

ENROLLED ORDINANCE 174-093

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF VERNON AND 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 10, T5N, R19E, TOWN OF VERNON, WAUKESHA COUNTY, WISCONSIN, FROM THE A-5 MINI FARM DISTRICT TO THE B-3 GENERAL BUSINESS DISTRICT (TOWN AND COUNTY) (RZ51)

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 January 8, 2020; 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 and 60.62, 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-5 Mini Farm District to the B-3 General Business District, certain lands located in part of the NE ¼ of Section 10, 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 RZ51, is hereby approved subject to the following conditions:

1. The Rezone shall not be in full force and effect until the Petitioner obtains approval of the Conditional Use request (CU40) for operation of a Contractor's Yard from the Town of Vernon and Waukesha County.
2. All conditions of Town Ordinance 2020-01, approved on January 23, 2020, shall be complied with.

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

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

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION
ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF VERNON AND 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 10, T5N, R19E, TOWN OF VERNON, WAUKESHA COUNTY,
WISCONSIN, FROM THE A-5 MINI FARM DISTRICT TO THE B-3 GENERAL
BUSINESS DISTRICT (TOWN AND COUNTY) (RZ51)

Presented by:
Land Use, Parks, and Environment Committee


David D. Zimmermann, Chair

absent
Kathleen M. Cummings


Keith Hammitt



William A. Mitchell

absent
Thomas J. Schellinger


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: 3/30/2020, 
Margaret Wartman, County Clerk

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

Approved: X

Vetoed:

Date: 3/30/2020, 
Paul Farrow, County Executive

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

DATE: February 20, 2020

FILE NO.: RZ51

OWNER: Proven Properties, LLC.
970 E. Lake Street
Lake Mills, WI 53551

AGENT: D&J and Sons, LLC.
S95 W14509 Ryan Drive
Muskego, WI 53150

TAX KEY NO.: VNT 2053.997.004

LOCATION:

Lot 2 Certified Survey Map No. 10648, Vol. 102, Pg. 242, located in part of the NE ¼ of Section 10, T5N, R19E, Town of Vernon. More specifically, the property is located on the south side of CTH ES, approximately ½ mile west of the intersection of STH 164 and CTH ES, containing approximately three (3) acres.

EXISTING LAND USE: Vacant

PROPOSED LAND USE: Commercial

EXISTING ZONING: A-5 Mini-Farm District. (Town and County)

PROPOSED ZONING: B-3 General Business District. (Town and County)

PUBLIC HEARING DATE: January 8, 2020.

PUBLIC REACTION: None.

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:

On January 8, 2020, the Town Plan Commission unanimously (7-0) recommended approval of the request to the Town Board subject to conditions.

TOWN BOARD ACTION:

On January 8, 2020, the Town Board unanimously (5-0) recommended approval of the request to Waukesha County subject to conditions.

CONFORMANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY AND THE TOWN OF VERNON LAND USE PLAN:

The Town of Vernon Land Use Plan and County Development Plans designate this parcel is in the Commercial land use category and Commercial and Office Park land use category respectively. The proposed rezoning to accommodate a foundation installation business would conform with said plans.

STAFF ANALYSIS:

The subject property is located on the south side of National Ave. (CTH ES) and a half-mile west of Hwy 164. The property is a remnant parcel adjacent to the former National Golf Center, golf course/driving range property that wraps around the subject parcel to the south and west. The Golf Center parcel is zoned Limited Industrial District (M-1 County and I-1 Town). The West Allis Kennel Club, zoned RRD-5 Rural Residential Density District 5, is located to the north across the highway. The topography and existing vegetation effectively screen the subject parcel from the Kennel Club. A vacant Village of Big Bend parcel is adjacent to the east and is zoned and planned for commercial use according to the Village Zoning Map and Land Use Plan.

In 2008, the property was conditionally rezoned (RZ-1674) from the A-5 Mini Farm District to the B-3 General Business District. The conditions were specific to the petitioner's proposed use of outdoor equipment sales and service. One condition of the rezone required that all conditions were to be met within two years of the approval. Those conditions were never satisfied, reverting the property to its prior district, the A-5 Mini Farm District.

