

ENROLLED ORDINANCE 172-052

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF VERNON ZONING CODE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NE ¼ OF SECTION 1, T5N, R19E, TOWN OF VERNON, WAUKESHA COUNTY, WISCONSIN, FROM THE A-5 MINI-FARM DISTRICT TO THE B-3 GENERAL BUSINESS DISTRICT (ZT-1854)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Vernon Town Board on August 17, 2017; and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 60.62, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the District Zoning Map for the Town of Vernon Zoning Code, adopted by the Town of Vernon on December 23, 2016, is hereby amended to conditionally rezone from the A-5 Mini-Farm District to the B-3 General Business District, certain lands located in part of the NE ¼ of Section 1, T5N, R19E, Town of Vernon, Waukesha County, Wisconsin, and more specifically described in the “Staff Report and Recommendation” and map on file in the office of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance by reference ZT-1854, is hereby approved subject to the following conditions:

1. The rezone shall not be in full force and effect until such time the Petitioners obtain approval of the Site Plan/Plan of Operation from the Town of Vernon Plan Commission and Town Board.
2. The Petitioners shall satisfy all comments, conditions, and concerns of the Town of Vernon Plan Commission, Town Board, Town Staff, and Waukesha County regarding the rezone request.
2. Town Attorney Review. The Town of Vernon Plan Commission’s approval shall not be in full force and effect until such time that the Town Attorney has reviewed the conditions and placed them in final form.
4. Professional Fees. The Petitioners shall, on demand, reimburse the Town of Vernon for all costs and expenses of any type that the Town of Vernon incurs in connection with this approval, including the cost of professional services incurred by the Town of Vernon (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this approval due to a violation of these conditions.
5. Payment of Charges. Any unpaid bills owed to the Town of Vernon 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 owed to the Town of Vernon; shall be placed upon the tax roll for the Subject Property if not

paid within thirty (30) days of the billing by the Town of Vernon, 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 Town of Vernon, including possible cause for termination of the conditional approval.

6. The Waukesha County Board approves the rezoning.

7. The property owner is responsible for any conversion penalties resulting from this rezoning. If there are any conversion penalties for this rezoning for which the Town is responsible, the property owner shall reimburse the Town for such costs prior to the rezoning taking effect.

BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Vernon.

BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF VERNON ZONING CODE BY
CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NE ¼ OF
SECTION 1, T5N, R19E, TOWN OF VERNON, WAUKESHA COUNTY, WISCONSIN,
FROM THE A-5 MINI-FARM DISTRICT TO THE B-3 GENERAL BUSINESS DISTRICT
(ZT-1854)

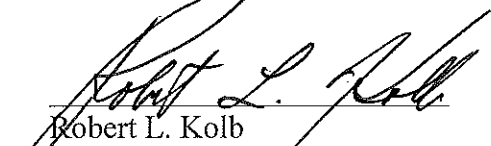
Presented by:
Land Use, Parks, and Environment Committee

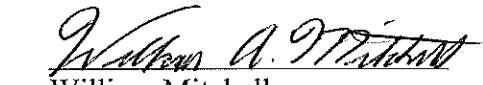

David D. Zimmermann, Chair


Kathleen M. Cummings

ABSENT

Keith Hammitt


Robert L. Kolb


William Mitchell


Thomas J. Schellinger

ABSENT

Ted Wysocki

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 11/28/17, 
Kathleen Novack, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X

Vetoed: _____


Date: 12/4/17, 
Paul Farrow, County Executive


COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Vernon Zoning Code and Map hereby recommends **approval** of **ZT-1854 (A & R Investment Realty LLC)** in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

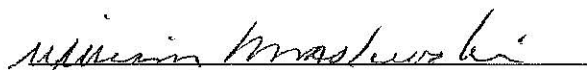
October 19, 2017


Richard Morris, Chairperson


William Mitchell


Robert Peregrine


James Siepmann


William Maslowski

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
STAFF REPORT AND RECOMMENDATION
ZONING MAP AMENDMENT

FILE NO.: ZT-1854
TAX KEY NO.: VNT 2017.977
DATE: October 19, 2017
OWNER/PETITIONER: A & R Investment Realty, LLC
S65 W22240 National Avenue
Waukesha, WI 53189-9516

LOCATION:
Part of the NE ¼ of Section 1, T5N, R19E, Town of Vernon. More specifically, the property is located at S65 W22175 National Avenue containing approximately 6 acres.

