

ENROLLED ORDINANCE 179-2

AMEND THE TOWN OF OCONOMOWOC DISTRICT ZONING MAP OF THE WAUKESHA COUNTY SHORELAND PROTECTION ORDINANCE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SW ¼ AND SE ¼ OF SECTION 14, T8N, R17E, TOWN OF OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN, FROM THE FLP FARMLAND PRESERVATION DISTRICT TO THE R-1 RESIDENTIAL DISTRICT (RZ139)

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 18, 2024; 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 Town of Oconomowoc District Zoning Map of the Waukesha County Shoreland Protection Ordinance, Waukesha County, Wisconsin, adopted by the Waukesha County Board of Supervisors on October 19, 2023, is hereby amended to conditionally rezone certain lands located in the SW ¼ and SE ¼ of Section 14, T8N, R17E, Town of Oconomowoc, from the FLP Farmland Preservation District to the R-1 Residential District, as 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, subject to the following conditions:

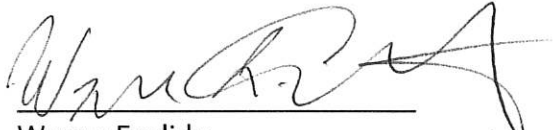
1. The Zoning Amendment shall only amend the zoning on the 2.24-acre and 2.19-acre parcels shown on Exhibit A of the Staff Report and Recommendation for RZ 139 dated April 18, 2024. No other lands are to be rezoned.
2. A Certified Survey Map, prepared by a Professional Land Surveyor in the State of Wisconsin, dividing the parcel as proposed, shall be reviewed and approved by the Town Plan Commission, Town Board and Waukesha County Department of Parks and Land Use prior to the issuance of any Zoning or Building Permits.
3. A Declaration of Restrictions shall be prepared and reviewed and approved by the Town Planner and Waukesha County Planning and Zoning Staff and recorded in the Waukesha County Register of Deeds Office by the owner or petitioner that states that, pursuant to the Town of Oconomowoc Comprehensive Land Use Plan-2035 and the Waukesha County Comprehensive Development Plan, no additional development rights remain for the remnant farm holdings and each of the two proposed new lots are entitled to only one (1) dwelling unit and guest quarters (if approved). Said restriction must state that the restriction shall apply in perpetuity unless the Farmland Preservation designation under both the Town of Oconomowoc Comprehensive Land Use Plan – 2035 and the Waukesha County Comprehensive Development Plan for the property is amended in the future.

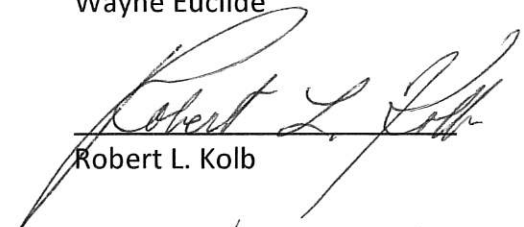
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town of Oconomowoc Clerk.

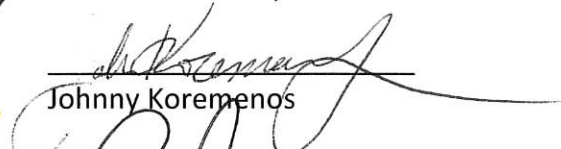
AMEND THE TOWN OF OCONOMOWOC DISTRICT ZONING MAP OF THE WAUKESHA COUNTY SHORELAND PROTECTION ORDINANCE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SW ¼ AND SE ¼ OF SECTION 14, T8N, R17E, TOWN OF OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN, FROM THE FLP FARMLAND PRESERVATION DISTRICT TO THE R-1 RESIDENTIAL DISTRICT (RZ139)