The current petitioner, D & J and Sons, is requesting approval for a poured foundation business comprised of a 10,640 sq. ft. flex building containing office space, warehouse space, workshops and a loading dock, in addition to a contractor's yard to be used in conjunction with the business. A poured foundation business is a permitted use in the B-3 General Business District; however, a contractor's yard in the B-3 General Business District requires conditional use approval, which is also being sought by the petitioner. It should be noted that a ten-foot-tall planting screen between adjacent properties is an ordained requirement for any contractor's yard. Having said that, the requirement can be modified by the County Park and Planning Commission.

The Waukesha County Land Resources Division has conducted a preliminary review of the site plan including soil tests conducted by the previous petitioner and believes there is adequate space for the required stormwater management. To date, no formal application for stormwater approval has been submitted to Waukesha County.

The Waukesha County Department of Public Works has reviewed the site plan (see attached Exhibit A). The department has indicated that the petitioner will be required to install a Type A intersection (turn lane and tapers) due to the volume of traffic on County Trunk Highway ES. The Department will also require the removal of two additional access drives and culverts that are used for tractor mowing.

In addition to this proposed map amendment, both the Town and Waukesha County are currently pursuing respective text amendments to the Waukesha County Shoreland and Floodland Protection Ordinance and Town of Vernon Zoning Code that would reduce the minimum lot size requirements in the B-3 General Business District for a Contractor's Yard to three (3) acres.

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.

1. The Rezone shall not be in full force and effect until the Petitioner obtains approval of the Conditional Use request (CU40) for operation of a Contractor's Yard from the Town of Vernon and Waukesha County.
2. All conditions of Town Ordinance 2020-01, approved on January 23, 2020, shall be complied with.

The proposed use of this site conforms with the County Development Plan as well as the Town's Land Use Plan and will add to the economic base of the Town in an area planned for commercial development. The proposed use is compatible with the adjacent and surrounding uses and has good access to C.T.H. "ES" that will render a continued safe and adequate use of the County trunk highway with the required right of way improvements. The Conditional Use process requires vegetative screening and consideration of neighboring uses, ensuring that the rezoning will be compatible with surrounding land uses.