EXISTING ZONING:
A-5 Mini Farm District.

REQUESTED ZONING:
B-3 General Business District.

EXISTING LAND USE:
Single-family residence and agricultural.

PROPOSED LAND USE:
Business (septic tank cleaners).

PUBLIC HEARING DATE:
August 9, 2017.

PUBLIC REACTION:
One abutting neighbor spoke in support of the proposal and another raised questions regarding the need for three septic tanks and asked how the proposal would affect his re-sale. The Town Clerk reported that two other individuals had expressed their support for the proposal.

TOWN PLAN COMMISSION AND TOWN BOARD ACTIONS:
At their meeting on August 9, 2017, the Town of Vernon Plan Commission unanimously recommended to the Town of Vernon Town Board approval of the rezoning request subject to several conditions. On August 17, 2017, the Town of Vernon Board approved the rezoning request subject to conditions recommended by the Town Plan Commission. The conditions of approval are memorialized in Town Board minutes and have been incorporated into the staff recommendation. Please note that the transmitted Town ordinance contained conditions that were not consistent with the Town's action. Therefore, the Town is working to correct the ordinance conditions and will re-circulate to Waukesha County prior to the ordinance being advanced to the County Board.

COMPLIANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN AND THE TOWN OF VERNON LAND USE PLAN:
The Town and County land use plans designate the property for future commercial use. The proposed business use is consistent with plan recommendations.

STAFF ANALYSIS:

The subject property is located immediately south of C.T.H. "ES" just west of the Proven Power implement dealer. Stanley Walter Septic Tank Cleaning has operated since 1953 from the farm property just to the northwest. The petitioner would like to re-locate the business and convert the single-family residence on the subject property to an office, construct an 80' x 150' storage building and install three 8' X 20' septic storage tanks. The proposed site plan that accompanied the rezone application shows a driveway connection to the Proven Power driveway. The proposed building would be positioned to the east of the home with the proposed storage tanks being located south of the new building (see Exhibit "A").

The property is six acres and has frontage on both C.T.H. "ES" and I-43. While there is a commercial use immediately to the east, the seven-acre parcel to the west is undeveloped and other nearby properties are in residential and rural residential uses. However, Town and County plans provide for future commercial use to the south C.T.H. "ES" extending from C.T.H. "U" on the west to Crowbar Road on the east. The balance of the C.T.H. "ES" corridor in the Town of Vernon and Village of Big Bend is characterized by commercial and light industrial uses. Some residential uses remain but the plans envision a mixed-use environment. The abutting Proven Power property is zoned B-3, as well.

The proposed site plan that accompanied the rezoning application proposes a driveway to come off of the existing Proven Power driveway that extends to C.T.H. "ES". The Waukesha County Department of Public Works has indicated that the proposed shared access is acceptable and the existing driveway serving the residence can be retained provided that it be used only for the office and not be open to trucks.

According to the Environmental Health Division, the use of on-site septic storage tanks is a fairly common practice amongst septic haulers. Some haulers use the tanks as a sort of transfer station to avoid frequent trucking to the municipal wastewater site, while others need to temporarily store waste to amend and prepare it to be spread as agricultural fertilizer. The authorization of the tanks is not material to the rezoning request, however, Staff has an inquiry in to the Environmental Health Division regarding the tank approval jurisdiction and will provide more information at the October 19, 2017 Park and Planning Commission meeting.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that this request be **approved** subject to the following conditions:

1. The rezone shall not be in full force and effect until such time the Petitioners obtain approval of the Site Plan/Plan of Operation from the Town of Vernon Plan Commission and Town Board.
2. The Petitioners shall satisfy all comments, conditions, and concerns of the Town of Vernon Plan Commission, Town Board, Town Staff, and Waukesha County regarding the rezone request.
2. Town Attorney Review. The Town of Vernon Plan Commission's approval shall not be in full force and effect until such time that the Town Attorney has reviewed the conditions and placed them in final form.