Presented by:
Land Use, Parks, and Environment Committee

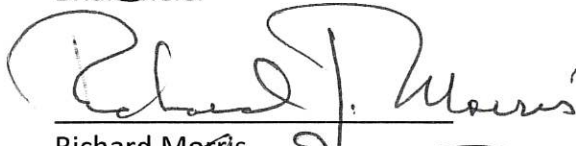

Christine M. Howard, Chair


Wayne Euclide


Robert L. Kolb



Johnny Koremenos


Brian Meier


Richard Morris


Steve Styza

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

Date: 5/31/24, 
Margaret Wartman, County Clerk

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

Approved: X
Vetoed: _____

Date: 5/31/2024, 
Paul Farrow, County Executive

VOTE RESULTS >

23

YES

0

NO

0

ABSTAIN

2

ABSENT

Ordinance 179-O-001

Ordinance 179-O-001: Amend The Town Of Oconomowoc District Zoning Map Of The Waukesha County Sho
Rezoning Certain Lands Located In Part Of The SW ¼ And SE ¼ Of Section 14, T8N, R17E, Town Of Oconomowoc, Waukesha County, Wisconsin, From The FLP
Farmland Preservation District To The R-1 Residential District (RZ139)

 **Passed By Majority Vote**

D1 - Styza	AYE	D10 - Thieme	AYE	D19 - Enriquez	ABSENT
D2 - Euclide	S AYE	D11 - Howard	M AYE	D20 - Schellinger	AYE
D3 - Morris	AYE	D12 - Wolff	AYE	D21 - Gaughan	AYE
D4 - Batzko	AYE	D13 - Leisemann	AYE	D22 - Szpara	AYE
D5 - Grant	AYE	D14 - Mommaerts	AYE	D23 - Hammitt	AYE
D6 - Walz	AYE	D15 - Kolb	AYE	D24 - Bangs	AYE
D7 - LaFontain	ABSENT	D16 - Crowley	AYE	D25 - Johnson	AYE
D8 - Koremenos	AYE	D17 - Meier	AYE		
D9 - Heinrich	AYE	D18 - Nelson	AYE		

2nd Meeting, 179th Year of the County Board of Supervisors - May 28 2024 07:12:18 PM
May 28, 2024





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 Protection Ordinance hereby recommends approval of **RZ.139 (Cypress Tree, LLC)** in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

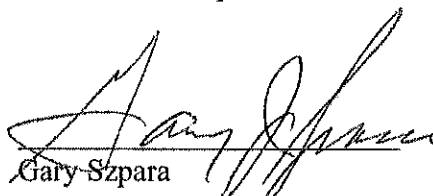
April 18, 2024

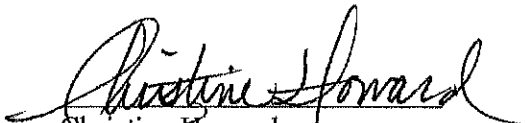

James Siepmann, Chairperson


Robert Peregrine


Richard Morris

Absent
William Groskopf


Gary Szpara


Christine Howard

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

DATE: April 18, 2024

FILE NO.: RZ139

OWNER AND APPLICANT: Cypress Tree, LLC
c/o Terry Bartowitz
16575 Patricia Lane
Brookfield, WI 53005

TAX KEY NO's. AND LOCATION:

OCOT 0488.994.003: Lot 3, Certified Survey Map No. 11032, a redivision of Lot 1, CSM No. 6947, part of the NE ¼, SW ¼, and SE ¼ of Section 14, and part of the NE ¼ of Section 23, T8N, R17E, Town of Oconomowoc.

OCOT 0488.994.005: Lot 1, Certified Survey Map No. 11033, a redivision of Lot 4, CSM No. 11032, Section 14, T8N, R17E, Town of Oconomowoc.

EXISTING ZONING:

Farmland Preservation (FLP) District, Farmland Conservancy District, Environmental Corridor Overlay District

PROPOSED ZONING:

R-1 Residential District. Lands zoned EC Environmental Corridor Overlay District and FLC Farmland Conservancy District are not proposed to change.

EXISTING LAND USE(S):

Agricultural.

PROPOSED LAND USE(S):

Rezone the property to allow the creation of two (2) approximately 2-acre residential parcels, in accordance with the density standards of the Farmland Preservation District (FLP).

PUBLIC HEARING DATE: March 4, 2024

There were three public hearings held on the same evening regarding the subject properties. All three public hearings were opened concurrently. The comments below are inclusive of public comment received for the subject rezone (RZ139) and two Conditional Use requests to expand uses onto the subject lands from an adjacent parcel associated with a non-profit organization (CU109) and for land altering activities in conjunction with the proposed construction of dwelling units (CU110).

