

ENROLLED ORDINANCE 174-064

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF VERNON BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼ AND SW ¼ OF SECTION 19, T5N, R19E, TOWN OF VERNON, WAUKESHA COUNTY, WISCONSIN, FROM THE A-2 RURAL HOME DISTRICT TO THE R-1 RESIDENTIAL DISTRICT WITH AN EC ENVIRONMENTAL CORRIDOR OVERLAY DISTRICT TO REMAIN ON PART OF THE PROPERTY (RZ35)

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 April 10, 2019; 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 59.692, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Waukesha County Shoreland and Floodland Protection Ordinance District Zoning Map for the Town of Vernon, Waukesha County, Wisconsin, adopted by the Waukesha County Board of Supervisors on June 23, 1970, is hereby amended to conditionally rezone from the A-2 Rural Home District to the R-1 Residential District with an EC Environmental Corridor Overlay District to remain on part of the property, certain lands located in part of the NW ¼ and SW ¼ of Section 19, T5N, R19E, Town of Vernon, 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 RZ35, is hereby approved, subject to the following conditions:


1. The rezone is contingent on approval of the Conditional Use Request by the Town of Vernon and Waukesha County, approval of the Certified Survey Map by all approving bodies, and recording of the Certified Survey Map with the Waukesha County Register of Deeds.
2. The rezone is contingent on an amendment of the Town Land Use Plan Map for the two proposed single family residential lots from Commercial to Residential.
3. The Petitioner and/or Property Owner shall, on demand, reimburse the Town of Vernon for all costs and expenses of any type incurred by the Town in connection with the review and approval of this application, including, but not limited to, the cost of professional services incurred by the Town 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 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 or forfeitures owed to the Town of Vernon 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 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. ***This condition is enforceable by the Town only.***

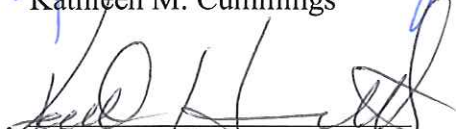
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town of Vernon Clerk.

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION
ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF VERNON BY
CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE
NW ¼ AND SW ¼ OF SECTION 19, T5N, R19E, TOWN OF VERNON, WAUKESHA
COUNTY, WISCONSIN, FROM THE A-2 RURAL HOME DISTRICT TO THE
R-1 RESIDENTIAL DISTRICT WITH AN EC ENVIRONMENTAL CORRIDOR
OVERLAY DISTRICT TO REMAIN ON PART OF THE PROPERTY (RZ35)

Presented by:
Land Use, Parks, and Environment Committee


David D. Zimmermann, Chair

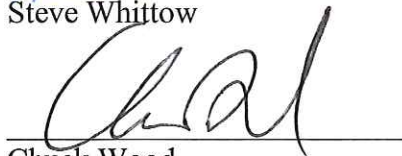

Kathleen M. Cummings


Keith Hammitt

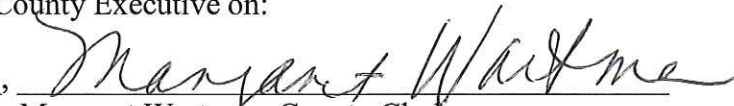

William A. Mitchell


Thomas J. Schellinger

Absent
Steve Whittow


Chuck Wood

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

Date: 12/2/19, 
Margaret Wartman, County Clerk

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

Approved:

Vetoed:


Date: 12-2-2019, 
Paul Farrow, County Executive

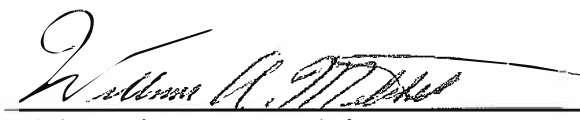
COMMISSION ACTION

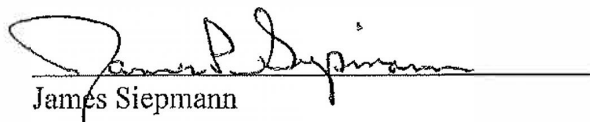
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance, hereby recommends **approval** of **(RZ35 Ralph Hibbard/Heaven City Development Company)** in accordance with the attached "Staff Report and Recommendation and Addendum"