4. Professional Fees. The Petitioners shall, on demand, reimburse the Town of Vernon for all costs and expenses of any type that the Town of Vernon incurs in connection with this approval, including the cost of professional services incurred by the Town of Vernon (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this approval due to a violation of these conditions.
5. Payment of Charges. Any unpaid bills owed to the Town of Vernon 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 owed to the Town of Vernon; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Town of Vernon, 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 Town of Vernon, including possible cause for termination of the conditional approval.
6. The Waukesha County Board approves the rezoning.
7. The property owner is responsible for any conversion penalties resulting from this rezoning. If there are any conversion penalties for this rezoning for which the Town is responsible, the property owner shall reimburse the Town for such costs prior to the rezoning taking effect.

The approval of the request conforms to the recommendations of the Town and County plans and allows for a local business to re-locate into more modern facilities. The Site Plan review process, as acknowledged in the Town's conditions, should ensure that highway access and environmental health matters are adequately addressed.

Respectfully submitted,

Jason Fruth

Planning and Zoning Manager

Attachments: Town Ordinance No. 2017-04
Exhibit "A"
Map

N:\PRKANDLU\Planning And Zoning\Rezoning\Staff Reports\1854 A & R Investments Realty LLC Vnt.Docx

ORDINANCE 2017-07

AN ORDINANCE TO REZONE A PORTION OF A CERTAIN PROPERTY IN SECTION 1, T5N,
R19E, IN THE TOWN OF VERNON AND TO AMEND THE ZONING MAP OF THE TOWN OF
VERNON PURSUANT TO SEC. 300-46 OF THE ZONING ORDINANCE
FOR THE TOWN OF VERNON

WHEREAS, Allen and Rick Walter, the owners of A&R Investment Realty LLC (herein referred to as "property owner") owns the property located at S65W22175 National Ave in the PT NE1/4 SEC 1 T5N R19E; COM SE COR N0°30'53"E 1633.60 FT; S58°14'53"W ALG CTRLI HWY 15 804.38 FT THE BGN; S58°14'53"W ALG SAID CTRLI 371.82 FT; S0°30'53"W 861.57 FT TO POINT ON N LI HWY 15; N51°05'26E 407.01 FT; N0°30'53"E 801.67 FT TO BGN; DOC# 4277780, designated as Tax Key VNT2017.977 (herein referred to as "subject property"); and

WHEREAS, the property owner has submitted a petition to the Town to rezone the area of the subject property currently designated as A-5 Agricultural 5 Acre Density to B-3 Business; and

WHEREAS, the rezoning petition has been submitted to the Town of Vernon Plan Commission for report and recommendation and a copy provided to Waukesha County, per Section 300-46 A.(3)(a) of the Town of Vernon Zoning Code; and

WHEREAS, the Town Plan Commission conducted the necessary investigation and scheduled a public hearing as required by Section 300-46 A.(3)(b) of the Town of Vernon Zoning Code; and

WHEREAS, the Town of Vernon Town Board and the Town of Vernon Plan Commission conducted a joint public hearing on August 9, 2017 as required by Section 300-46 A.(4) of the Town of Vernon Zoning Code, after providing the required public notice of the public hearing consistent with Section 62.23 of the Wisconsin Statutes and Section 300-46 B.(1) of the Town of Vernon Zoning Code; and

WHEREAS, the Town of Vernon Plan Commission has recommended to the Town of Vernon Town Board that said rezoning be made under certain conditions; and

WHEREAS, The Town Board finds that the proposed zoning is consistent with the Town's comprehensive plan; and

WHEREAS, the Town Board finds that this change to the Town Zoning Code is not a down zoning ordinance because it does not decrease the development density of land and it does not reduce the permitted uses of land, and therefore the super majority requirement of Section 66.10015, Wisconsin Statutes, does not apply to this ordinance; and