Respectfully submitted,

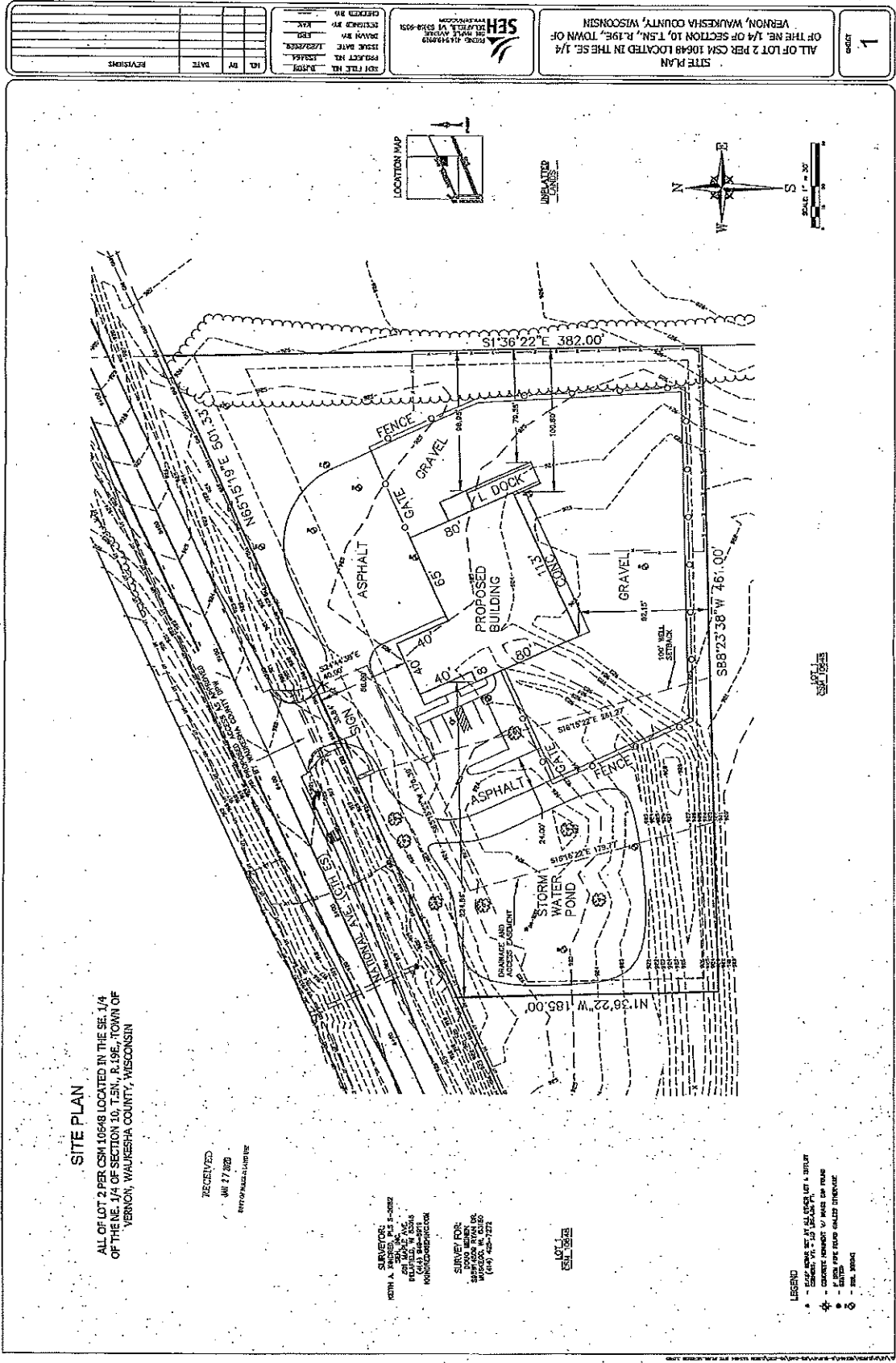
Benjamin Greenberg

Ben Greenberg
Senior Land Use Specialist

Attachments: Exhibit A, Zoning Map, Town Ordinance 2020-01

N:\PRKANDLU\Planning And Zoning\Rezoning\Staff Reports\RZ51 D&J And Sons Vnt.Doc

EXHIBIT "A"



SITE PLAN
 ALL OF LOT 2 PER CSM 10648 LOCATED IN THE SE 1/4
 OF THE NE 1/4 OF SECTION 10, T.5N., R.19E., TOWN OF
 VERNON, WAUKESHA COUNTY, WISCONSIN

RECEIVED
 JUN 27 2003
 REGISTRATION DIVISION

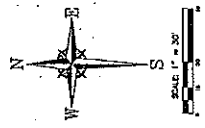
SURVEYOR
 KEVIN A. SHANLEY, INC.
 1000 W. WISCONSIN AVE.
 SUITE 100
 WAUKESHA, WI 53186
 (262) 536-8071
 kevin@shandley.com

