoning Administrator  
Town of Mukwonago

**Town of Mukwonago Order Granting a Conditional Use Permit and Prescribing Conditions for Commercial Truck Parking for Property Located at S100W31420 CTH LO**

WHEREAS, Robert G Sund and Melissa C Sund (hereinafter "property owner") own the property located at S100W31420 CTH LO (hereinafter "subject property") in the Town of Mukwonago, more particularly described as follows:

LOT 1 CSM #11906 VOL 120/205 RECORDED AS DOC #442001 PT SW1/4 OF NE1/4 & NW1/4 OF SE1/4 SEC 28 T5N R18E; and

WHEREAS, the property owner has submitted a conditional use application pursuant to the Town of Mukwonago's zoning code for commercial truck parking; and

WHEREAS, upon receipt of the petition submitted by the property owner, the Town Clerk properly referred such petition to the Plan Commission and Town Board; and

WHEREAS, allowing for required public notice, the Plan Commission and Town Board conducted a joint public hearing on March 2, 2022 to consider the property owner's request; and

WHEREAS, members of the public in attendance were given ample opportunity to provide comment regarding the property owner's request; and

WHEREAS, the Plan Commission passed a motion recommending to the Town Board that the petition for conditional use be granted subject to certain terms and conditions; and

WHEREAS, the Plan Commission, in passing on the matter, has made the following determinations consistent with Section 36-285 of Town's zoning code:

1. Special conditions of approval are not required in this instance (Section 36-286).
2. The proposed project complies with the performance standards set forth in Article 6 of the zoning code.
3. The proposed project as presented complies with each of the development standards for commercial truck parking as set forth in Appendix B.
4. The proposed project complies with other applicable sections of the zoning code.
5. The proposed project complies all other applicable sections of the municipal code.
6. The proposed project is compatible with surrounding properties.

WHEREAS, the Town Board has carefully reviewed the recommendation of the Plan Commission and concurs with the Plan Commission's findings set forth above, provided the conditional use is operated pursuant to the conditions of approval set forth in this order.

NOW THEREFORE, IT IS HEREBY DETERMINED AND ORDERED AS FOLLOWS:

1. **Authorized uses.** Subject to the terms and conditions of this approval and the sections of the zoning code that apply, the property owner is authorized to have commercial truck parking as set forth herein and subject to the Town's zoning regulations. The use is limited to one semi-tractor and one trailer, but not a refrigerated unit.

4658003

REGISTER OF DEEDS  
WAUKESHA COUNTY, WI  
RECORDED ON

March 21, 2022 03:41 PM  
James R Behrend  
Register of Deeds

5 PGS  
TOTAL FEE:\$30.00  
TRANS FEE:\$0.00

Book Page -



**Drafted by and return to:**

Tim Schwecke, Town Planner  
Civi Tek Consulting  
610 S Ferry Drive  
Lake Mills, WI 53551

**Parcel Number:** MUKT1981997004

2. **Issuance of permit required.** The zoning administrator is authorized to issue the property owner a conditional use permit when all conditions enumerated in section 3 have been satisfied to his or her satisfaction. Such permit is the last approval before the property owner can begin to establish the use as authorized herein.

3. **Initial conditions of approval.** The following conditions shall be satisfied prior to the issuance of the conditional use permit:

- a. The property owner is required to accept the terms and conditions of this conditional use order in its entirety in writing. If the property owner does not sign this instrument and return it to the Town Administrator within 9 months of approval, this order is null and void. Prior to such expiration, the property owner may request an extension to this time period and the Town Board may approve an extension with good cause.
- b. This order must be recorded against the subject property in the Waukesha County register of deeds office (only if the above subsections have been satisfied).

In the event that any of the above conditions are not satisfied within 12 months of the date of this approval, this order shall be null and void without any further action by the Town of Mukwonago.

4. **Establishment of use:** Following issuance of the conditional use permit set forth in section 3 above, the use as authorized herein must be established within 9 months of such permit.

5. **Nature of approval.** This approval is personal to the property owner and is not transferrable to a subsequent property owner.

6. **Appeals.** An aggrieved person may appeal this approval to a court of competent jurisdiction. Any work done by the applicant as authorized by the approval is done at the applicant's risk.

