

ENROLLED ORDINANCE 176-37

YEAR 2021 AMENDMENT TO THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY (2B – GARVENS, SECTION 31, T8N, R17E, TOWN OF OCONOMOWOC)

WHEREAS, on February 24, 2009, the Waukesha County Board of Supervisors in Enrolled Ordinance No 163-81 approved a Comprehensive Development Plan for Waukesha County; and

WHEREAS, said Comprehensive Development Plan for Waukesha County provides for annual update and amendment procedures; and

WHEREAS, on February 25, 2021, the Waukesha County Park and Planning Commission held a Public Hearing to receive testimony on proposed changes to the Comprehensive Development Plan for Waukesha County; and

WHEREAS, the staff has identified in a "Staff Report and Recommendation" dated June 17, 2021, a summary of the Public Hearing comments and a Staff Recommendation for the proposed change to the Comprehensive Development Plan for Waukesha County; and

WHEREAS, the "Staff Report and Recommendation" has been reviewed by the Waukesha County Park and Planning Commission on June 17, 2021, and a recommendation was reported to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors as required in the Comprehensive Development Plan for Waukesha County.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the following amendment is hereby **approved** to the Year 2035 Comprehensive Development Plan for Waukesha County.

2. In the Town of Oconomowoc, the following requests are being made:

- B. **Joe and Sherry Garvens**, W394N5298 Reddelein Road, Oconomowoc, WI 53066, request property located in part of the W ½ and the NE ¼ of Section 31, T8N, R17E, Town of Oconomowoc (Tax Key No. OCOT 0553.987), be amended from the Low Density Residential category (20,000 sq. ft. to 1.4 acres of area per dwelling unit) to the Mixed Use category to allow a commercial heating and cooling business.

The request is approved subject to the following condition:

1. Permissible uses are limited to residential and service oriented businesses. Retail uses are not permitted.

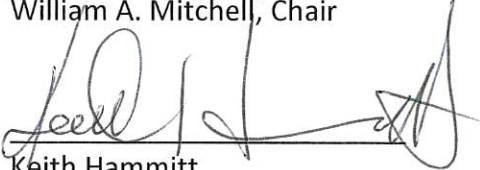
BE IT FURTHER ORDAINED that a more detailed description and map of the aforementioned amendment is on file in the office of the Waukesha County Department of Parks and Land Use.

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

YEAR 2021 AMENDMENT TO THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY (2B – GARVENS, SECTION 31, T8N, R17E, TOWN OF OCONOMOWOC)

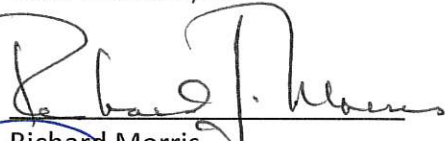
Presented by:
Land Use, Parks, and Environment Committee

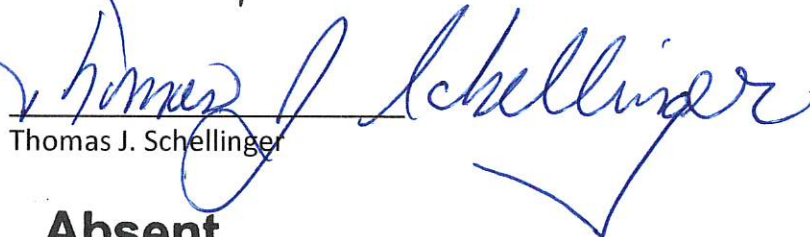

William A. Mitchell, Chair


Keith Hammitt


Thomas A. Michalski


Chris Mommaerts



Richard Morris


Thomas J. Schellinger

Absent

Steve Whittow


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

Date: July 30 2021 
Margaret Wartman, County Clerk

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

Approved: X

Vetoed: _____

Date: 7/30/2021 
Paul Farrow, County Executive

COMMISSION ACTION

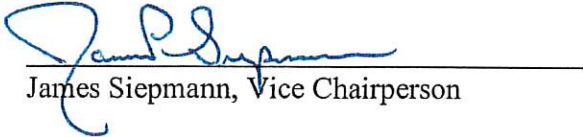
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance entitled "Year 2021 Amendment to the Comprehensive Development Plan for Waukesha County, (2B – Garvens), Section 31, T8N, R17E, Town of Oconomowoc) hereby recommends **approval**.

