

ENROLLED ORDINANCE 177-6

AMEND THE TOWN OF OCONOMOWOC DISTRICT ZONING MAP OF THE WAUKESHA COUNTY ZONING CODE FOR THE TOWN OF OCONOMOWOC BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE W ½ AND THE NE ¼ OF SECTION 31, T8N, R17E, TOWN OF OCONOMOWOC, FROM THE A-2 RURAL HOME DISTRICT TO THE B-3 GENERAL BUSINESS DISTRICT (RZ94)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Oconomowoc Town Board on March 21, 2022; 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 59.69, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Town of Oconomowoc District Zoning Map of the Waukesha County Zoning Code, Waukesha County, Wisconsin, adopted by the Waukesha County Board of Supervisors, on February 26, 1959, is hereby amended to conditionally rezone certain lands located in part of the W ½ and the NE ¼ of Section 31, T8N, R17E, Town of Oconomowoc, from the A-2 Rural Home District to the B-3 General Business District, 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 RZ94, subject to the following conditions:

1. The zoning amendment to the B-3 General Business District shall be limited to storage/warehouse use and personal items only. No other business type uses shall be allowed. The town planner and county planning and zoning administrator shall determine whether specific business operations are compatible with this condition.
2. Subject to no retail type use of any kind being allowed on the premises. A deed restriction acknowledging the same shall be reviewed and approved by Waukesha County Planning and Zoning staff and recorded in the Waukesha County Register of Deeds office.
3. A release of Declaration of Restrictions from 1980 (BA80:140) Document No. 2549847 shall be approved by Waukesha County and the Town Planner and then recorded with the Register of Deeds office prior to the issuance of any permits.
4. A Site Plan and Plan of Operation shall be submitted for the proposed business use within 30 days of the approval of the Zoning Amendment by the Waukesha County Board.
5. If the subject property is not in compliance with all requirements and conditions of the Land Use Plan, Zoning Code, Zoning Amendment conditions or an approved Site

Plan/Plan of Operation within one (1) year of the Waukesha County Board of Supervisors action (if approved) on this zoning amendment, the zoning of the property shall automatically revert back to the A-2 Rural Home District.

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

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

AMEND THE TOWN OF OCONOMOWOC DISTRICT ZONING MAP OF THE WAUKESHA COUNTY ZONING CODE FOR THE TOWN OF OCONOMOWOC BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE W ½ AND THE NE ¼ OF SECTION 31, T8N, R17E, TOWN OF OCONOMOWOC, FROM THE A-2 RURAL HOME DISTRICT TO THE B-3 GENERAL BUSINESS DISTRICT (RZ94)

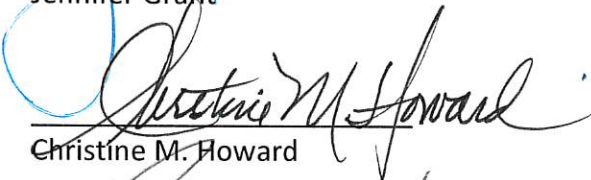
Presented by:  
Land Use, Parks, and Environment Committee



Thomas A. Michalski, Chair



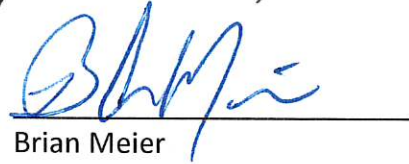
Jennifer Grant



Christine M. Howard



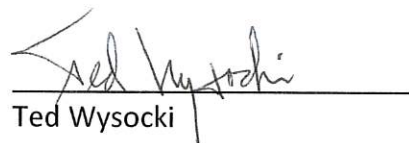
Robert L. Kolb



Brian Meier




Chris Mommaerts



Ted Wysocki

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

Date: 5/31/22   
Margaret Wartman, County Clerk

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

Approved: X

Vetoed: \_\_\_\_\_

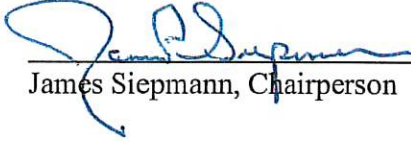
Date: 5/31/2022   
Paul Farrow, County Executive

COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Zoning Code hereby recommends approval of **RZ94** in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

April 21, 2022



James Siepmann, Chairperson



Thomas Michalski, Vice Chairperson

*Absent*

Robert Peregrine

*Absent*

Richard Morris



William Groskopf



Robert Hamilton

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

**DATE:** April 21, 2022

**FILE NO.:** RZ94

**OWNER AND APPLICANT:** Joseph and Sheryl Garvens  
W394 N5298 Reddelein Road  
Oconomowoc, WI 53066

**TAX KEY NO.:** OCOT 0553.987

**LOCATION:**

The property is described as part of the W½ and NE¼ of Section 31, T8N, R17E, Town of Oconomowoc. More specifically, the property is located at the Reddelein Road address cited above containing approximately 0.6 acres.