WHEREAS, the Town of Vernon Town Board, after careful review and upon consideration of the recommendation of the Town of Vernon Plan Commission, having determined that all procedural requirements and notice requirements have been satisfied, having given the matter due consideration and having based its determination on the effect of granting of said rezoning on the health, safety, and welfare of the community, and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved, as well as the impact on the surrounding properties as to the noise, dust, smoke, odor and others, has hereby determined that the rezoning will not violate the spirit or intent of the zoning ordinance for the Town of Vernon will not be contrary to the public health, safety or general welfare of the Town of Vernon will not be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, odor or other similar factors, and will not for any other reason cause a substantial adverse affect on the property values and general desirability of the neighborhood; and

WHEREAS, The Town Board has included all seven conditions of its approval of the rezoning request.

NOW, THEREFORE, the Town of Vernon Town Board, Waukesha County, Wisconsin, ordains as follows:

SECTION 1. ZONING MAP CHANGE

The subject property is conditionally rezoned from A-5 Agricultural 5 Acre Density to B-3 Business and the zoning map is hereby conditionally amended to incorporate such change.

SECTION 2. CONDITIONS OF REZONING

The rezoning of the subject property as specified herein and the amendment of the zoning map of the Town of Vernon are conditioned on the following:

1. The Waukesha County Board approves the rezoning.
2. The property owner is responsible for any conversion penalties resulting from this rezoning. If there are any conversion penalties for this rezoning for which the Town is responsible, the property owner shall reimburse the Town for such costs prior to the rezoning taking effect.
3. The Rezone shall not be in full force and effect until such time the Petitioners obtain approval of the Site Plan/Plan of Operation from the Town of Vernon Plan Commission and Town Board.
4. The Petitioners shall satisfy all comments, conditions, and concerns of the Town of Vernon Plan Commission, Town Board, Town Staff, and Waukesha County regarding the rezone request.
5. Town Attorney Review. The Town of Vernon Plan Commission's approval shall not be in full force and effect until such time that the Town Attorney has reviewed the conditions and placed them in final form.
6. Professional Fees. The Petitioners shall, on demand, reimburse the Town of Vernon for all costs and expenses of any type that the Town of Vernon incurs in connection with this approval, including the cost of professional services incurred by the Town of Vernon (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this approval due to a violation of these conditions.
7. Payment of Charges. Any unpaid bills owed to the Town of Vernon 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 owed to the Town of Vernon; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Town of Vernon, 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 Town of Vernon, including possible cause for termination of the conditional approval.

SECTION 3. CERTIFICATION

Upon certification by the Town Clerk that the conditions set forth in Section 2 have been satisfied within the time period established in Section 5, the Town Planner shall change the zoning classification of the subject property on the Town of Vernon zoning map as indicated herein.

SECTION 4. SEVERABILITY

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections, or portions thereof of the ordinance. The remainder of the ordinance shall



remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed to those terms that conflict.

SECTION 5. EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and posting or publication as provided by law subject to the conditions stated in Section 2, and this ordinance is null and void and the current zoning shall be in effect with no further notice if such conditions are not satisfied within one year of the date of this decision.

Approved this 19 day of October 2017

BY THE TOWN OF BOARD OF SUPERVISORS

Thomas G. Bird

Thomas G. Bird, Town Chairman

ATTEST:

