

Staff Report  Zoning and Land Regulation Committee	<i>Public Hearing:</i> May 25, 2021	Petition 11690	
	<i>Zoning Amendment Requested:</i> HC Heavy Commercial District TO HC Heavy Commercial District		
	<i>Size:</i> 19 Acres	<i>Survey Required:</i> No	<i>Town/Section:</i> RUTLAND, Section 7
	<i>Reason for the request:</i> Amend deed restrictions to allow outdoor storage area of recreational vehicles		<i>Applicant:</i> WICOMPANYII LLC
		<i>Address:</i> 4645 STATE HWY 138	



DESCRIPTION: Applicants own the ~18 acre HC (Heavy Commercial) zoned parcel at 4645 State Highway 138 which is the site of *Best of Wisconsin*, a retail and distribution business specializing in Wisconsin cheese and sausage products. Commercial zoning was conditionally approved for the property in 2018 under [petition #11165](#). A deed restriction was recorded to address a number of concerns raised by both the town of Rutland and village of Oregon regarding development of the property given the property's location near the intersection of two major highways and entryway to the village. The restrictions address highway access, range of allowable land uses, and design/aesthetic concerns. Applicants are requesting an amendment to the existing deed restrictions to allow outdoor storage of boats and recreational vehicles along the southern boundary of the property. A separate Conditional Use Permit (CUP) application ([#2518](#)) has been filed to also allow mini-warehouses on the property.

The proposed mini-warehouses and outdoor storage area would be located on the southerly portion of the property within a fenced area with security gate. Privacy fencing / screening is proposed along the southern and western property boundaries. Four mini-warehouse buildings totaling 32,000 sqft and containing a total of 80 storage units are proposed. The outdoor storage area would contain 47 paved spaces for boats/RVs.

OBSERVATIONS: Current use of the property is commercial (retail / distribution). Neighboring land uses are commercial, agri-business, residential, and open space/highway right of way (US 14/138). There is an intermittent stream which bisects the northeast portion of the property. Wetlands are present along this intermittent stream. Shoreland regulations apply to any development within 300 feet of the intermittent stream. The property is not designated as a flood hazard area. The NE & SW corners of the property contain Class 2 soils. The property is located within the village of Oregon’s urban service area, though there are no plans to extend public water or sanitary sewer service to the property.

TOWN PLAN: The property is in a designated Commercial area on the town’s future land use map.

RESOURCE PROTECTION: There is an area of resource protection corridor associated with the intermittent stream and wetlands on the property.

STAFF: The existing deed restrictions on the property limit the range of commercial uses and were required as part of the conditional approval of previous [petition #11165](#), which established commercial zoning on the 18 acres in 2018. The existing deed restrictions allow for the following commercial uses on the property:

LAND USES - The following list of land uses shall be the only land uses permitted on the property: Offices, indoor sales, indoor entertainment, personal and professional services, indoor contractor/trade operations, vehicle repair services, indoor storage, distribution centers, light industrial businesses, governmental uses, religious uses, institutional uses, and veterinarian clinic. Outside storage of materials or construction equipment may be permitted subject to site plan approval. Other land uses may be permitted through a conditional use permit: personal storage facilities (mini- warehouses), and outdoor entertainment.

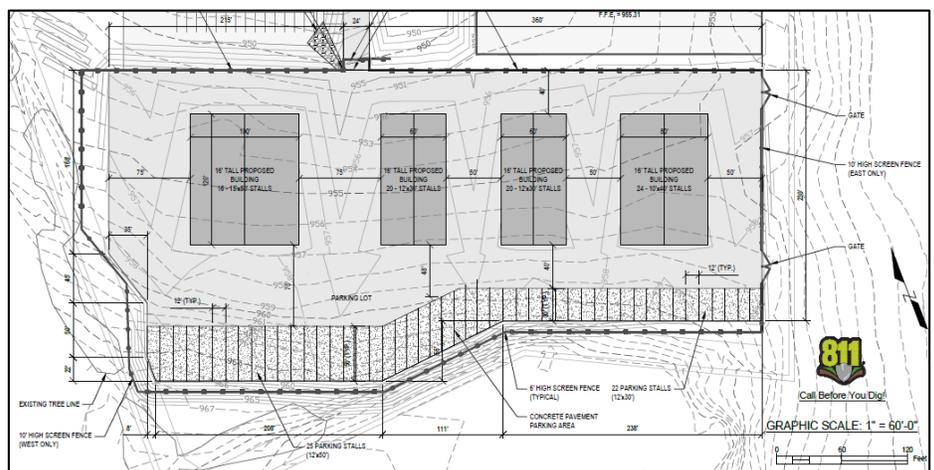
Outside storage was not specifically listed as a permitted land use and only anticipated as a possible ancillary use, (e.g., “materials or construction equipment”), associated with one of the other allowable land uses. The site plan submitted with petition 11165 did not show any areas for outdoor storage.