PARK AND PLANNING COMMISSION

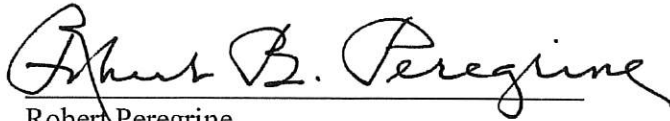
June 17, 2021



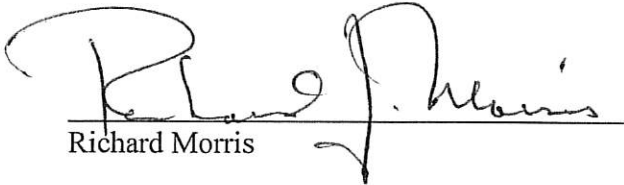
William Mitchell, Chairperson



James Siepmann, Vice Chairperson



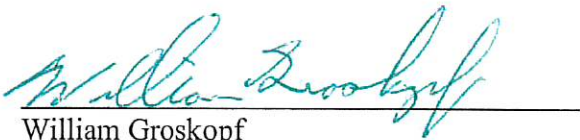
Robert Peregrine



Richard Morris

Absent

Thomas Michalski



William Groskopf

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
STAFF REPORT AND RECOMMENDATION FOR A YEAR 2021 AMENDMENT TO THE
COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY
2(B) JOE AND SHERRY GARVENS, TOWN OF OCONOMOWOC

DATE: June 17, 2021

PUBLIC HEARING DATE:

Thursday, February 25, 2021, 1:00 p.m.

REQUEST:

2(B) Year 2021 amendment to the Comprehensive Development Plan.

Joe and Sherry Garvens, W394N5298 Reddelein Road, Oconomowoc, WI 53066, request property located in part of the W ½ and the NE ¼ of Section 31, T8N, R17E, Town of Oconomowoc (Tax Key No. OCOT 0553.987), be amended from the Low Density Residential category (20,000 sq. ft. to 1.4 acres of area per dwelling unit) to the Mixed Use category to allow a commercial heating and cooling business.

EXISTING LAND USE CATEGORY:

Low-Density Residential category.

PROPOSED LAND USE CATEGORY:

Mixed-Use category.

PUBLIC REACTION:

Mr. Herro indicated he is the president of the nearby owner's association and is very familiar with the property in question. They own the 100 acres north of the site and have been developing it slowly. He stated they spent hundreds of thousands of dollars to bring in fill to the property north of the railroad tracks due to soil conditions. The Garvin's property is lower and wetter than their property. He added that the site is not conducive for a residential use and they are not opposed to the Garven's continuing the heating and cooling business on the property. In addition, this area has been used for business in the past (Mark's Country Market) and is not exempt from any business use. The City of Oconomowoc Parks and Recreation Department has brought in fill, bark and heavy equipment for the property to the north and the area is seeing more industrial type traffic.

TOWN ACTION:

On April 20, 2021, the Town of Oconomowoc Plan Commission approved the request to amend the Town of Oconomowoc Land Use Plan maps from the Low-Density Residential category to the Mixed-Use category, with a recommendation to the Town Board of the same.

On May 17, 2021, the Town Board approved the request to amend the Town of Oconomowoc Land Use Plan maps from the Low-Density Residential category to the Mixed-Use category.

STAFF ANALYSIS:

The subject property is located on the east side of Reddelien Rd, just south of the Canadian Pacific Railroad, on the border of the Town of Oconomowoc and the City of Oconomowoc. Across Reddelien Rd. there is a single-family residence that has a Conditional Use Permit (CU-1001) to operate a catering business, outbuildings and cell tower. To the north, opposite the railroad tracks, there is a large parcel which is being developed as a new residential subdivision (Weston Meadows II). The parcel to the southwest of the subject property contains a single-family residence and two outbuildings.

The subject property contains a one-story, 36' x 72' (2,592 SF) pole building. The previous owner was granted a variance by the Waukesha County Board of Adjustment (BA80:140) in 1980 to construct an accessory building without the presence of a principal residence. The Board rendered a decision that the owner was the victim of a zoning change that occurred after the prior owner's purchase of the property. The parcel was rezoned from M-1 Industrial to A-1 Agricultural in the comprehensive zoning change of September 1979. The property was later rezoned to the A-2 Rural Home District. Neither the A-1 nor A-2 districts allow for the business use that is currently being proposed to continue on the site. The petitioner would need to also seek a rezoning of the property if this plan amendment request is ultimately authorized. The Board of Adjustment decision that authorized the building when it was zoned A-1 was subject to three (3) conditions:

1. That there be no outside storage on the property.
2. That the lot be cleaned up and kept in a cleaned-up condition.
3. That the building not be used for human habitation.