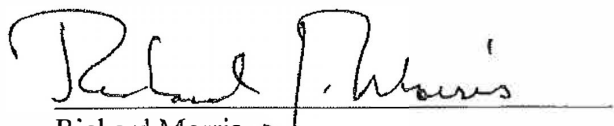
PARK AND PLANNING COMMISSION

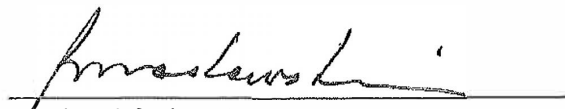
May 16, 2019



Robert Peregrine, Chairperson


William Mitchell, Vice Chairperson


James Siepmann


Richard Morris


William Maslowski


Thomas Michalski

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

DATE: May 16, 2019

FILE NO.: RZ35

OWNER: Ralph Hibbard
Heaven City Development Co.
S91 W27850 W. National Ave.
Mukwonago, WI 53149

AGENTS: John R. Stigler
Jahnke & Jahnke Associates, Inc.
711 W. Moreland Blvd.
Waukesha, WI 53188

TAX KEY NO.: VNT 2090.997.002

LOCATION: Part of Lot 2, Certified Survey Map No. 9385, Vol. 85, Pg. 222, located in part of the NW ¼ and SW ¼ of Section 19, T5N, R19E, Town of Vernon. More specifically, the property is located at S91 W27850 W. National Avenue.

EXISTING LAND USE: Vacant in area of proposed rezone. Remnant acreage used for commercial and multi-family residential purposes.

PROPOSED LAND USE: Create two (2) single-family residential lots.

EXISTING ZONING: A-2 Rural Home District & EC Environmental Corridor Overlay.

PROPOSED ZONING: R-1 Residential District. The EC Environmental Corridor Overlay will remain.

PUBLIC HEARING DATE: April 10, 2019.

PUBLIC REACTION:

- A few neighbors expressed concern regarding a potential increase in multi-family units and increased vandalism. *It should be noted that the proposed lots will be used for single-family residential purposes. In fact, multi-family is prohibited in the R-1 Residential District.* Another neighbor supported the project and has not seen any increase in vandalism.
- The applicant stated that the requested zoning category was R-2 Residential, not R-1 Residential. He didn't know if it was his error or the County's, but wanted it stated as part of the record in case the value of the property is affected. *The proposed request complies with the R-2 and R-1 Residential Districts and no further division would be allowed regardless of the district applied. The applicant acknowledged at the hearing the R-1 Residential Zoning District category would be acceptable.*

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:

On April 10, 2019, the Town of Vernon Plan Commission recommended approval of the request subject to conditions that are incorporated in this report. Immediately following the Plan Commission's recommendation, the Town Board approved the request subject to the same conditions.

COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN (CDP) FOR WAUKESHA COUNTY AND THE TOWN OF OCONOMOWOC:

The Waukesha County CDP designates the area to be rezoned as Low Density Residential, which calls for a density of one unit per 20,000 sq. ft. to 1.4 acres. There is a narrow area located on the west side of proposed Lot 2 that is subject to the EC Environmental Corridor Overlay. The lands subject to the overlay district will remain preserved in accordance with preservation restrictions that the petitioner has agreed to include the Certified Survey Map. A majority of the property is not subject to this rezone request and is designated as Commercial. The proposal to rezone a portion of the subject property complies with the plan recommendations.

The area adjacent to the Fox River, including wetland, floodplain, primary environmental corridor, and steep slopes, is designated on the County's Park and Open Space Plan as proposed Town of Vernon ownership. The purpose of the plan is to maintain said areas in preserved open spaces that benefit the public through preservation and/or recreation. The plan designates the land on the west side of the Fox River as proposed ownership by Waukesha County. The plan designates a future trail on the west side of the Fox River that would contribute toward a connection to the Vernon Marsh and an existing trail to the south. The petitioner has agreed to create an outlot that encompasses this acreage for preservation of open space purposes to be owned by a public, non-profit, or private entity.

The Town of Vernon's Land Use Plan designates the entire subject property as Commercial and a portion of the property as Environmentally Sensitive Lands. Prior to this rezone being effective, an amendment to the Town's Land Use Plan is required. The Town recently conducted a Public Information Meeting regarding comprehensive land use plan amendments. The Town has volunteered to include the subject property in those amendments. The Town is in the process of considering next steps for adoption.

