



TO: Planning & Zoning Commission

RE: Rezoning of Parcel HB-645-3, 4547 Country Aire Ct. from R-2: Residential District to ER: Estate Residential District

FROM: Todd Gerbers, Director of Planning & Code Compliance

DATE: September 14, 2022

ISSUE: Consider a request to rezone parcel HB-645-3 from R-2: Residential District to ER: Estate Residential District

RECOMMENDATION: Staff recommends approval

GENERAL INFORMATION

1. Applicants/Agent: Debrael Behm
2. Owner: Debrael Behm
3. Parcel: HB-645-3
4. Zoning: R-2: Residential District

ZONING REQUIREMENTS

The property owner is proposing to rezone parcel HB-645-3 located at 4547 Country Aire Ct. from R-2: Residential District to ER: Estate Residential District. The lot is currently developed with a residential structure and the property owner has raised horses there since the late 1970's. This property was originally zoned A-1 and back in approximately 1982, all the lots along Country Aire Ct. were rezoned to R-2. A rezoning request was before the commission at the August 10, 2022, meeting, but the commission denied the request for A-1: Agricultural District, but took action to approve the parcel be rezoned to ER. Unfortunately, for procedural reasons, the request is required to formally come back with the change in zoning classification to ER being noted. The property owner agreed to the ER zoning during the August meeting, and they remain in agreement with that change. A change to the ER: Estate Residential District would bring the property back into conformance with the past and current uses. The parcel is 5.005 acres and would be in compliance with the Village Zoning Code based on the minimum lot size, which is a minimum of 2.5 acres. The property owner has a letter (copy attached) from past Town Chairman Alvin Gerrits and Town legal counsel dated September 9, 1982, stating that the current use could remain as a legal non-conforming use. A rezoning from R-2 to ER would bring the property in to conformance with Village Codes relating to uses on the property.

RECOMMENDATION/CONDITIONS

Staff recommends approval as submitted to rezone parcel HB-645-3 from R-2: Residential District to ER: Estate Residential District



- Rezoning Review
- Conditional Use Permit Review
- Planned Development Review
- CSM/Plat Review

Village of Hobart
 Dept of Planning & Code
 Compliance
 2990 S Pine Tree Rd
 Hobart WI 54155
 Phone: (920) 869-3809
 Fax: (920) 869-2048

APPLICANT INFORMATION

Petitioner: Debrael Behm Date: _____
 Petitioner's Address: 4547 Country Aire Ct. City: Oneida State: WI Zip: 54155
 Telephone #: 920 865 7223 Email: Debrael777@new.rr.com
 Status of Petitioner (Please Check): Owner Representative Tenant Prospective Buyer
 Petitioner's Signature (required): Debrael Behm Date: 8-5-22

OWNER INFORMATION

Owner(s): Debrael Behm Date: 8-5-22
 Owner(s) Address: 4547 Country Aire Ct. City: Oneida State: WI Zip: 54155
 Telephone #: 920 865 7223 Email: Debrael777@new.rr.com
 Ownership Status (Please Check): Individual Trust Partnership Corporation

Property Owner Consent: (required)

By signature hereon, I/We acknowledge that Village officials and/or employees may, in the performance of their functions, enter upon the property to inspect or gather other information necessary to process this application. I also understand that all meeting dates are tentative and may be postponed by the Neighborhood Services Department for incomplete submissions or other administrative reasons.

Property Owner's Signature: Debrael Behm Date: 8-5-22

SITE INFORMATION

Address/Location of Proposed Project: 4547 Country Aire Ct. Parcel #: HB- 645-3
 Proposed Project Type: _____
 Current Use of Property: Home and Farmette Zoning: R-2
 Land Uses Surrounding Site:
 North: Kleppok 5 acres
 South: Peterson 5 acres
 East: Klopotik 5 acres
 West: Oneida Tribal Acres Wetland Mitigation

****Please note that a meeting notice will be mailed to all abutting property owners regarding your request prior to any Public Hearing.**

- Application fees are due at time of submittal. Make check payable to Village of Hobart.
- Please refer to the fee schedule for appropriate fee. FEE IS NON-REFUNDABLE

Pd. Cash
\$ 225
8/5/22

KAFTAN, KAFTAN, KAFTAN, VAN EGEREN, OSTROW, GILSON & GEIMER, s. c.