In 1996, the owner applied for a Zoning Permit (OC96:060) to add a 17' x 17' addition on the south side of the structure. Later in 1996, Waukesha County received a Zoning complaint (VL-96-OCOT-06) that the owner was operating a car repair business, living in the accessory building, and storing junk on the property. Staff was unable to prove that the owner was operating a business and living in the accessory building. In 1999, a similar complaint was received regarding the operation of a business and human habitation within the accessory building. Staff required that a Deed Restriction be recorded with the Waukesha County Register of Deeds with the following conditions:

1. Human habitation is prohibited in the accessory building.
2. Outside storage on the property is prohibited.
3. The lot shall be kept in a cleaned-up condition at all times.
4. Any type of business or commercial operation is prohibited on the property and within the accessory building.
5. The accessory building shall be used for personal storage and use only.

The Deed Restriction was recorded with the Waukesha County Register of Deeds on March 30, 2000 as Document No. 2549847.

On January 12, 2002, a Warranty Deed, Document No. 2744124 was recorded with the Register of Deeds transferring ownership from Steven Schultz to Joe and Sherry Garvens. Since that time, the owners have been using the property and the accessory building for storage, both personal and commercial, and have been utilizing a portion of the accessory building as a shop and office, unbeknownst to the County. A site plan, including an interior floor plan is attached as Exhibit A. On November 11, 2019 Waukesha County was forwarded a complaint from the Western Lakes Fire Department/Town of Oconomowoc that a business was being run out of the accessory building without the necessary permits. A site inspection was completed on January 13, 2020 in conjunction with the Town Building Inspector, Fire Inspector, and owner. The inspection revealed a dumpster on the roadside of the building as well as numerous empty pallets stacked in front of the building. There is a drop box on the side of the building, which seems to indicate that packages are being delivered to the property. The interior of the building is divided into two parts; the front half is used for storage, and the rear is a shop space with a utility sink and a small office.

The petitioners would like to continue to use the accessory building for the operation of their heating and cooling business (Garvens Heating and Cooling, Inc). The applicants have indicated that

activities within the accessory building include bending metal for HVAC systems as well as making assemblies for fire suppression systems. The applicants have stated that they are agreeable to putting up a privacy fence to screen the property from Reddelien Rd.

STAFF RECOMMENDATION:

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

1. Permissible uses are limited to residential and service oriented businesses. Retail uses are not permitted.

The amendment would bring the property into a category that would allow for both residential or limited business type use and would allow the petitioners to seek a rezoning to retain the existing heating and cooling business. While the immediately adjacent land uses are residential in nature, the City of Oconomowoc Industrial Park is just east of the subject property, and railroad tracks provide a natural barrier from the residential development to the north and woods provide screening to the south and east. The Mixed Use designation allows for some flexibility and recognizes that the unconventional historic zoning approvals for the site have made exclusive residential use of the site difficult.