**EXISTING ZONING:**

A-2 Rural Home District.

**PROPOSED ZONING:**

B-3 General Business District.

**EXISTING USE(S):** Heating and cooling business.

**REQUESTED USE(S):** Legalize an existing heating and cooling business.

**PUBLIC HEARING DATE:** March 7, 2022.

**PUBLIC COMMENT:**

None

**TOWN PLAN COMMISSION AND TOWN BOARD ACTION:**

On March 21, 2022, the Town of Oconomowoc Plan Commission recommended approval of the request subject to several conditions. The Town of Oconomowoc Town Board approved the rezone subject to the same conditions on March 21, 2022.

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

The town and county comprehensive plan designations for the property were conditionally amended in 2021 from Low Density Residential to Mixed Use. The approval allows for both residential and commercial type uses, with the exception of retail sales. The use of the property for a heating and cooling business is consistent with plan recommendations.

**STAFF ANALYSIS:**

The subject property is located on the east side of Reddelien Road, just south of the Canadian Pacific Railroad, on the border of the Town of Oconomowoc and the City of Oconomowoc. Across Reddelien Road, 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 negatively affected by 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 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. The owners are now seeking to legalize the commercial use of the property. A site plan, including an interior floor plan is attached as Exhibit A. No retail operations are conducted on-site.

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. A Release of Restrictions must be reviewed and approved by the Town and County and recorded with the Waukesha County Register of Deeds office in order to remove the restriction forbidding business of commercial operations and allowing personal storage only. Additionally, a Site Plan/Plan of Operation must be approved by the Town and County for the operation of the business.

**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 conditions. Additions to the town's conditions are shown in **bold** and deletions are identified in a strikethrough format.

1. The zoning amendment to the B-3 General Business District shall be limited to storage/warehouse ~~use for items related to a heating and cooling business~~ and personal items only. No other business type uses shall be allowed. **The town planner and county planning and zoning administrator shall determine whether specific business operations are compatible with this condition.**
2. Subject to no retail type use of any kind being allowed on the premises. **A deed restriction acknowledging the same shall be reviewed and approved by Waukesha County Planning and Zoning staff and recorded in the Waukesha County Register of Deeds office.**
3. A release of Deceleration of Restrictions from 1980 (BA80:140) Document No. 2549847 shall be approved by Waukesha County and the Town Planner and then recorded with the Register of Deeds office prior to the issuance of any permits.
4. A Site Plan and Plan of Operation shall be submitted for the proposed business use within 30 days of the approval of the Zoning Amendment be the Waukesha County Board.
5. If the subject property is not in compliance with all requirements and conditions of the Land Use Plan, Zoning Code, Zoning Amendment conditions or an approved Site Plan/Plan of Operation within one (1) year of the Waukesha County Board of Supervisors action (if approved) on this zoning amendment, the zoning of the property shall automatically revert back to the ~~R-2 Residential District~~ **A-2 Rural Home District.**

The proposed zoning amendment would allow for both residential or limited business type use and would legalize the existing heating and cooling business, while placing limitations on future uses. While the immediately adjacent land uses are generally rural 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. Therefore, the proposed zoning map amendment complies with the Town and County Comprehensive Development Plans and is within the purpose and intent of the Waukesha County Zoning Code.