PUBLIC COMMENT:

Krista Sur, N71 W35500 Mapleton Lake Drive, noted how she loves living on a dead end street. She has concerns regarding shoreline erosion around the lake, the spraying of chemicals and fish habitat. She asked who was going to own and live in the homes and questioned what lighting was going to be installed. She discussed how the easement granted to the petitioner that extends over her property would be affected. *A discussion about the DNR's involvement in lake quality and shoreline erosion ensued. The petitioner responded that Cypress Tress, LLC would own both properties and he would be living in one of the units. The lighting was not addressed at the public hearing. Staff relayed the easement would no longer be necessary.*

Tom Hock, N71W35750 Mapleton Lake Drive, noted support for the project but questioned why the cottages that were approved with the original proposal for Zachariah's Acres were never built. *The petitioner responded that the County and Town had asked for a 20-year build out plan at the time. The cottages on the Zachariah's Acre property were what was envisioned, but their plans had shifted and this is now what they'd like to propose.*

Paul Westbrook, N71W35558 Mapleton Lake Drive, expressed concerns over the amount of traffic the project would generate on a quiet, dead-end street. He also questioned if the petitioner knew it was Farmland Preservation when he purchased the property and questioned why they got to be an exception from the rules. *Staff clarified that the rezone request and the Conditional Use requests were in accordance with the Ordinance provisions.*

Keith Farley, W376 N7985 McMahan Road, gave his support of the housing spaces for visitors to stay and have respite.

A Plan Commissioner asked if Servants Way had been considered to provide access to the new lots rather than Mapleton Lake Drive? The petitioner responded it would require a significant amount of grading and gravel to construct such a long road, which would ultimately disrupt much more of the agricultural land.

Dave Peschek, N73W36381 S. Shore Drive, stated the amount of growth in Oconomowoc is getting out of hand and would rather see the lands used for this type of proposal than sold to a developer for a subdivision.

Beth Pinali, N79W34975 Peterson Dr., noted she is a nurse at AngelsGrace, which serves 400 families a year. She indicated that she never thought they could do anything better than what they are doing to help serve until she reviewed the current proposal.

The petitioner also submitted three letters of support at the public hearing.

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:

On March 18, 2024, the Town of Oconomowoc Plan Commission and the Town of Oconomowoc Town Board recommended approval of the request subject to the conditions as noted below.

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

The property is designated in the Farmland Preservation category and the Farmland Preservation with Primary Environmental Corridor District on the Comprehensive Development Plan for Waukesha County and in the Prime Agricultural category on the Town Land Use Plan. The proposal to rezone approximately 4 acres for the creation of two lots is consistent with plan recommendations that call for a maximum density of one dwelling unit per 35 acres and compliance with lot siting standards.

STAFF ANALYSIS:

The subject property consists of two vacant parcels located north of C.T.H. K and east of C.T.H. P in the Town of Oconomowoc and are a combined 85 acres. The property incorporates the entire north half of Mapleton Lake, with wetlands and Isolated Natural Resource Area (INRA) near the shoreline. A private easement serving one property that is owned by the petitioner extends north through the subject property from Mapleton Lake Drive. The property is primarily zoned Farmland Preservation, with areas of Farmland Conservancy District and Environmental Corridor Overlay District around Mapleton Lake. Most of the property is within the Waukesha County Shoreland Protection Ordinance jurisdictional boundary, except the southeastern portion of the property is within the Zoning Code. The surrounding area is a mix of uses. To the north there is a non-profit organization, Zachariah's Acres, which is operated by the petitioner. To the south is Mapleton Lake Estates subdivision, with riparian and non-riparian parcels that are approximately ¾ of an acre. The remaining area is rural farmland.