Respectfully submitted,

Jacob Heermans

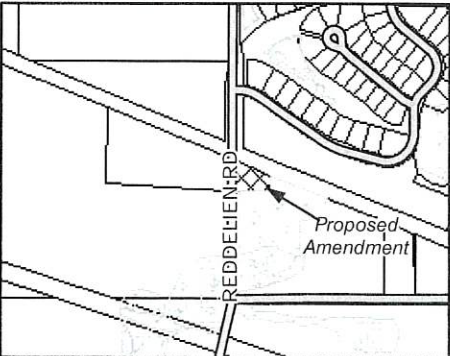
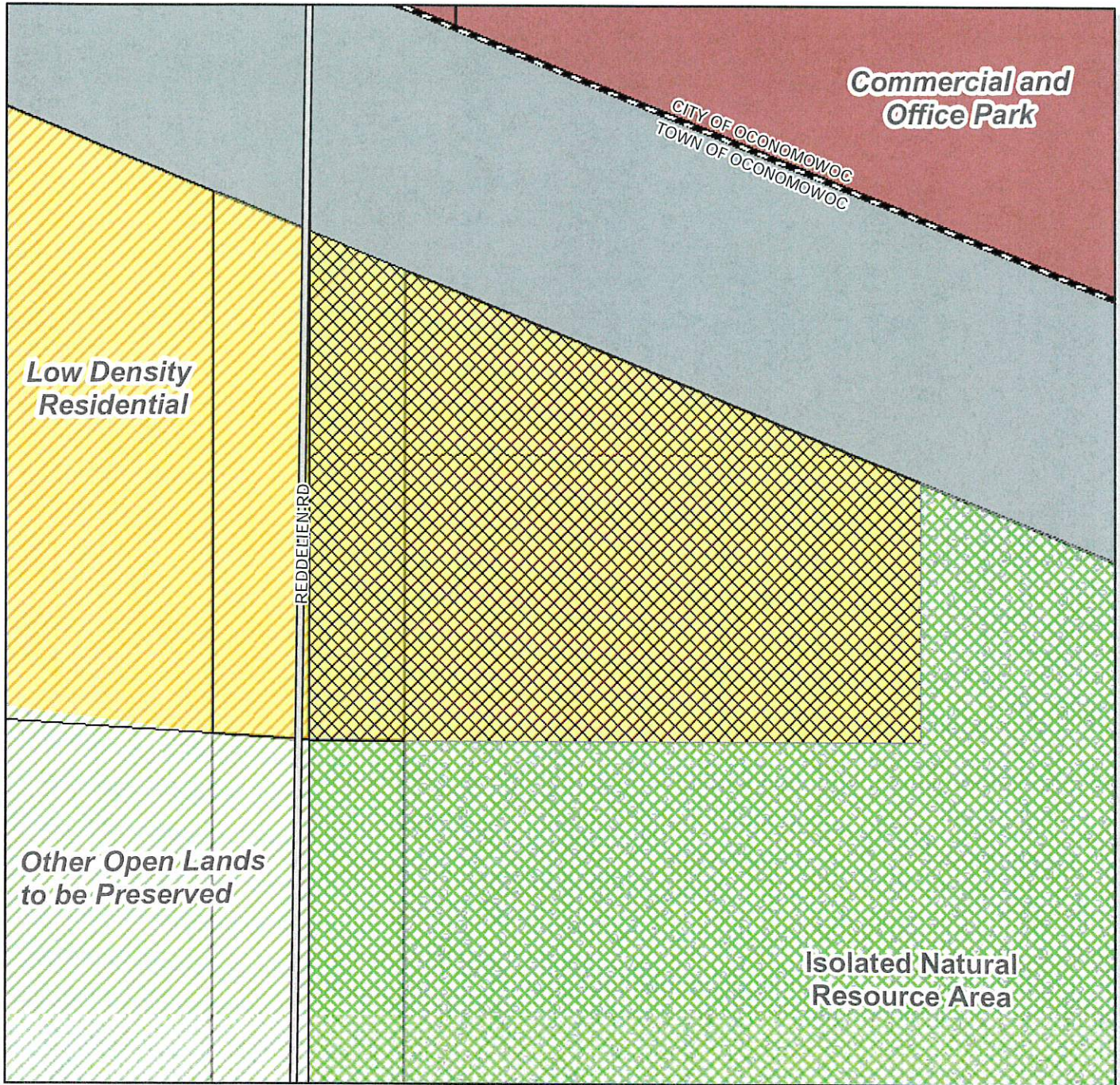
Jacob Heermans
Senior Land Use Specialist




Attachment: Amendment Map
Exhibit A – Site Plan/Interior Floor Plan

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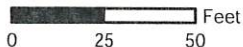
DEVELOPMENT PLAN AMENDMENT

PART OF SECTION 31,
TOWN OF OCONOMOWOC



-  COUNTY DEVELOPMENT PLAN AMENDMENT FROM LOW DENSITY RESIDENTIAL TO MIXED USE
-  ENVIRONMENTAL CORRIDOR
-  WETLANDS

PETITIONER.....Joe and Sherry Garvens
 DATE OF PUBLIC HEARING.....06/17/21
 AREA OF CHANGE.....0.6 ACRES