ATTORNEYS AND COUNSELORS AT LAW
200 SOUTH MONROE AVENUE
GREEN BAY, WIS. 54301-4093

ROBERT A. KAFTAN
1878-1944
J. ROBERT KAFTAN
ARTHUR KAFTAN
FRED F. KAFTAN
JAMES L. VAN EGEREN
WINSTON A. OSTROW
JEFFREY J. GILSON
ROBERT H. GEIMER
LISE LOTTE GAMMELTOFT

TELEPHONE
437-7134
AREA CODE 414

September 9, 1982

Mr. Alvin Gerrits
Chairman, Town of Hobart
540 Acorn Drive
Oneida, WI 54155

Dear Mr. Gerrits:

Recently you telephoned with a couple of questions requiring my comments. The first deals with a proposal that a certain area of the Town be rezoned from agricultural to R-2. Apparently such a change would cause certain uses within the present agricultural district to become nonconforming. For example, apparently one or more persons in that area keep horses or cattle on their property which would not be permitted under an R-2 district. Of course, such a use would become nonconforming once the ordinance was changed. As you understand, such a change in the ordinance would not prohibit the continuation of the nonconforming use. However, as stated in your ordinance at Article XVIII, if such nonconforming use is discontinued or terminated for a period of 12 months any future use shall conform to the provisions of the ordinance. You had a question concerning to what degree the present use could be changed. Most of the statutory provisions and court cases deal with to what extent buildings and structures can be modified that are nonconforming. This, of course, does not apply in this situation. Although I can find no specific case dealing with the question the general rule does seem to be that an increase in volume, intensity or frequency of a use is not a prohibited expansion of a nonconforming use. Accordingly, as long as the character of the use remains the same, that is, a use of animals for personal use, the number may change up or down without causing a violation of the ordinance. This, as I stated, is not a clear cut proposition but unless the number of animals or the manner of their use changes significantly I would not think that the Town would be in a good position to attempt to require the property owners to maintain the level at the same point it was when the ordinance was passed.

The other question you had deals with a property owner who has apparently constructed a barbed wire fence along his

Mr. Alvin Gerriss
Town of Hobart, Chairman
September 9, 1982
Page Two

property line and all the way to a Town road. Apparently this fence encroaches on the Town right-of-way. In this regard I would call your attention to Section 86.04 of the Wisconsin Statutes, a copy of which is enclosed with this letter. That Section provides for a 30 day notice to the property owner if he has constructed a fence or other encroachment which encroaches upon a highway right-of-way. It also lays out the procedure for giving this notice and for penalties if it is not complied with. I believe that it is important for the Town to remove this fence from the right-of-way in order to avoid any potential liability on the part of the Town. If you need any guidance on the specific contents of the notice after reading this Statute or the method of serving it on the property owner, please contact me.