STAFF ANALYSIS:

The subject property, which formerly housed the Heaven City restaurant and currently includes mixed uses and vacant lands, is approximately 35.3 acres in size and is located on the west side of the Town of Vernon. The property abuts CTH ES (W. National Ave.) on the south side, the Fox River on the west side, and the Hidden Lakes single-family residential subdivision on the north and east sides. The property is served by private sewage and well facilities. There are wetland, floodplain, and primary environmental corridor along the Fox River. There is also an isolated wetland on the northwest side of the property near an adjacent waterway known as Hidden Lakes. The property contains two documented archeological sites, one site is east of the Fox River and the other site is southwest of the Lakeside Drive cul-de-sac. Representatives of the State Historical Society visited the property and determined that the existing and proposed uses do not have an impact on the archeological sites.

The property is currently subject to a Conditional Use Permit for multi-family and commercial purposes. Specifically, there is a triplex, duplex, retail store, vacant restaurant, thirteen apartments, and a tavern. The petitioner is proposing an amendment to the Conditional Use Permit to reduce the acreage in order to accommodate two single-family residential lots.

The petitioner is proposing to rezone two acres in the northeast corner of the property from the A-2 Rural Home District (min. three acre lot size, 200 ft. average width) to the R-1 Residential District (min. one acre, 150 ft. average width). The rezone would allow the creation of two single-family lots, each one-acre in size. A map that illustrates the proposed land division is attached as Exhibit A.

The rezone allows the petitioner to reduce the lot size from three acres to one acre, which results in the protection of steep slopes, wetland and environmental corridor. The proposed request is also compatible with surrounding land uses. A 1.2 acre lot was split off from the northeast corner of the subject property in 2002 for residential purposes. The property abuts a single-family subdivision on the north and east sides. The commercial and multi-family uses that exist on proposed Lot 3 are surrounded by vegetation and are located approximately 500 ft. from the south lot lines of the two new lots.

STAFF RECOMMENDATION:

The Planning and Zoning Division Staff recommends this request be **approved**, subject to the following conditions, which are inclusive of the Town's recommended conditions.

1. The rezone is contingent on approval of the Conditional Use Request by the Town of Vernon and Waukesha County, approval of the Certified Survey Map by all approving bodies, and recording of the Certified Survey Map with the Waukesha County Register of Deeds.
2. The rezone is contingent on an amendment of the Town Land Use Plan Map for the two proposed single family residential lots from Commercial to Residential. ***This amendment will not be advanced to the Land Use Parks and Environment Committee or County Board until such action takes place.***
3. The Petitioner and/or Property Owner shall, on demand, reimburse the Town of Vernon for all costs and expenses of any type incurred by the Town in connection with the review and approval of this application, including, but not limited to, the cost of professional services incurred by the Town 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 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 or forfeitures owed to the Town of Vernon 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 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. ***This condition is enforceable by the Town only.***