SURVEY FOR:
 10648 PER CSM 10648
 10648 PER CSM 10648
 (262) 428-3271

LOT 2
 CSM 10648

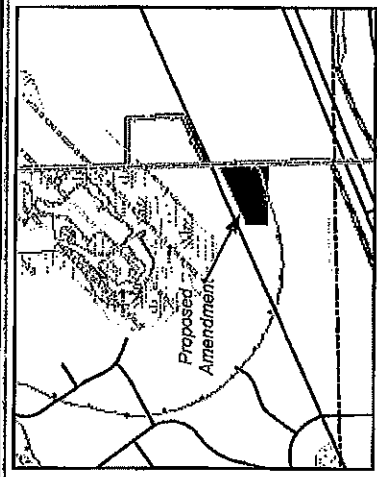
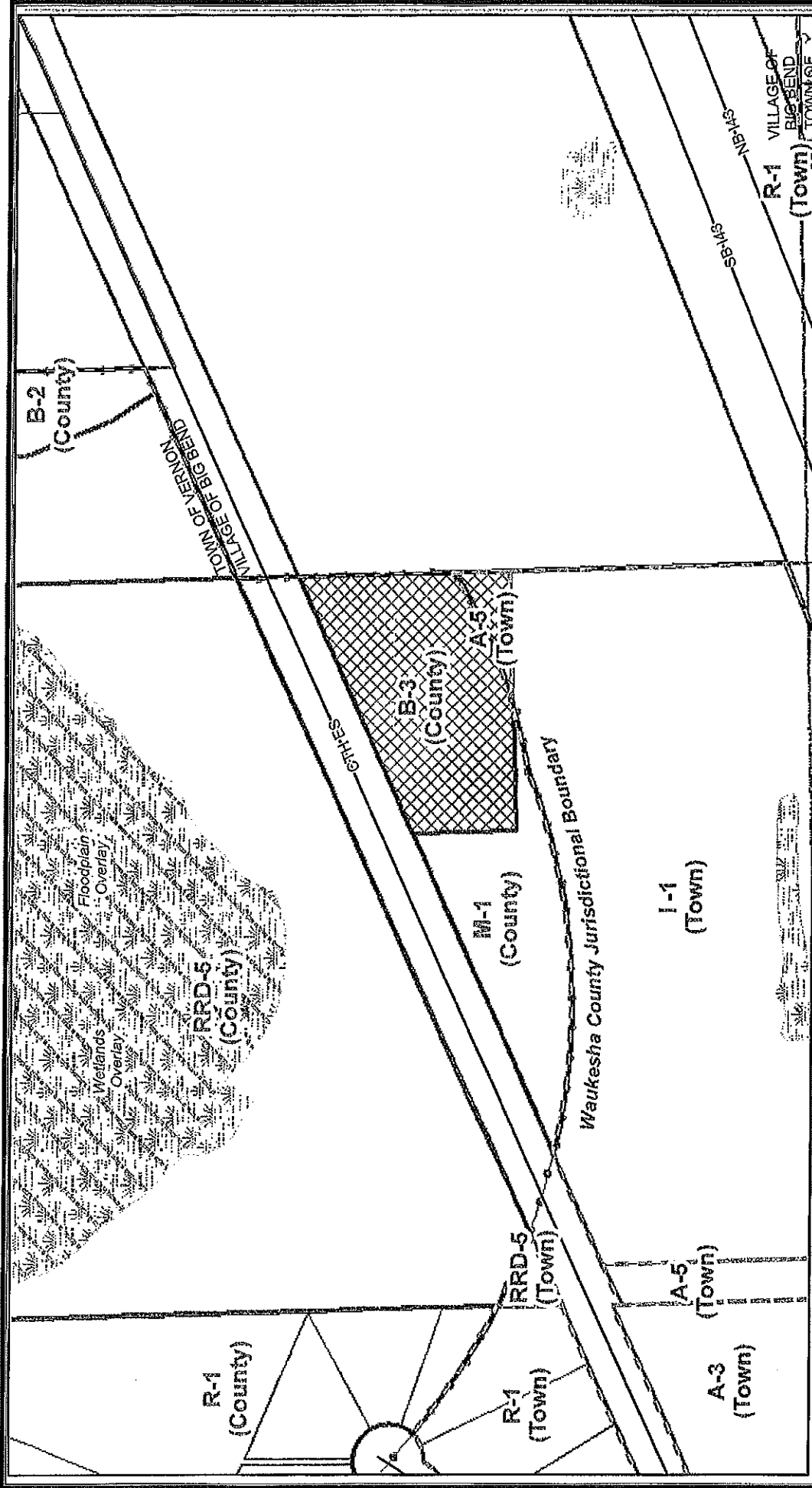
LEGEND
 - EXISTING LOT BOUNDARIES
 - CONCRETE DOCK / PL DOCK ON POND
 - STORM WATER POND
 - FENCE
 - ASPHALT
 - GRAVEL

| | | | |
|--|--|--|--|
| <p>SEH SURVEYING & ENGINEERING 1000 W. WISCONSIN AVE. SUITE 100 WAUKESHA, WI 53186 (262) 536-8071</p> | | <p>PROJECT NO. 10648 DATE 05/20/03 DRAWN BY: KAS CHECKED BY: KAS GEOMETRIC NO. 10648</p> | <p>DATE: 05/20/03 BY: KAS REVISIONS:</p> |
|--|--|--|--|