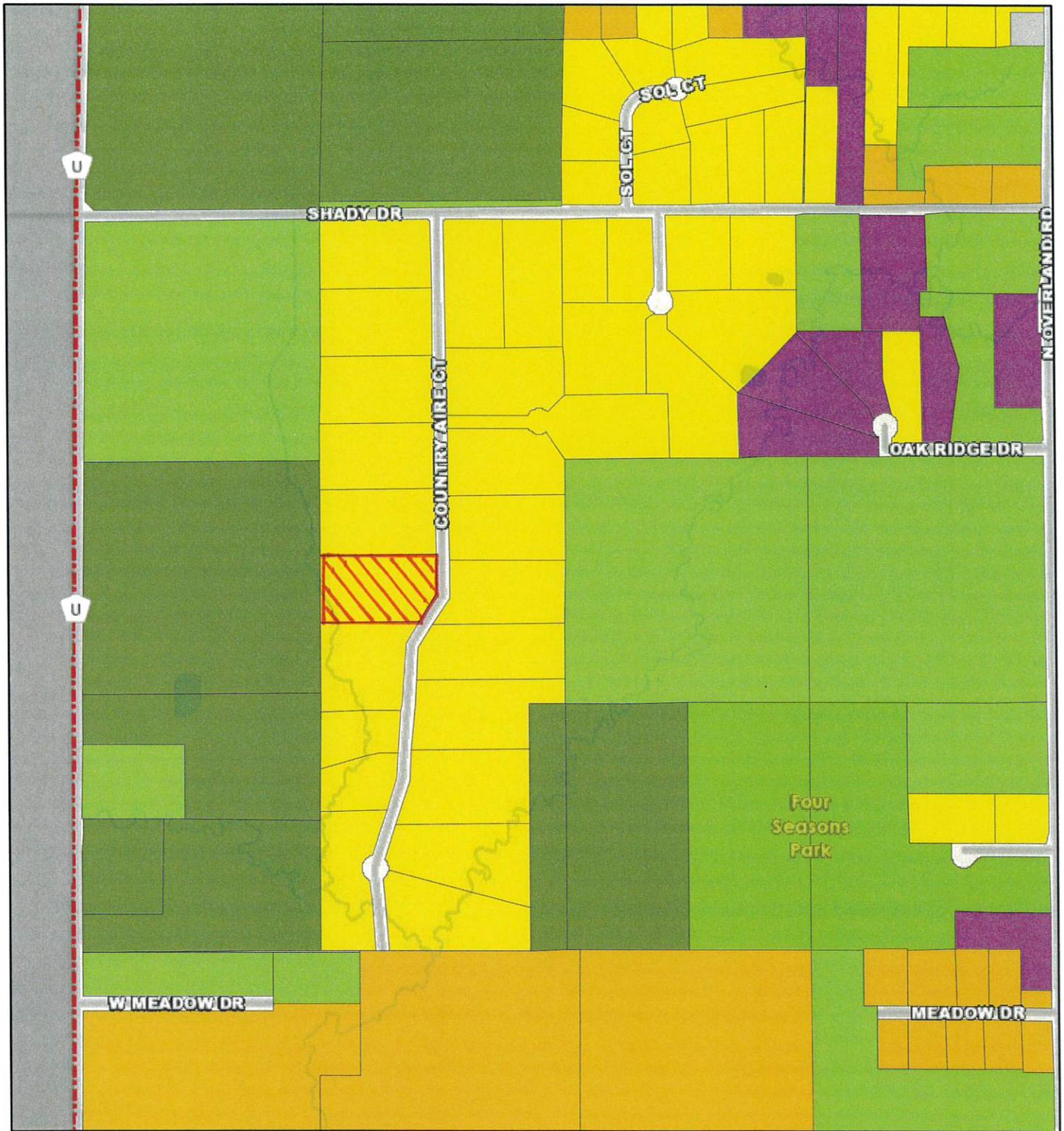
Very truly yours,

KAFTAN, KAFTAN, KAFTAN, VAN EGEREN,
OSTROW, GILSON & GEIMER, S.C.

Jeffrey J. Gilson

JJG/cje
Enclosure

4547 Country Aire Ct. - Zoning - ER



9/8/2022, 3:29:49 PM

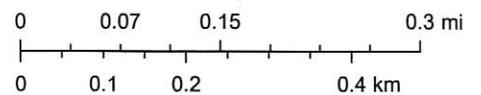
Zoning

- R-2: Residential District
- ER: Estate Residential District
- R-2-R: Rural Residential District

- A-1: Agricultural District
- A-2: Exclusive Agricultural District
- I-1: Limited Industrial District

**R-2 to ER
Zoning Change**

1:9,028



Brown County, Robert E. Lee & Associates, Inc.

Part of Brown County WI

LEGEND / KEY

-  Parcel Boundary
-  Condominium
-  Gap or Overlap
-  "hooks" indicate parcel ownership crosses a line
-  Parcel line
-  Right of Way line
-  Meander line
-  Lines between deeds or lots
-  Historic Parcel Line
-  Vacated Right of Way

A complete map legend (map key) is available at:
tinyurl.com/BrownDogLegend

Map printed
 8/5/2022



1:1,200

1 inch = 100 feet*

1 inch = 0.0189 miles*

*original page size is 8.5" x 11"
 Appropriate format depends on zoom level

This is a custom web map created by an online user of the GIS map services provided by the