The petitioner is proposing to create two approximately 2-acre residential properties via Certified Survey Map (Exhibit A). One parcel has frontage on Mapleton Lake at the end of Mapleton Lake Road and one parcel is located in the northeast portion of the subject lands. Each two acre parcel will have a single family residence and a guest house. Access to both parcels is proposed from the private road that extends from Mapleton Lake Drive. This private road currently provides access to one other single-family residential lot that is owned by the petitioner and to the parent parcel(s). The petitioners will need to seek approval for the creation of two lots not abutting a public road and waivers from the Town and County Plan Commissions for having more than two residences on a private road and for creating lots less than 3-acres on a private road. As a part of this request, staff will recommend to the County Park and Planning Commission that all previous easements be released and a new easement document be created with the current easement agreements. The Environmental Corridor Overlay District around the shore of Mapleton Lake and the Farmland Conservancy District on the island are not proposed to change. The remnant parcels would be combined into one outlot (Outlot 1 on Exhibit A). The preliminary CSM notes the island within Mapleton Lake as Lot 3; however, this is not permitted per the FLP District requirements since it is not at least 35 acres. Therefore, the final CSM must show it as an outlot. Lot 3 does not appear to be a buildable parcel and is mapped entirely as wetlands.

The Farmland Preservation District states that new residences or new lots on less than 35 acres shall only be permitted with the creation and rezoning of a new parcel. The overall density of the farm tract must be maintained at one dwelling unit per 35 acres. The Cypress Tree LLC farm tract contains approximately 85-acres, which provides two (2) density rights. The proposal utilizes both available density rights.

The proposed residential parcels comply with the lot size requirements for new residential parcels (1 to 3 acres) set forth by the FLP rezoning process, as well as the minimum average width requirements (150 ft.) of the R-1 District. The Town and County believe the proposed 2-acre parcels meet the Farmland Preservation District siting standards as the proposed lots are located near existing access ways and are located on lands and soils not suitable for farming. The parcel locations and subsequent development will not limit the agricultural use of the 80-acre remnant farmlands, preserving and maintaining productive and viable agricultural land that adds to the economic base of Waukesha County. In addition, the petitioner is proposing to create an agricultural preservation easement over 10 acres of the remnant farmland to ensure continued agriculture use of a portion of the property, regardless of its plan or zoning designations.

STAFF RECOMMENDATION:

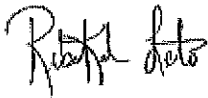
The Planning and Zoning Division staff recommends **approval** of the request in accordance with the Town of Oconomowoc's recommendations as modified below (modifications or additions to the Town's conditions are in **bold** and deletions are identified in a strikethrough format):

1. The Zoning Amendment shall only amend the zoning on the 2.24-acre and 2.19-acre parcels shown on Exhibit A. No other lands are to be rezoned.
2. A Certified Survey Map, prepared by a **Registered Professional** Land Surveyor in the State of Wisconsin, dividing the parcel as proposed, shall be reviewed and approved by the Town Plan Commission, Town Board and Waukesha County **Department of Parks and Land Use prior to the issuance of any Zoning or Building Permits.**
3. A Declaration of Restrictions shall be prepared and reviewed and approved by the Town Planner and Waukesha County Planning and Zoning Staff and recorded in the Waukesha County Register of Deeds Office **by the owner or petitioner that** states that, pursuant to the Town of Oconomowoc Comprehensive Land Use Plan -2035 and the Waukesha County Comprehensive **Development** Plan, no additional development rights remain for the remnant farm holdings and **each of the two** proposed new lots are entitled to only one (1) dwelling unit and guest quarters (if approved). Said restriction must state that the restriction shall apply in perpetuity unless the ~~County Comprehensive Plan~~-Farmland Preservation designation under both the Town of Oconomowoc Comprehensive

Land Use Plan – 2035 and the Waukesha County Comprehensive **Development** Plan for the property is amended in the future.

If approved as conditioned, the zoning change would be consistent with Town and County Comprehensive Development Plan recommendations as the 35-acre farmland preservation density requirement is being maintained. The rezoning of approximately 4 acres of land will allow the petitioner to construct two new residences on two new parcels, while not limiting the agricultural use of the remaining farmlands. As conditioned and in accordance with the requirements of the Waukesha County Shoreland Protection Ordinance, a Deed Restriction will be recorded to disclose to future owners that no density credits remain on the property after the creation of the two 2-acre parcels until and unless the Farmland Preservation designation is removed from the property. In addition, the proposed agricultural preservation easement further protects some farmland from development in perpetuity regardless of its zoning or plan designations.