Respectfully submitted,

Amy Barrows

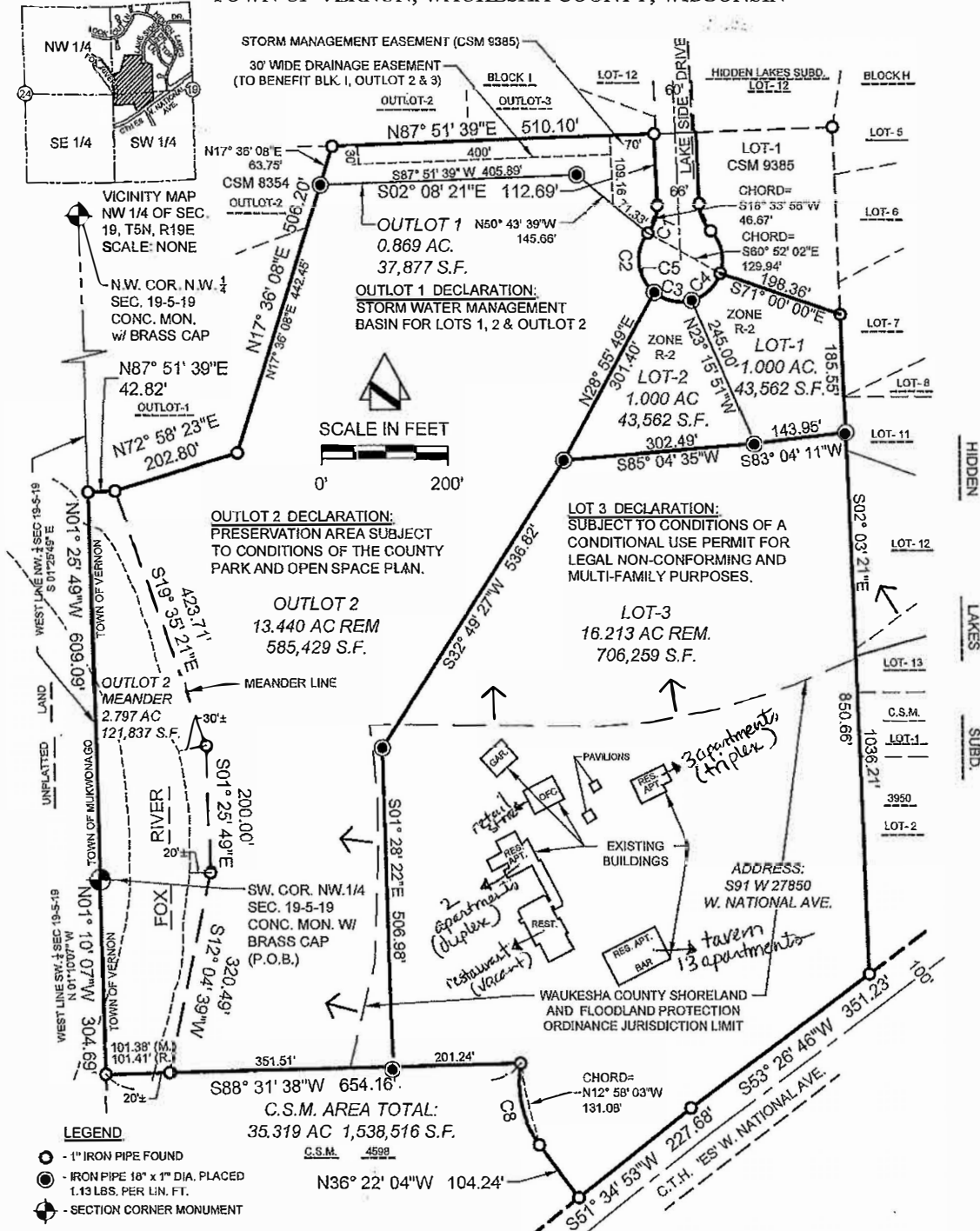
Amy Barrows, Senior Planner
Attachment: Exhibit "A" and Rezone Map

EXHIBIT "A"