Respectfully submitted,

*Jacob A. Heermans*

Jacob A. Heermans  
Senior Land Use Specialist

Attachments: Exhibit A - Site Plan  
Rezone Map

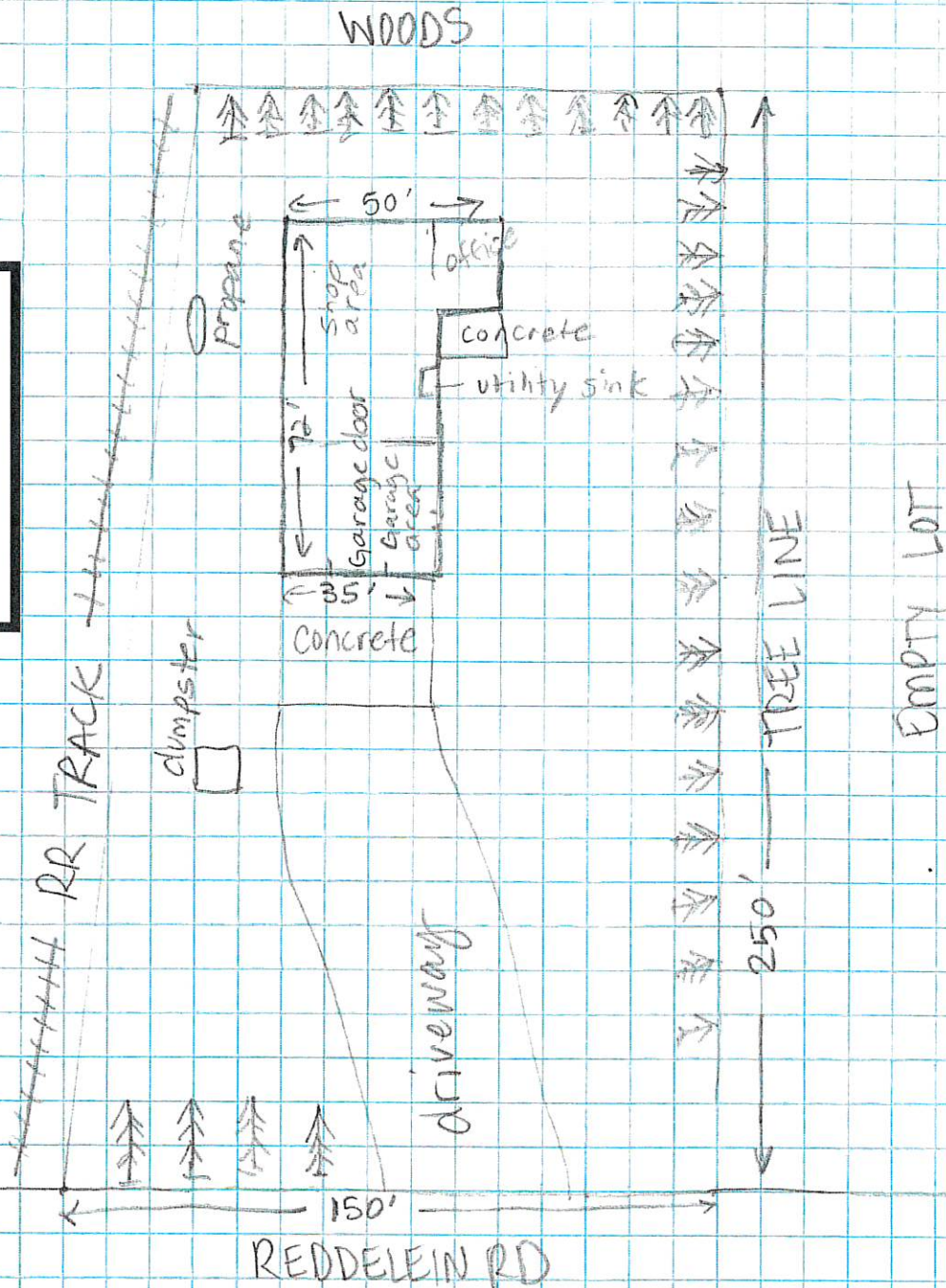
Site Plan & Interior Plan

RECEIVED

MAR 03 2020

EXHIBIT A

DEPT OF PARKS & LAND USE





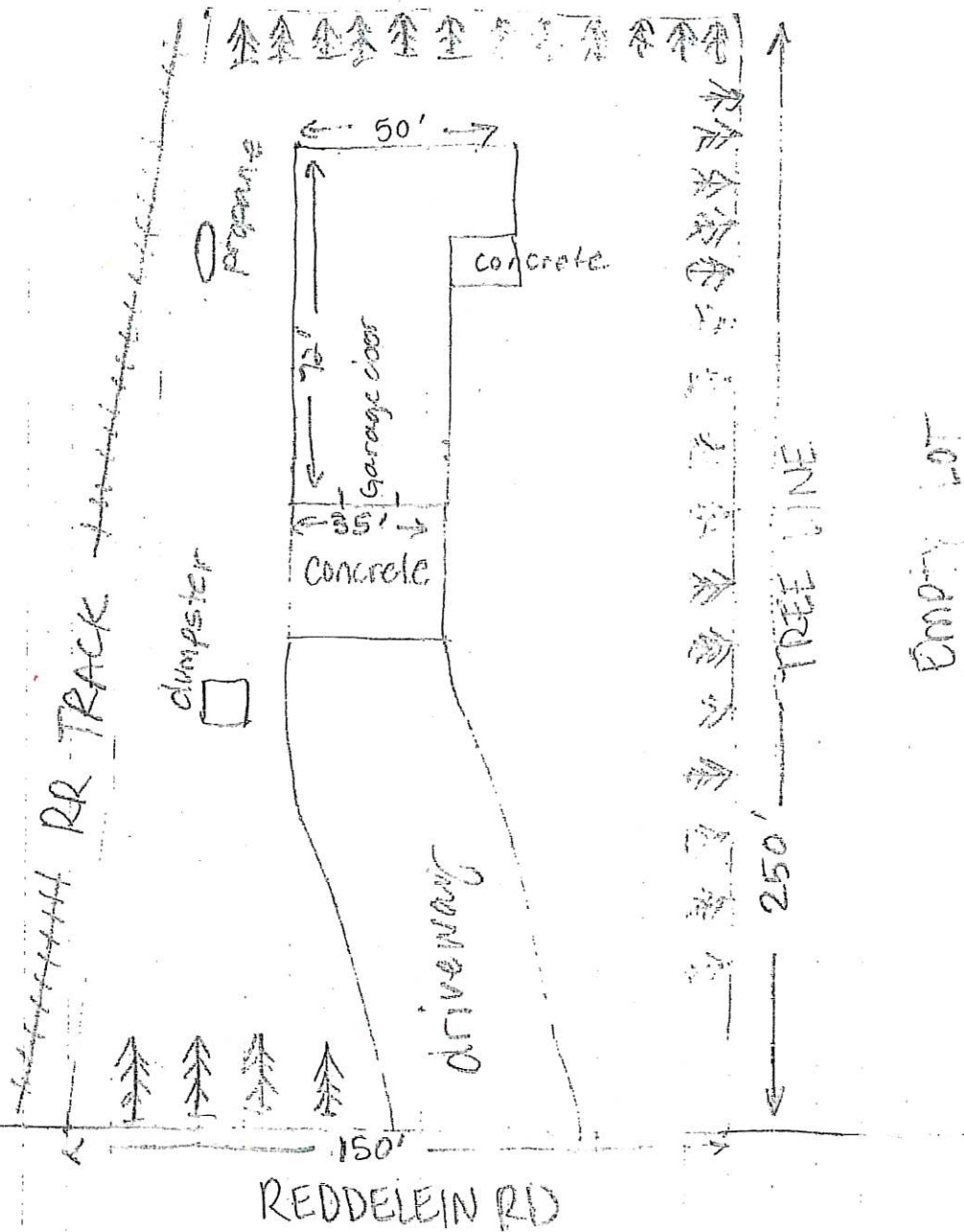
RECEIVED

MAR 03 2020

DEPT OF PARKS & LAND

# Site Plan

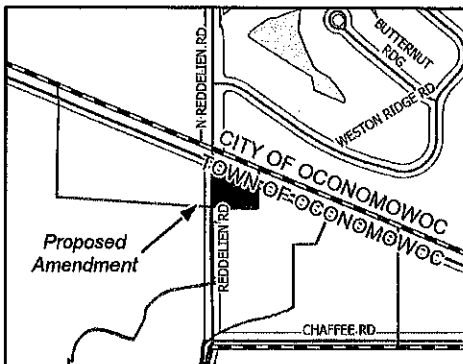
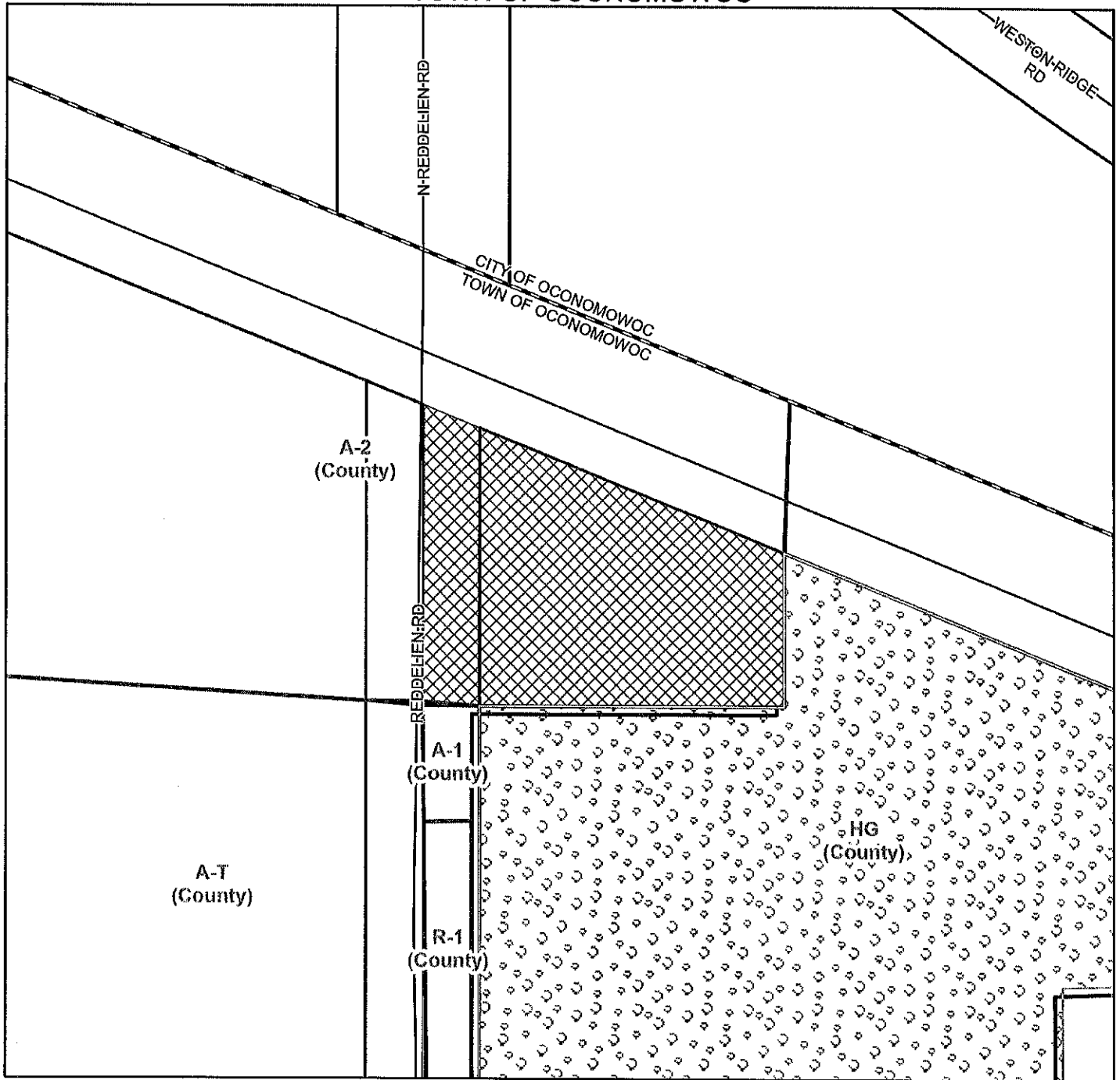
WOODS






FARMING AREA

# ZONING AMENDMENT

PT OF THE NORTHEAST 1/4 OF SECTION 31 ,  
TOWN OF OCONOMOWOC



