

## **KwikTrip appeals zoning denial**

Written by MARK JAEGER  
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### **Petition claims village ruling ignored measures proposed at gas station to protect wetlands**

KwikTrip is appealing the Village of Saukville Plan Commission's January decision to deny a conditional-use permit that would allow a gas station and convenience store at the northeast corner of Highway 33 and Foster Street.

The company has requested an appearance before the village's Board of Zoning Appeals at 6 p.m. Thursday, May 16.

At the hearing, KwikTrip will seek to reverse the ruling that denied the company a waiver from the village's restriction of prohibiting fueling stations closer than 600 feet of wetlands or navigable waterways.

County maps show the proposed gas station site is 175 feet from a mapped wetlands and 385 feet from a waterway.

However, in a 93-page appeal document, KwikTrip officials contend exhaustive measures would be taken to ensure that the natural area would be protected.

The appeal petition, filed by attorneys with the law firm of Reinhart Boerner Van Deuren, claims the commission "acted arbitrarily and unreasonably" in denying the conditional-use permit.

The petition says that technical data presented to the commission "was more than sufficient to demonstrate that the requested setback modification would not adversely affect the environmentally sensitive areas protected by the ordinance."

According to KwikTrip's consultants, the existing soil conditions and distance of the wetlands meant it would take seven years and nine months before any fuel spill would reach the protected environmental area.

That would allow the company ample time to take whatever corrective measures are needed, the petition said.

In addition, the appeal notes that KwikTrip plans to install state-of-the-art fueling systems that would drastically reduce the risk of spills spreading off their property.

Those measures include double-walled underground fuel tanks, containment systems and sophisticated electronic monitoring devices. Employees would also be trained in how to handle any accidental fuel spills, the report notes.

In the final point of its appeal petition, the company contends the commission failed to provide specific reasons why the conditional-use permit was denied.

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“No evidence existed in the record on which the Plan Commission could have reasonably based its determination to deny the setback modification,” the appeal petition states.

In a 2012 memo from Village Attorney Gerald Antoine, village officials were told a waiver of the setback requirement could only be granted if the proposal was found “not to be hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community.”

Antoine told officials they could not deny the permit “merely because the commission members do not prefer that particular use or development on the property.”

Early last year, KwikTrip announced plans to build a gas station, 5,600-square-foot convenience store and car wash on the 5.5-acre parcel fronting Highway 33. An outlot to the north was reserved for additional development expected to be drawn by the presence of the store.

The denial of the conditional-use permit went into effect when a motion by Trustee Robert Hamann to approve the request because “enough evidence for a modification had been provided” failed on a 4-2 vote.