Karen L. Schuh

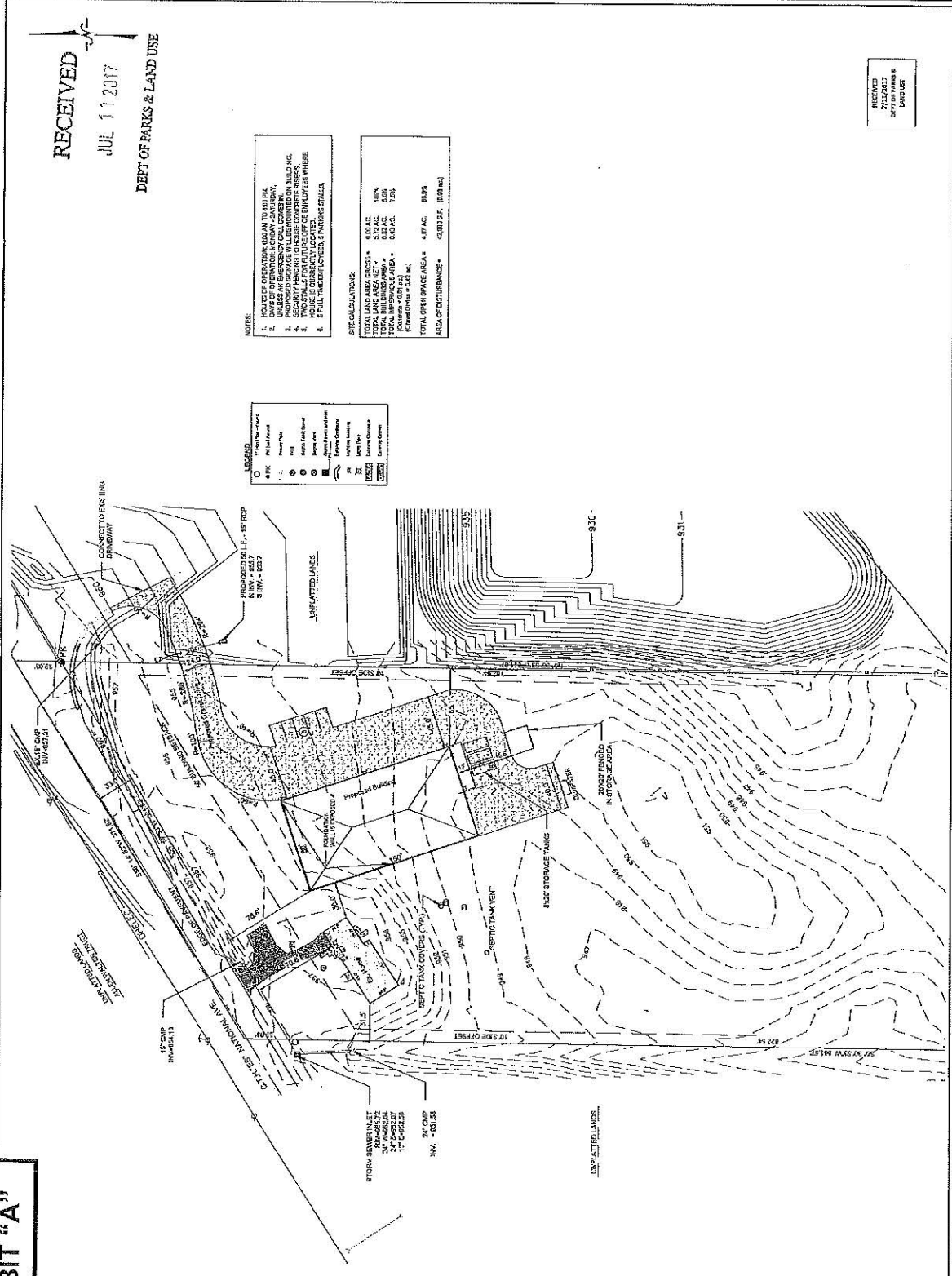
Karen L. Schuh, Town Clerk



Published and posted this 19th day of October, 2017



EXHIBIT "A"



RECEIVED
 JUL 11 2017
 DEPT OF PARKS & LAND USE

- NOTES:**
1. SOURCE OF OPERATOR: 650 N. 700 1/2 ST. W.
 2. DATE OF OPERATION: MONDAY - SATURDAY.
 3. PROPOSED OPERATOR: JAY'S CONCRETE & ASPHALT.
 4. SECURITY FENCING TO BE CONCRETE AND METAL.
 5. HOUSE TO BE CONCRETE AND METAL.
 6. FULL TIME EMPLOYER: 2 PARKING SPACES.
- SITE CALCULATIONS:**
- | | |
|-------------------------------|-----------------|
| TOTAL LAND AREA (ACRES) | 6.00 AC. |
| TOTAL LAND AREA (SQ. FT.) | 415,200 SQ. FT. |
| TOTAL IMPROVED AREA (ACRES) | 0.10 AC. |
| TOTAL IMPROVED AREA (SQ. FT.) | 69,120 SQ. FT. |
| AREA OF DISTURBANCE (ACRES) | 0.10 AC. |
| AREA OF DISTURBANCE (SQ. FT.) | 69,120 SQ. FT. |