7. **Ongoing conditions of approval.** The following conditions shall constitute an ongoing obligation:

- A. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to the classification of use, the question shall be submitted to the plan commission for determination.
- B. No use is hereby authorized unless the use is conducted in a lawful, orderly, and peaceful manner. Nothing in this order 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 Waukesha County of, 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 order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by town ordinance or other law.
- C. 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 plan commission as being in compliance with all pertinent ordinances.
- D. All buildings and grounds shall be maintained in a neat, attractive and orderly way.
- E. The property shall comply with all rules and regulations of the Town of Mukwonago, including submission to routine inspections by the town staff.
- F. Prior to the execution of the conditional use permit, the applicant must obtain any and all approvals that must be obtained before the use may be established or the commencement of any land-disturbing activity related to the approved conditional use.

- G. Should the permitted conditional use be abandoned in any manner, or discontinued in use for 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 the town, 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 plan commission, pursuant to the enforcement provisions of this conditional use order, and all applicable ordinances.
- H. 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.
- I. Unless this conditional use order expressly states otherwise, plans that are specifically required by this conditional use order may be amended upon the prior approval of the plan commission if the plan commission finds the plan amendment to be minor and consistent with the conditional use permit. Any change in any plan that the plan commission feels, in its sole discretion, to be substantial shall require a new permit, and all procedures in place at the time must be followed.
- J. As a condition precedent to the issuance of the conditional use permit, the owner of the subject property shall approve the issuance of this conditional use order upon the terms and conditions described herein in writing, and the petitioner is required to accept the terms and conditions of the same in its entirety in writing.
- K. Petitioner shall, on demand, reimburse the town for all costs and expenses of any type that the town incurs in connection with this application, including the cost of professional services incurred by the town (including engineering, legal, planning and other consulting fees) for the review and preparation of the necessary documents or attendance at meetings or other related professional services for this application, as well as for any actions the Town is required to take to enforce the conditions in this conditional approval due to a violation of these conditions.
- L. Any unpaid bills owed to the town by the subject property owner or his or her tenants, operators or occupants, 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 owed to the town; shall be placed upon the tax roll for the subject property if not paid within 30 days of billing by the town, pursuant to s. 66.0627, Wis. Stats. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the town, including possible cause for termination of this approval.
- M. The petitioner is obligated to file with the town clerk a current mailing address and current phone number at which the petitioner can be reached, which must be continually updated by the petitioner if such contact information should change, for the duration of this conditional use. If the petitioner fails to maintain such current contact information, the petitioner thereby automatically waives notice of any proceedings that may be commenced under this conditional approval, including proceedings to terminate this conditional use.
- N. Should any paragraph or phrase of this conditional use order 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 order and the remainder shall continue in full force and effect.
- O. If any aspect of this conditional use order 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 plan commission.
- P. The property owner shall not change the size and/or shape of the subject property by any means without the approval of the town board. If the town board determines that a proposed change is substantial with regard to the overall size of the parcel and/or configuration, such change shall

require issuance of a new conditional use approval pursuant to the requirements in effect at the time of application.

- Q. This approval is given under the town's zoning code and is not to be, in any way, interpreted to abrogate any private rights other property owners may have pursuant to deed restrictions or restrictive covenants.
- R. If this conditional use terminates for any reason, the property owner is obligated to remove any improvements specifically related to the conditional use and which cannot be utilized for an approved use (i.e., a use permitted by right or a different conditional use as approved).
- S. The conditional use permit shall be reviewed by the Plan Commission every 2 years in order to determine conformance with the terms of the permit and its compatibility with the adjacent land uses. Failure to conduct such review shall not invalidate any subsequent review or any enforcement proceeding. If it is determined that the conditional use permit is no longer compatible, or that the provisions of the permit have not been complied with, the conditional use permit may be revoked or amended in accordance with the procedures set forth in Article 5 of the zoning code.

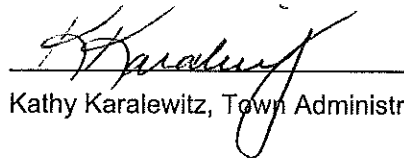
Passed this 2nd day of March, 2022

BY THE TOWN BOARD FOR THE TOWN OF MUKWONAGO

ATTEST:



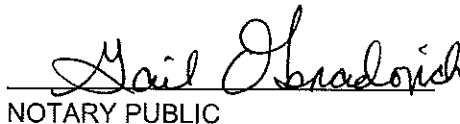
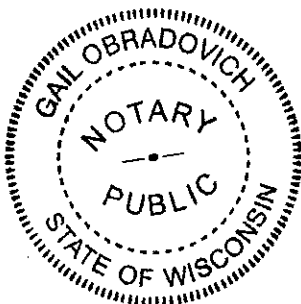
Peter Topczewski, Town Chair