	CONDITIONAL COUNTY ZONING AMENDMENT FROM A-2 RURAL HOME DISTRICT TO B-3 GENERAL BUSINESS DISTRICT (0.6 AC)
	EC Environmental Corridor Overlay
FILE.....	RZ94
DATE OF PLAN COMMISSION.....	4/21/22
AREA OF CHANGE.....	0.6 ACRES
TAX KEY NUMBERS.....	OCOT 0553.987


0
50
100 Feet


Prepared by the Waukesha County Department of Parks and Land Use

VOTING RESULTS

AYE 25 | NAY 0 | ABSTAIN 0 | ABSENT 0

# Ordinance 177-O-005

Ordinance 177-O-005: Amend The Town Of Economo...

 **Passed By Majority Vote**

D1 - Foti	AYE	D14 - Mommaerts	AYE
D2 - Weil	AYE	D15 - Kolb	AYE
D3 - Morris	AYE	D16 - Crowley	AYE
D4 - Batzko	AYE	D17 - Meier	AYE
D5 - Grant	AYE	D18 - Nelson	AYE
D6 - Walz	AYE	D19 - Enriquez	AYE
D7 - LaFontain	AYE	D20 - Schellinger	AYE
D8 - Michalski	AYE	D21 - Gaughan	AYE
D9 - Heinrich	AYE	D22 - Wysocki	AYE
D10 - Thieme	AYE	D23 - Hammitt	AYE
D11 - Howard	AYE	D24 - Bangs	AYE
D12 - Wolff	AYE	D25 - Johnson	AYE
D13 - Decker	AYE		

May 24 2022 - May 24 2022 07:31:56 PM



1 AMEND THE TOWN OF OCONOMOWOC DISTRICT ZONING MAP OF THE WAUKESHA COUNTY  
2 ZONING CODE FOR THE TOWN OF OCONOMOWOC BY CONDITIONALLY REZONING  
3 CERTAIN LANDS LOCATED IN PART OF THE W ½ AND THE NE ¼ OF SECTION  
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