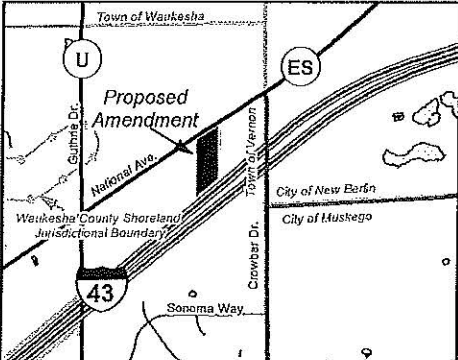
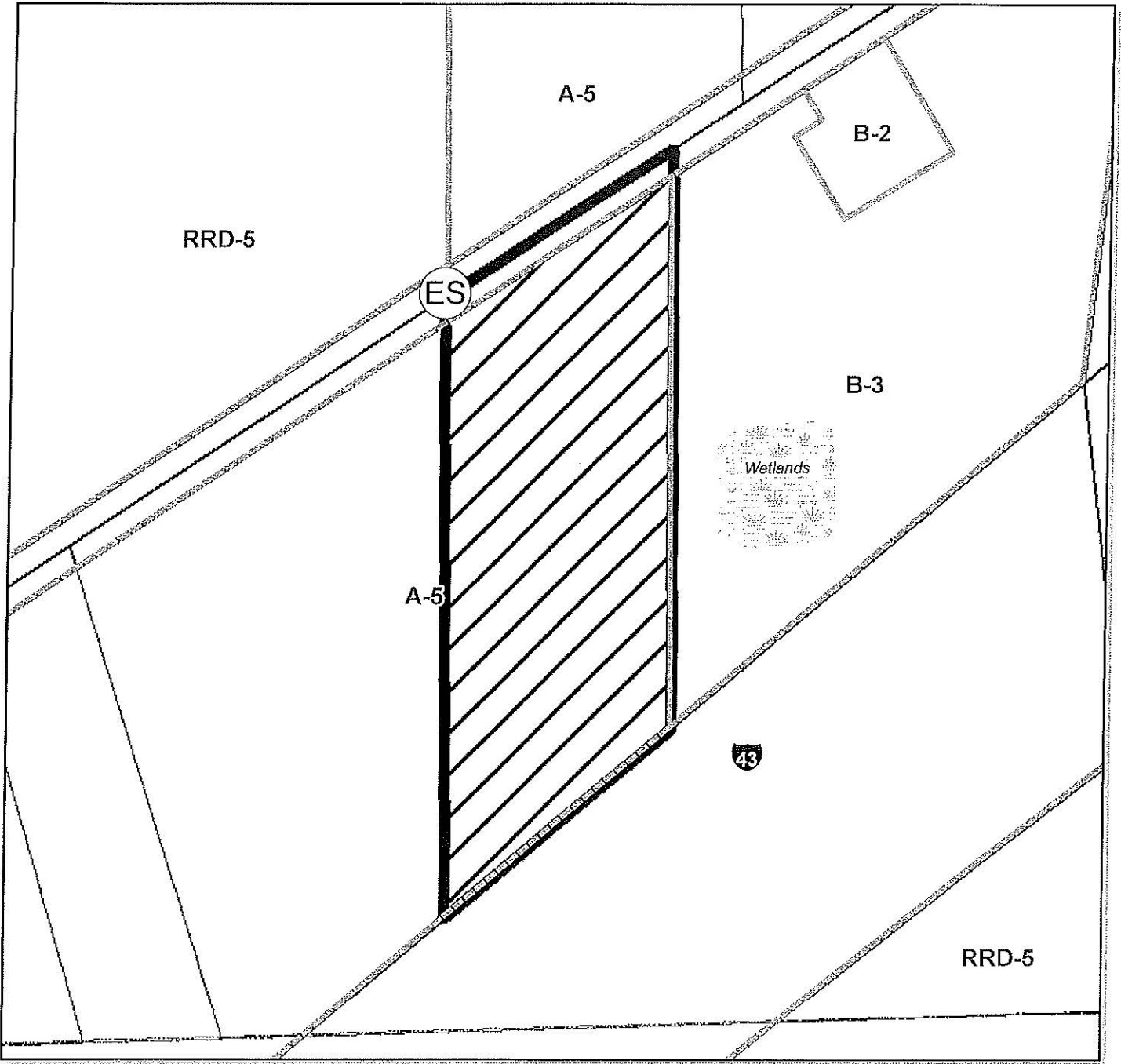
- LEGEND:**
- PROPOSED DRIVEWAY
 - EXISTING DRIVEWAY
 - PROPOSED SIDEWALK
 - EXISTING SIDEWALK
 - PROPOSED UTILITY LINES
 - EXISTING UTILITY LINES
 - PROPOSED BUILDING
 - EXISTING BUILDING
 - PROPOSED PARKING
 - EXISTING PARKING
 - PROPOSED FENCING
 - EXISTING FENCING
 - PROPOSED HOUSE
 - EXISTING HOUSE
 - UNPLANTED LANDS
 - EXISTING UTILITY LINES
 - PROPOSED DRIVEWAY
 - EXISTING DRIVEWAY
 - PROPOSED SIDEWALK
 - EXISTING SIDEWALK
 - PROPOSED UTILITY LINES
 - EXISTING UTILITY LINES
 - PROPOSED BUILDING
 - EXISTING BUILDING
 - PROPOSED PARKING
 - EXISTING PARKING
 - PROPOSED FENCING
 - EXISTING FENCING
 - PROPOSED HOUSE
 - EXISTING HOUSE
 - UNPLANTED LANDS