CERTIFIED SURVEY MAP NO. _____

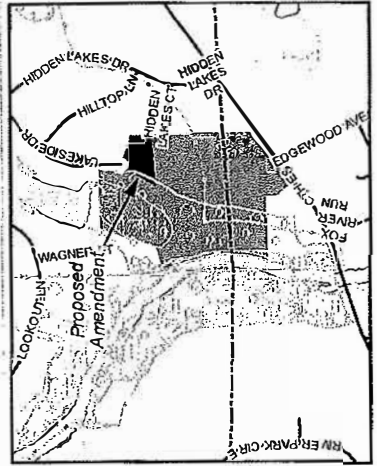
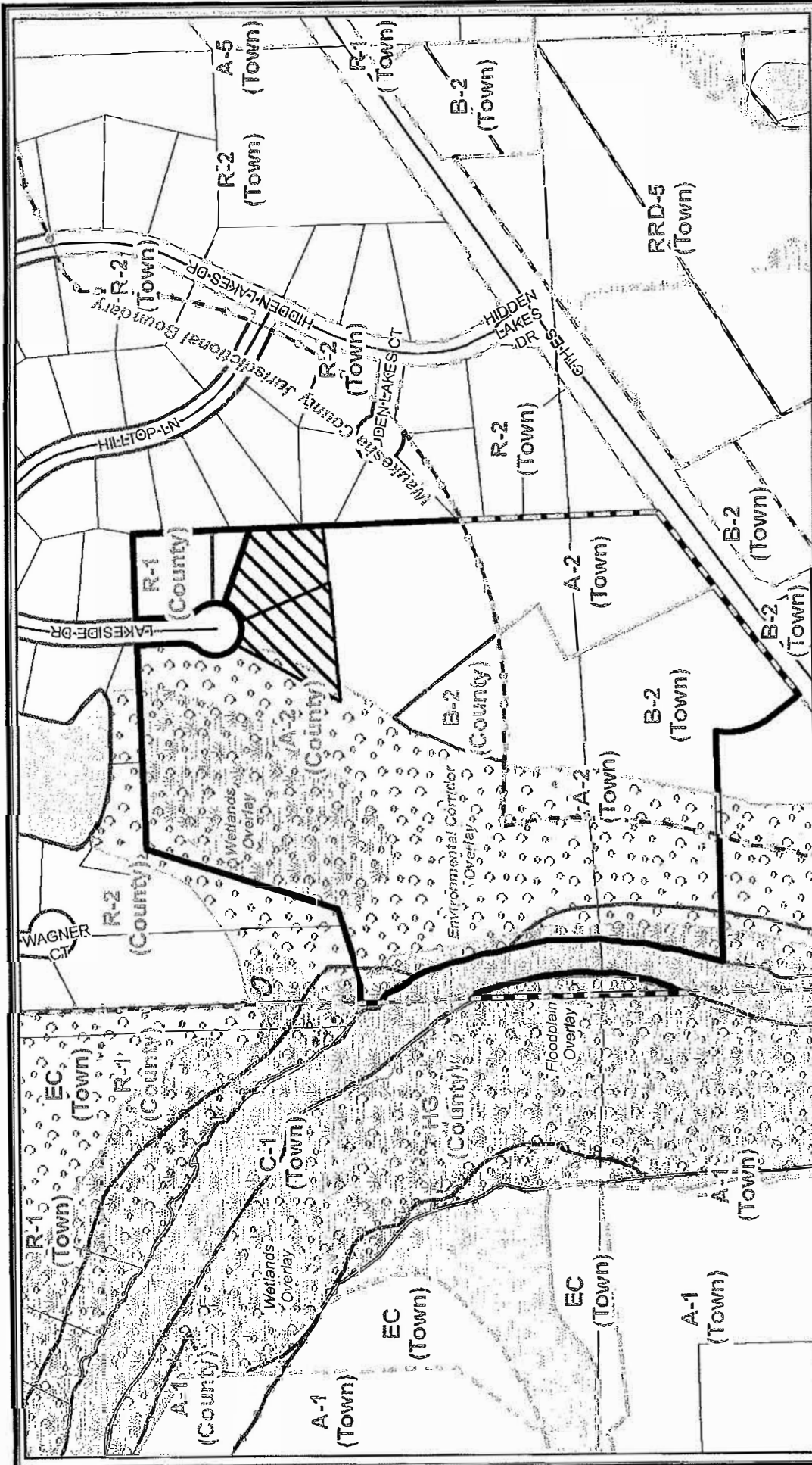
Sheet 1 of 7

Being a Redivision of Lot 2 of Certified Survey Map No. 9385 and being part of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) and Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section 19, Town 5 North, Range 19 East
TOWN OF VERNON, WAUKESHA COUNTY, WISCONSIN



JOHN R. STIGLER - Wis. Reg. No. S -1820
DATED this 19th DAY of March, 2019

INSTRUMENT DRAFTED BY JOHN R. STIGLER
P.S. VERNON 518
FILE NAME: S:\PROJECTS\18701DWG\18701.DWG



CONDITIONAL COUNTY ZONING CHANGE FROM A-2 RURAL HOME DISTRICT TO R-1 RESIDENTIAL DISTRICT

- Wetlands Overlay
- Environmental Corridor Overlay

ZONING AMENDMENT

PART OF THE NW AND SW 1/4 SECTION 19, TOWN OF VERNON

FILE.....RZ35
 DATE OF PLAN COMMISSION.....05/16/19
 AREA OF CHANGE.....2.0 ACRES
 TAX KEY NUMBER.....VNT 2090.997.002



Prepared by the Waukesha County Department of Parks and Land Use

Title Number: 174-C-007



VOTE RESULTS: Passed By Majority Vote

AYE: 24 **NAY: 0**

ABSENT: 1

D1 - Foti		Yes
D2 - Zimmermann	Motion	Yes
D3 - Morris		Yes
D4 - Batzko		Yes
D5 - Dondlinger		Yes
D6 - Walz		Yes
D7 - Grant		Yes
D8 - Michalski		Yes
D9 - Heinrich		Yes
D10 - Swan		Yes
D11 - Howard		Yes
D12 - Wolff	Second	Yes
D13 - Decker		Yes

D14 - Wood		ABSENT
D15 - Mitchell		Yes
D16 - Crowley		Yes
D17 - Paulson		Yes
D18 - Nelson		Yes
D19 - Cummings		Yes
D20 - Schellinger		Yes
D21 - Gaughan		Yes
D22 - Wysocki		Yes
D23 - Hammitt		Yes
D24 - Whittow		Yes
D25 - Johnson		Yes