

**MEMORANDUM**

Patrick M. Griffin

TO: Mark VanKerkhoff  
Keith Berkhout  
Kane County Development Dept.

FROM: Patrick M. Griffin

DATE: February 12, 2019

SUBJECT: Burke Storage, Inc. – Municipality Response Letter  
9N533 Nestler Rd., Elgin, IL  
PINS: 05-25-178-006; 05-25-178-008

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Direct: (630) 524-2566  
pgriffin@gwillplaw.com

Mr. VanKerkhoff and Mr. Berkhout:

Please allow this correspondence to address the comments from the Village of Campton Hills and the City of Elgin in connection with my client's special use application for the above Property. We did not receive a copy of the Village of Campton Hills' letter until after our initial November 1, 2018 Zoning Board of Appeals hearing. We received the City of Elgin's comments just prior to that hearing, and while we addressed them during the hearing, we think it is appropriate to update our response with the most current information regarding the application.

**The Village of Campton Hills**

The Village of Campton Hills' correspondence advised that it "supports the County's recommendation that the applicant eliminate any encroachment on the adjacent property(ies) and that the owner vacate any storage on the F-1 zoned parcel."

As Petitioner has agreed to these recommendations, among several others, there are no outstanding issues in connection with the Village of Campton Hills' input.

**The City of Elgin**

The City of Elgin opposes the application and sets forth a list of requested conditions in the event the County approves the special use. The points of opposition and requested conditions are set forth below.

**Points of Opposition**

1. **Zoning Consistency.** The City notes that the Property is located adjacent to the Bowes Creek and Cedar Grove residential subdivisions and concludes the special

use is not consistent with the surrounding uses and zoning classifications, or with the character and trend of residential development.

Response. The special use application does not seek a map amendment changing the property's zoning classification and there is therefore no requirement under the County ordinance (or any other applicable authority) that the already-existing zoning classification be consistent with the adjacent properties or with the character and trend of municipal zoning activities that post-date the use.

Nevertheless, the existing B-3 zoning on the subject parcel actually *is consistent* with the B-3 and B-1 zoning parcels which border it immediately to the North and East, and the F-1 parcel located immediately to the West is owned by the principal of the applicant. Further, both the Bowes Creek and Cedar Grove residential developments referenced by the City came into existence well after the existing B-3 parcel, and well after the outdoor storage use was first commenced on the Property. The applicant purchased the Property from Norwood Storage, Inc. on May 13, 1999. At the time of that transaction, and for many years prior, Norwood Storage utilized the Property (as well as adjacent F-1 property to the east) for, among other things, indoor and outdoor storage of vehicles. That historical usage, including storage on both the B-3 and F-1 zoned parcels, is evidenced by the photographs included with the application, and which track the outdoor storage intermittently from March 1993 through March 2018.

2. Compliance with Comprehensive Plan. The City notes that the Property is within its planning boundary and also that the City's Comprehensive Plan designates the Property for attached single-family use. The City further suggests that the allowance of the special use to continue the existing outdoor storage will impede normal and orderly development and the improvement of surrounding properties.

Response. The City annexed the Bowes Creek subdivision in 2003 and approved the final plat for the first phase in 2006. Similarly, the City annexed the Cedar Grove development in 2005 and approved the final plat for the first phase in 2007. All of these municipal development activities took place long after the Property was already zoned B-3 and long after it was actively utilized for outdoor storage, yet these subdivisions were approved by the City and each has progressed in a normal and orderly fashion. The City's contention otherwise is simply not accurate.

3. Use and Enjoyment / Property Values. Finally, the City contends that the requested special use – which, again, merely formalizes a pre-existing use under a long-existing zoning designation – is injurious to the use and enjoyment of the adjacent properties and impairs surrounding property values.

Response. The City offers no evidence to support its position that use and enjoyment has been impaired, and the clear evidence of: (1) the City's approval of the residential developments immediately adjacent to this existing use; and (2) the subdivisions' continued development to the point that nearly all of the immediately adjacent lots have been developed and sold, is clear evidence to the contrary.

Perhaps more importantly, neither the County nor its residents should welcome a policy that would allow municipalities to extend their boundaries by way of annexation – a process which implicitly acknowledges the appropriateness of the adjacent zoning and land uses – only to later change course and demand the County's prior-existing and lawful uses be extinguished. Such a policy is neither enforceable from a legal perspective, nor desirable from a public policy perspective.

The City of Elgin next suggests that in the event the County disregards the City's objection, the County should impose a number of requirements as a condition of approval. The applicant is generally in agreement with the requested conditions, with minor exceptions, as noted below.

1. Screening. The City requested that the outdoor storage area be screened with a 6-foot tall privacy fence and extensive landscaping, including evergreens.

Response. As depicted on the Site Plan attached hereto as **Exhibit A**, shortly after the initial hearing, the applicant proactively installed 73 13 to 15-foot tall arborvitae trees, which completely screen the outdoor storage for the Bowes Creek subdivision. The existing indoor storage building continues to screen the outdoor storage for the Cedar Grove subdivision. In addition to the screening itself, the applicant located the screening in such a way that vehicular access to the B-3 parcel will be limited to the north end of the Property, thereby limiting much of the activity in that area.

2. Limitation of Outdoor Towing Storage. The City requested that vehicles associated with the towing business be limited to the small, fenced-in yard located immediately west of the smaller building on the Property, and that all vehicles associated with the towing business be parked either in the building or the fenced-in yard.

Response. The applicant has already begun the process of causing the towing tenant to eliminate the excess vehicles outside the fenced-in yard, and the location of the newly installed trees precludes ready access to that area. In addition, that area is now completely screened from view. Although the applicant cannot limit the tenant's number of vehicles, the practical effect of the newly-installed landscaping is that it is not practical to store large numbers of vehicles in that

location, and those vehicles that are present cannot readily be seen.

3. Dumpster. The City requested that the existing dumpster located south of the fenced-in yard be relocated either inside the fenced-in yard or inside the building.

Response. The applicant has already moved the dumpster to the north side of the building so that cannot be viewed either from the south or the west.

4. Location of Screening. The City requested that the screening be located on the south and west of the fenced-in yard.

Response. Applicant placed the screening along the entire south border of the Property, from the western-most edge to the eastern-most edge, and then continued the screening on the F-1 parcel on both sides of the existing home to create a complete and continuous visual screen. The applicant received two Christmas cards from Bowes Creek residents who live on Valhalla Drive, immediately behind the Property, thanking applicant for the “great view” and for being a “good neighbor.” Those are attached hereto as **Exhibit B**.

5. Remove Encroachment. The City requested that applicant remove the portion of the driveway that encroaches onto the Bowes Creek open space parcel.

Response. Applicant has already removed the encroachment and will re-seed and restore the affected area when the weather permits.

6. Obtain Necessary Permits. The City requested that applicant obtain necessary permits for the installation of a new driveway.

Response. Applicant does not believe any new permitting is required for the existing driveway.

## **Conclusion**

As set forth in the application and subsequent communications with County staff, and as otherwise set forth above, applicant has agreed to the following:

1. Applicant has agreed that all outdoor storage associated with the B-3 parcel will now be expressly restricted to the B-3 parcel. This represents a less-intensive use.
2. Applicant has agreed to install (and has installed) screening along the entire southern edge of the Property, as well as on the adjacent F-1 parcel, to create a complete and continuous visual screen.

3. Applicant has agreed to limit vehicular access for the B-3 parcel to the north end of the Property, and has installed appropriate vehicular signage directing such traffic at both the north and south ends of the Property.