Prepared by the Waukesha County Department of Parks and Land Use

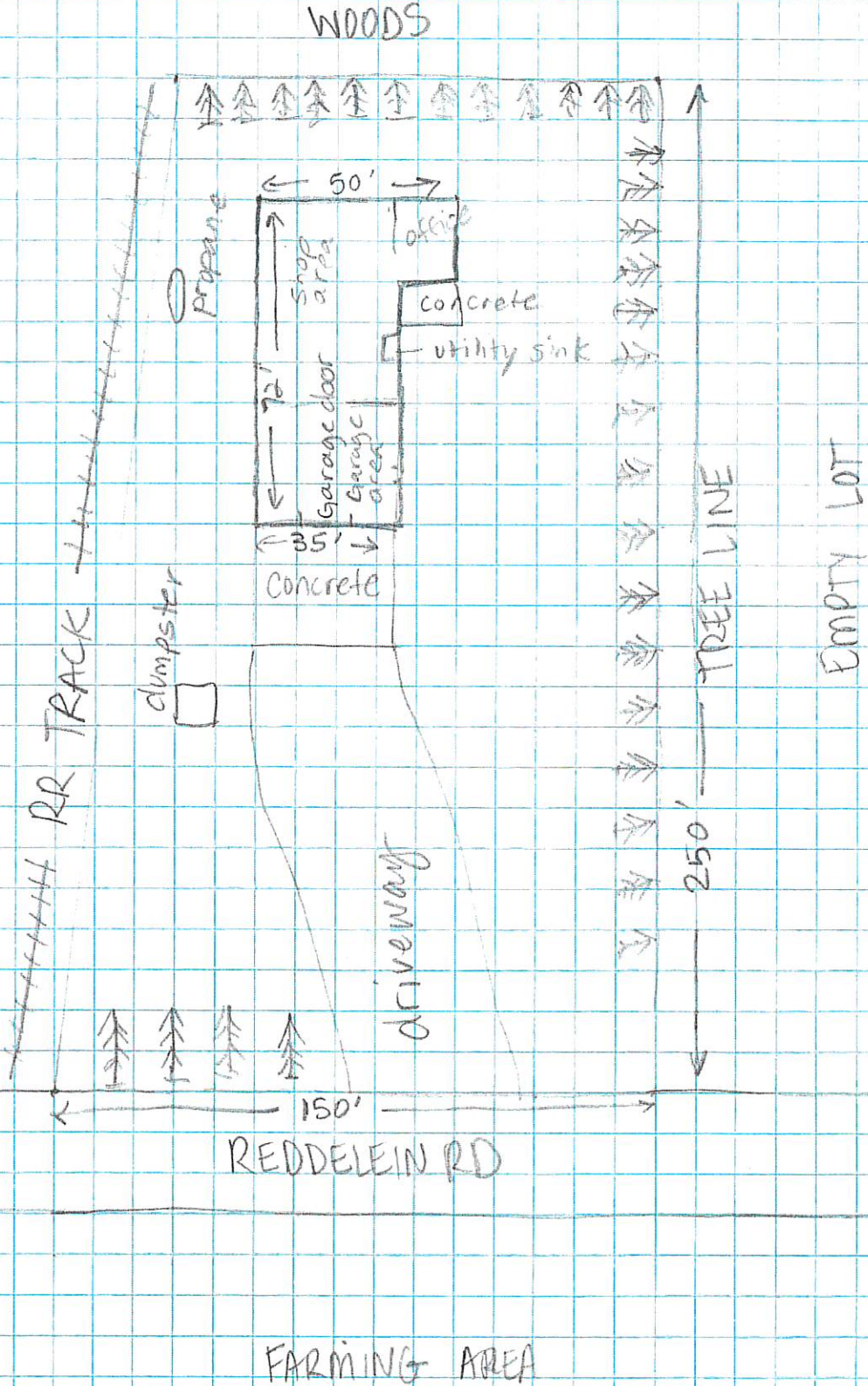
Exhibit A

Site Plan & Interior Plan

RECEIVED

MAR 03 2020

DEPT OF PARKS & LAND USE



VOTING RESULTS

AYE 23
NAY 0
ABSTAIN 0
ABSENT 2

Ordinance 176-O-038

Ordinance 176-O-038: Year 2021 Amendment to the C...

Passed By Majority Vote

D1 - Foti	AYE	D14 - Mommaerts	AYE
D2 - Zimmermann	AYE	D15 - Mitchell	AYE
D3 - Morris	AYE	D16 - Crowlev	AYE
D4 - Batzko	AYE	D17 - Paulson	AYE
D5 - Dondlinger	AYE	D18 - Nelson	AYE
D6 - Walz	AYE	D19 - Cummings	AYE
D7 - LaFontain	AYE	D20 - Schellinger	AYE
D8 - Michalski	AYE	D21 - Gaughan	AYE
D9 - Heinrich	AYE	D22 - Wvsocki	AYE
D10 - Swan	AYE	D23 - Hammitt	AYE
D11 - Howard	ABSENT	D24 - Whitlow	ABSENT
D12 - Wolff	AYE	D25 - Johnson	AYE
D13 - Decker	AYE		

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