A & R Investment Realty LLC TOWN OF VERNON, WISCONSIN COUNTY, WISCONSIN IMPROVEMENT PLANS FOR		ENGINEERING CONSULTANTS, LLC	
NO. _____ REVISIONS _____ BY _____ DATE _____		SITE PLAN	
ISSUED FOR REVIEW PLAN DATE: 04-21-17 DESIGNED BY: JAE CHECKED BY: JAE SCALE: AS SHOWN		PROJECT NO.: 17-0011 SHEET NO.: C200	

RECEIVED
 7/11/2017
 DEPT OF PARKS & LAND USE

ZONING AMENDMENT

PART OF THE NE 1/4 OF SECTION 1
TOWN OF VERNON



 TOWN ZONING CHANGE FROM A-5 MINI FARM DISTRICT TO B-3 GENERAL BUSINESS DISTRICT

FILE NO.....ZT-1854

PETITIONER.....A & R INVESTMENT REALTY LLC

DATE OF PLAN COMM. CONSIDERATION.....10/19/17

AREA OF CHANGE.....5.7 ACRES

TAX KEY NUMBER.....VNT 2017.977

1 inch = 200 feet
0 100 200 Feet

Prepared by: Waukesha County Department of Parks and Land Use
File Number: 172-O-052



D1 - Kolb	AYE	D14 - Wood	AYE
D2 - Zimmermann	(M) AYE	D15 - Mitchell	(2) AYE
D3 - Morris	AYE	D16 - Crowley	AYE
D4 - Batzko	AYE	D17 - Paulson	AYE
D5 - Dondlinger	Absent	D18 - Nelson	AYE
D6 - Walz	AYE	D19 - Cummings	AYE
D7 - Grant	AYE	D20 - Schellinger	AYE
D8 - Michalski	AYE	D21 - Zaborowski	AYE
D9 - Heinrich	AYE	D22 - Wysocki	Absent
D10 - Swan	Absent	D23 - Hammitt	AYE
D11 - Howard	AYE	D24 - Whittow	AYE
D12 - Wolff	AYE	D25 - Johnson	AYE
D13 - Decker	AYE		

172-0-052

Passed (22 Y - 0 N - 3 Absent)

Majority Vote