**Brown County Wisconsin
 Planning & Land Services
 Department**



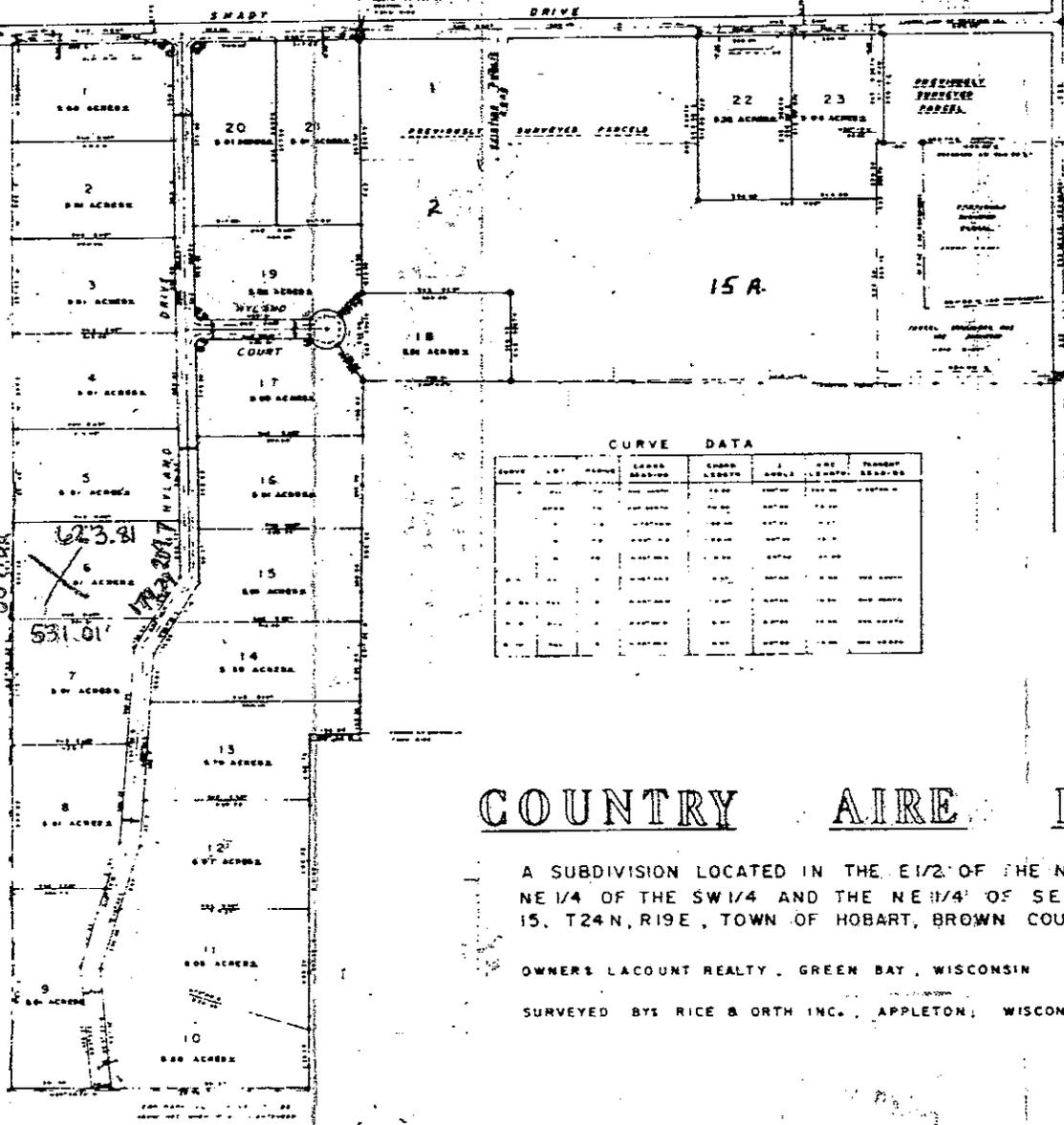
(920) 448-6480

www.browncountywi.gov



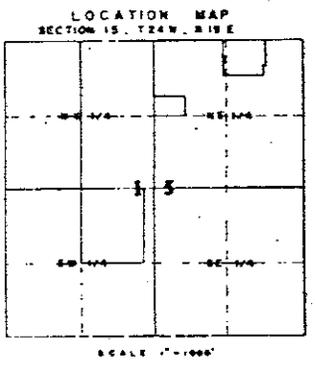


SALE'S PRICE DATE



CURVE DATA

| CURVE | PT. OF BEGINNING | LENGTH | ANGLE | PT. OF ENDING | PERCENT BEHIND |
|-------|------------------|--------|-------|---------------|----------------|
| 1 | ... | ... | ... | ... | ... |
| 2 | ... | ... | ... | ... | ... |
| 3 | ... | ... | ... | ... | ... |
| 4 | ... | ... | ... | ... | ... |
| 5 | ... | ... | ... | ... | ... |
| 6 | ... | ... | ... | ... | ... |
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| 11 | ... | ... | ... | ... | ... |
| 12 | ... | ... | ... | ... | ... |
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| 14 | ... | ... | ... | ... | ... |
| 15 | ... | ... | ... | ... | ... |
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| 21 | ... | ... | ... | ... | ... |
| 22 | ... | ... | ... | ... | ... |
| 23 | ... | ... | ... | ... | ... |



LEGEND

INDICATED BY STEEL BAR OR CONCRETE SET 1/4" DIA. 1" LONG IN THE PT.

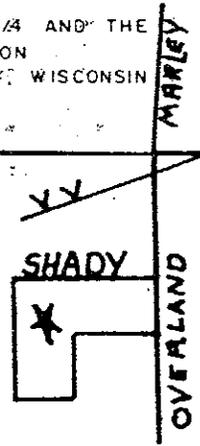
INDICATED BY 1/2" DIA. PIPE

INDICATED BY EXISTING PEACE LINE

COUNTRY AIRE ESTATES

A SUBDIVISION LOCATED IN THE E 1/2 OF THE NW 1/4 AND THE NE 1/4 OF THE SW 1/4 AND THE NE 1/4 OF SECTION 15, T24N, R19E, TOWN OF HOBART, BROWN COUNTY, WISCONSIN

OWNER'S LACOUNT REALTY, GREEN BAY, WISCONSIN
SURVEYED BY RICE & ORTH INC., APPLETON, WISCONSIN



GREEN BAY

DL
L.A.M.
DATE 02/24/74
FILE NO. 1
P. 001

COUNTRY AIRE ESTATES
SURVEYED FOR LACOUNT REALTY
117 S. CHESTNUT ST., GREEN BAY, WISCONSIN

29-32