The existing restrictions also address access to State Highway 138:

ACCESS TO STATE HIGHWAY 138 - State Highway 138 is a controlled access highway. A State Highway Access Permit shall be required to be obtained for any new buildings or changes in land use which will cause any increase of traffic volume to the property. The State Highway Access Permit shall be obtained prior to the issuance of a zoning permit. A traffic impact study shall be prepared and approved by the State Highway Department to identify any necessary improvements that are needed for the safe access onto State Highway 138. The landowner shall be responsible for any and all costs for the improvements.

Little information was provided in the application materials for petition 11690 regarding the proposed outdoor storage of RVs/boats. From discussions with the applicant, it appears the proposal would not be limited solely to off-season storage.

DOT has provided a letter indicating that the initial access approval from 2018 was based on a traffic study that included the mini-warehouses. It is unclear if DOT is aware that the proposal now also includes 47 parking spaces for boats/RVs, or if that would change their position.



The DOT letter states that, “If this area becomes a problem, we expect the development to address the connection and improve that area affiliated with the development, at the property owner’s responsibility.”

There are two residential lots adjacent to the southern property line where the outdoor storage is proposed. There is some existing vegetative screening, and the site plan shows sections of 10' and 6' "screen fence". The owner of the two adjacent residential lots has submitted a statement indicating support for the proposal.

Applicable [town plan policies](#) include the following:

3. To limit any non-agricultural commercial or recreational use to small, rural-oriented businesses which provide services needed by residents of the town. Such uses must meet the following criteria prior to zoning approval:
 - a. Be consistent with agricultural policies for farmland preservation.
 - b. Have access to a state or county highway.
 - c. Shall not adversely affect the traffic capacity and safety of the highway.
 - d. Provide a buffer between the commercial use and any adjacent non-commercial use.
 - e. Not endanger the environment or groundwater of the area.

The village of Oregon comprehensive plan designates the property as "Planned Mixed-Use". The village has not yet taken a formal position on the proposal and will be considering the matter at upcoming meetings on May 6 and May 17. A letter provided by the village's planning director indicates that, if the village chooses to take a formal position, that will be communicated to the county by the scheduled May 25th ZLR public hearing.

The town of Rutland will be considering the proposal at its meetings in early June. Since no town action is anticipated prior to the May 25 county public hearing, staff recommends postponement pursuant to ZLR committee rules & procedures.

STAFF UPDATE (7/8/21): The petition was postponed at the May 25 ZLR public hearing due to no town action. Note that the village of Oregon has not submitted any formal position in writing on the proposal. The applicant has provided some additional documentation regarding the overall proposal, which includes related Conditional Use Permit petition #2518.

The town of Rutland approved the petition at its meeting on July 7 with a condition requiring an amended deed restriction that allows for the outdoor storage of boats and recreational vehicles as depicted in the site plans submitted with the petition.

Staff recommends approval of the petition, with the following conditions:

1. Owners shall record an amendment of restrictions document that retains all existing provisions from the currently recorded deed restriction (document #5410559) and revises the section addressing outdoor storage to read as follows:
 - "Outdoor storage uses shall be limited exclusively to boats and recreational vehicles and located at the southerly end of the property as depicted on the site plan submitted with zoning petition #11690. Ancillary outdoor storage of materials and/or construction equipment / vehicles associated with a permitted commercial use on the property may also be allowed subject to site plan review and approval by the Town Board and County Zoning Committee. Any and all areas used for outdoor storage shall be screened from view with a minimum of six-foot barrier with 90% opacity. All screening shall be maintained in good condition with any repairs made promptly, as needed."

Any questions about this petition or staff report, please contact Majid Allan at (608) 267-2536 or allan@countyofdane.com

TOWN: Approved, with conditions (amended deed restrictions).