Respectfully submitted,



Rebekah Leto
Senior Planner

Attachment: Exhibit A- Site Plan
 Rezone Map

N:\PRKANDLU\Planning and Zoning\Rezones\PROJECT FILES\Oconomowoc\RZ139 Cypress Tree LLC\Staff Report and Exhibits\RZ139 Cypress Tree LLC Staff Report oct.doc



TRIO
4100 N. Colman Rd.
Brookfield, WI 53005
New York Product

PROJECT:
MAPLETON LAKE PHASE 1
ZACHARIAH'S ACRES
TOWN OF OCONOMOC, WISCONSIN
16575 PATRICK LN
BROOKFIELD, WI 53005-5623

NO.	DATE	DESCRIPTION

DATE: JANUARY 9, 2024

JOB NUMBER: 933-21009

DESCRIPTION:

OVERALL PROPOSED SITE PLAN SHEET

C1.1

Referred to: LU 7

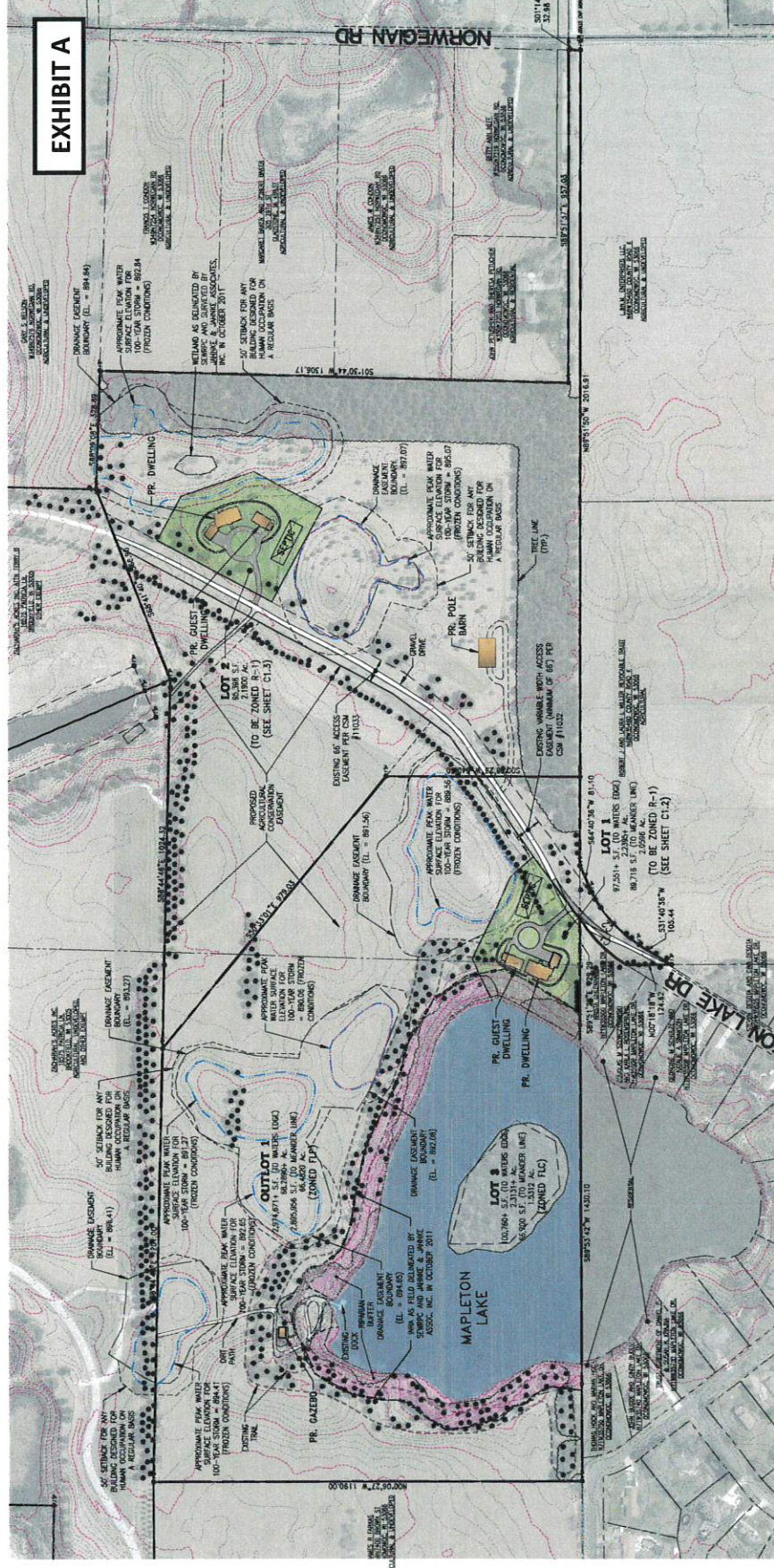


EXHIBIT A

LEGEND:

	EXISTING CONTOUR
	EXISTING SANITARY SEWER
	EXISTING WATER MAIN
	EXISTING STORM SEWER
	PROPOSED SANITARY SEWER (PRIVATE)
	PROPOSED SANITARY SEWER (PUBLIC)
	PROPOSED WATER MAIN (PRIVATE)
	PROPOSED WATER MAIN (PUBLIC)
	PROPOSED HYDRANT
	PROPOSED WATER VALVE
	PROPOSED STORM MANHOLE
	PROPOSED STORM INLET
	PROPOSED STORM END SECTION

NO.	RADIUS	CENTRAL ANGLE	ARC	CHORD	CHORD BEARING	TANGENT IN	TANGENT OUT
C1	409.43	25°48'45"	184.58	183.02	S44°37'43"W	S57°32'36"W	S31°42'51"W
C2	345.43	33°00'01"	197.80	195.08	S48°10'36"W	S54°40'36"W	S31°40'35"W

NOTE: DWELLINGS AND GUEST DWELLINGS TO BE OCCUPIED BY CARETAKERS/STAFF, PATIENTS OF ANGELSBROOK HOSPICE CARE, AND GUESTS OF ZACHARIAH'S ACRES.

SITE DATA

TOTAL LOT AREA DATA: TOTAL LOT AREA (ACRES): 2.974671 S.F. (68,289 ACRES) TOTAL LOT AREA (SQ. FT.): 48,905 F. (1.114 Acres) TOTAL LOT AREA (SQ. FT.): 4,300 F. (0.098 Acres) BUILDING AREA: 44,385 F. GRAVEL AREA: 44,385 F. TOTAL OPEN SPACE AREA: 2,626,111 S.F. (67.175 Acres) TOTAL OPEN SPACE AREA: 98.37% of lot