Kathy Karalewitz, Town Administrator

STATE OF WISCONSIN     )  
  ) SS  
COUNTY OF WAUKESHA    )

Personally came before me this 16 day of March, 2022, the persons described above, Peter Topczewski, Town of Mukwonago Town Chair, and Kathy Karalewitz, Town of Mukwonago Town Administrator, to me known to be the persons who executed the foregoing instrument and to me known to be such Town Chair and Town Administrator of said municipal corporation and acknowledged that they executed the foregoing instrument as such officers of said municipal corporation by its authority and pursuant to the authorization by the Town Board from their meeting on the 2nd day of March, 2022



NOTARY PUBLIC

Oct 28, 2022  
My Commission Expires:

Conditional use order for commercial truck parking  
for property located at S100W31420 CTH LO; Town  
of Mukwonago

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**Acceptance by Property Owner**

We, Robert G. Sund and Melissa C. Sund, accept the terms stated herein.

Dated this 8 day of MARCH, 2022

Robert G. Sund

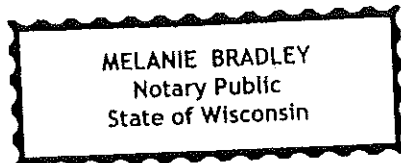
Robert G. Sund

Melissa C. Sund

Melissa C. Sund

STATE OF WISCONSIN     )  
  ) SS  
COUNTY OF WAUKESHA    )

Personally came before me this 8<sup>th</sup> day of MARCH, 2022, the above-named persons, Robert G. Sund and Melissa C. Sund, to me known to be the persons who executed the foregoing instrument and acknowledged the same.



Melanie Bradley

NOTARY PUBLIC

7-3-24

My Commission Expires:





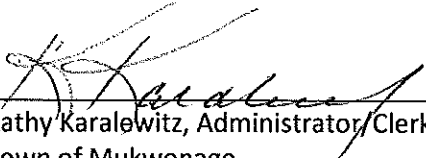
*Town of Mukwonago*  
*Administration Clerk / Treasurer*

W320 S8315 Beulah Road  
Mukwonago, WI 53149

**CERTIFICATION**

I, Kathy Karalewitz, Administrator/Clerk-Treasurer for the Town of Mukwonago, do hereby certify that the attached document "Town of Mukwonago Order Granting a Conditional Use Permit and Prescribing Conditions for Commercial Truck Parking on Property Located at S100W31420 CTH LO" for MUKT1981997004, is a true and correct copy of the original and if they are not legible or readable, a copy of the original is available at Town of Mukwonago Town Hall.

Dated this 16<sup>TH</sup> day of March, 2022

  
\_\_\_\_\_  
Kathy Karalewitz, Administrator/Clerk-Treasurer  
Town of Mukwonago



*Town of Mukwonago*  
*Waukesha County*

W320 S8315 Beulah Road  
Mukwonago, WI 53149  
Phone (262)363-4555 Fax (262)363-8377

## AFFIDAVIT OF MAILING

STATE OF WISCONSIN

WAUKESHA COUNTY

The undersigned, Kathy Karalewitz, the Administrator Clerk/Treasurer, Town of Mukwonago, being duly sworn, states on the *17<sup>th</sup> day of April*, 2025 she forwarded or caused to be forwarded to each of the property owners listed and attached hereto, a notice of Termination of their conditional use. Envelopes were deposited, in a U.S. Mail Depository in Mukwonago, Wis., prepaid for First Class handling, which bore each of the attached sender's name and address.

The attached addresses are believed to be the last known addresses of these individuals.

  
(Signature)

Subscribed to and sworn before me on this

*17th* day of *April* 2025

Gail Obradovich

\*



Notary Public, State of Wisconsin

My commission expires October 28, 2026

BT

*Town of Mukwonago*  
*Waukesha County*

W320 S8315 Beulah Road, Mukwonago, WI 53149

April 15, 2025

Julie A. Zitzler  
S102W32605 CTH LO  
MUKWONAGO, WI 53149

BT

*Town of Mukwonago*  
*Waukesha County*

W320 S8315 Beulah Road, Mukwonago, WI 53149

April 15, 2025

Shaun W Levinson  
S76W31675 Arbor Drive  
MUKWONAGO, WI 53149

April 15, 2025

Robert Sund and Melissa Sund  
S100W31420 CTH LO  
MUKWONAGO, WI 53149

Subject: INITIATION OF PROCESS TO TERMINATE CONDITIONAL