1
 SHEET

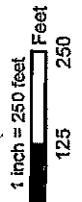
SITE PLAN
 ALL OF LOT 2 PER CSM 10648 LOCATED IN THE SE 1/4
 OF THE NE 1/4 OF SECTION 10, T.5N., R.19E., TOWN OF
 VERNON, WAUKESHA COUNTY, WISCONSIN



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

- Wetlands Overlay
- Floodplain Overlay

FILE.....RZ51
 DATE OF PLAN COMMISSION.....02/20/2020
 AREA OF CHANGE.....3.0 ACRES
 TAX KEY NUMBER.....VNT 2053.997.004



Prepared by the Waukesha County Department of Parks and Land Use

ZONING AMENDMENT

PART OF THE NE 1/4 SECTION 10, TOWN OF VERNON

Referred on: 03/05/20

File Number: 174-O-098

Referred to: LU

ORDINANCE 2020-01

AN ORDINANCE TO REZONE A PORTION OF A CERTAIN PROPERTY IN SECTION 10, 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, Doug and Julie Meinen, the owners of D & J and Sons LLC (herein referred to as "property owner") owns the property located at S65W22175 National Ave in the LOT 2 CSM #10648 VOL 102/242 REC AS DOC #3625257 PT NE1/4 & SE1/4 SEC 10 T5N R19E, designated as Tax Key VNT 2053997004, (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 Mini Farm District 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 January 8, 2020 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 written 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, and shall provide written proof of having done so to the Town Planner to the satisfaction of the Town Planner, prior to the rezoning taking effect.
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

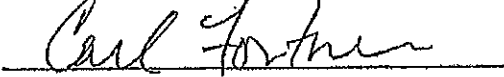
The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, 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.

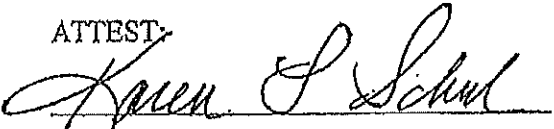
Approved this 23rd day of January 2020

BY THE TOWN OF BOARD OF SUPERVISORS



Carl Fortner, Town Chairman

ATTEST:



Karen L. Schuh, Town Clerk/Treasurer

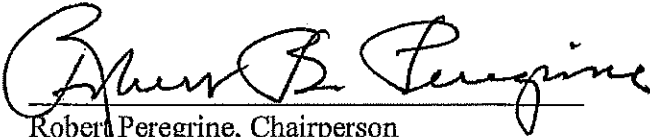
Published and posted this 10th day of February 2020

COMMISSION ACTION

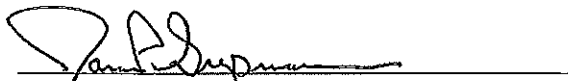
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance, hereby recommends **approval** of **(RZ51 Proven Properties LLC)** in accordance with the attached "Staff Report and Recommendation and Addendum"


PARK AND PLANNING COMMISSION

February 20, 2020

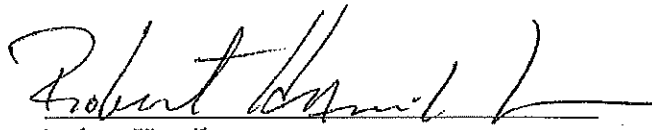

Robert Peregrine, Chairperson


William Mitchell, Vice Chairperson


James Siepmann


Richard Morris


Thomas Michalski


Robert Hamilton



VOTE RESULTS: Passed By Majority Vote

AYE: 21 NAY: 0

ABSENT: 4

| | |
|-----------------|--------|
| D1 - Foti | Yes |
| D2 - Zimmermann | Motion |
| 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 | ABSENT |
| D12 - Wolff | Yes |
| D13 - Decker | Yes |

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