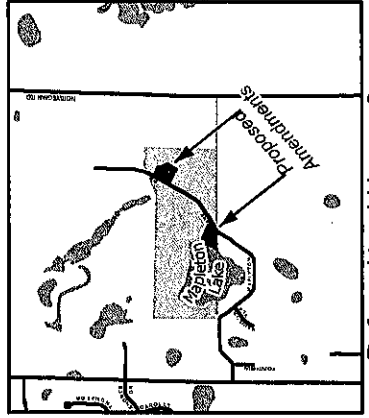
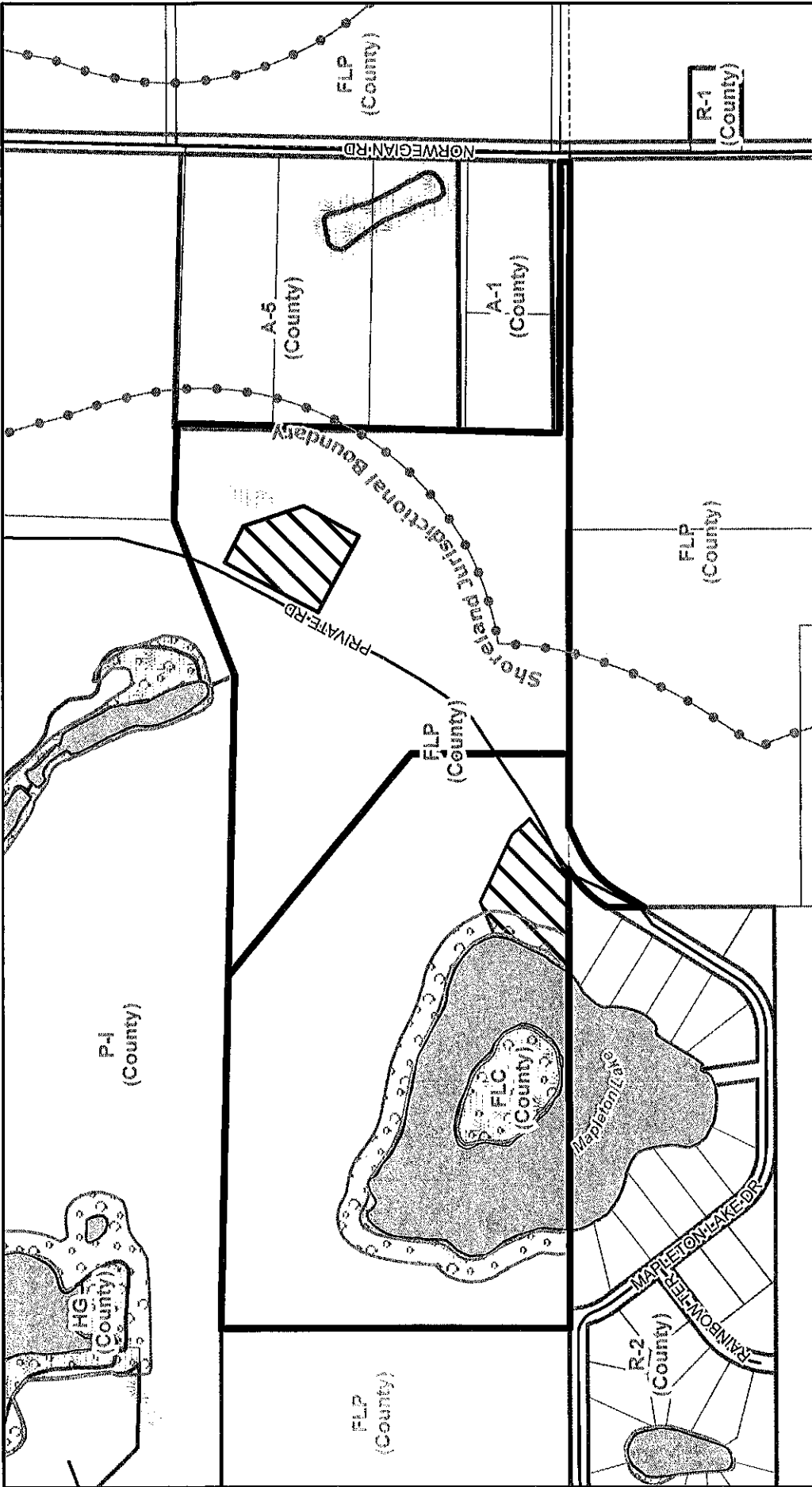
EXISTING UNDERGROUND UTILITY INFORMATION WAS OBTAINED FROM AVAILABLE RECORDS. THE ENGINEER MAKES NO GUARANTEE AS TO THE ACCURACY OF THIS INFORMATION. VERIFICATION TO THE SATISFACTION OF THE CONTRACTOR SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR. THE CONTRACTOR SHALL VERIFY THE LOCATION OF ANY UNDERGROUND UTILITIES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. DISCREPANCIES BETWEEN LOCATION OF UTILITIES IN THE FIELD AND LOCATIONS SHOWN ON THE PLANS.

CONTRACTOR IS REQUIRED TO CONTACT DIGGERS HOTLINE TOLL FREE TO OBTAIN LOCATION OF UNDERGROUND UTILITIES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. DISCREPANCIES BETWEEN LOCATION OF UTILITIES IN THE FIELD AND LOCATIONS SHOWN ON THE PLANS.

CALL DIGGERS HOTLINE 1-800-245-8611

File Number: 179-C-001

Referred on: 05/07/24



N

CONDITIONAL COUNTY ZONING CHANGE FROM FLP FARMLAND PRESERVATION DISTRICT TO R-1 RESIDENTIAL DISTRICT

EC Environmental Corridor Overlay

C-1 Conservancy Overlay

FILE.....RZ139

DATE OF PLAN COMMISSION.....4/18/24

AREA OF CHANGE.....4.4 ACRES

TAX KEY NUMBER.....OCOT 0488.994.003 and OCOT 0488.994.005

ZONING AMENDMENT

PART OF THE S 1/2 OF SECTION 14,
TOWN OF OCONOMOWOC

0 250 500 Feet

Referred on: 05/07/24