

Winnebago County Planning and Zoning Department

NOTICE OF PUBLIC HEARING
BOARD OF ADJUSTMENT
June 28, 2022

TO WHOM IT MAY CONCERN:

The applicant(s) listed below has requested a variance which is regulated by one or more of the following ordinances: Chapter 23, the Town/County Zoning Code, Chapter 26, the Floodplain Zoning Code, and Chapter 27, the Shoreland Zoning Code. You are receiving this notice because this application or petition for action: 1. affects area in the immediate vicinity of property which you own; 2. requires your agency to be notified; 3. requires your Town to be notified; or 4. requires you, as the applicant, to be notified.

The Winnebago County Board of Adjustment will be holding a public hearing on June 28, 2022 at 5:30 PM in Conference Room 120 of the County Administration Building located at 112 Otter Ave, Oshkosh, WI.

All interested persons wishing to be heard at the public hearing may appear in person or via Zoom using the meeting information below. [A direct link to the Zoom Meeting is available on the Winnebago County Meetings and Agenda Calendar on the above indicated date.](#)

ZOOM MEETING INFORMATION LINK:

<https://www.co.winnebago.wi.us/planning-and-zoning/p-z-meeting-links>

Additional instructions can be found at: <https://www.co.winnebago.wi.us/planning-and-zoning>.

For further detailed information concerning this notice, contact the Town Clerk or the Winnebago County Zoning office, where the application is available for viewing.

INFORMATION ON VARIANCE REQUEST

Application No.: 2022-VA-6030

Applicant: JOHN KISH, ET AL

Agent: NONE

Location of Premises: 7704 CUTOFF LN

Tax Parcel No.: 032-054636

Legal Description: Being a part of Government Lot 2, Section 25, Township 20 North, Range 14 East, Town of Wolf River, Winnebago County, Wisconsin.

Explanation: Applicant is requesting a variance for a sub-standard floodplain fill requirement.

DESCRIPTION:	CODE REFERENCE:	REQUIRED:	PROPOSED:
The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirement in subsection (b)(2) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 ft beyond the limits of the structure.	26.5-23(b)(1)	Floodplain Fill: 15ft	Floodplain Fill: 5 ft & 8 ft

INITIAL STAFF REPORT

Sanitation: Required; Private System

Overlays: Shoreland, floodplain

Current Zoning: R-1 RURAL RESIDENTIAL

Surrounding Zoning: North: R-1; South: R-1; East: R-1; West: Lake Poygan

Code Reference: 26.5-23(b)(1)

Description of Proposed Use: Applicant is requesting a variance for a sub-standard floodplain fill requirement.

THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER/APPLICANT

Describe your project, include the proposed dimensions and setbacks: New residential construction. Site plan attached.

Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property: Due to narrow lot (50.00' at the rear & 56.88' at the front), complying with the 15' side setbacks would only allow a 20'W house.

Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question: Overall lot width is 50.00'-56.88'. Proposed width of house 34.5'. Proposed setback on NW side of lot for driveway 12.5'. This only allows a side setback on the SE side of 5.0' at the rear of the house, and 7.3' at the front of the house. See site attached site plan for details.

Describe how the granting of the requested variance will not harm the public interest or have adverse affects on surrounding properties: NW side setback - the driveway elevation will be adjusted to allow minimal slope to adjacent property. SE side setback - a retaining wall will be constructed in lieu of proper ground slope. The length of the retaining wall will be long enough to allow required slope front-to-back.

SECTION REFERENCE AND BASIS OF DECISION

Basis of Decision: Town/County Zoning Code: 23.7-5

When making its decision, the Board of Adjustment shall consider each of the following standards:

- (1) The requirement in question would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with such requirement unnecessarily burdensome and such circumstances were not self-created.
- (2) The subject property has unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question.
- (3) The granting of the variance will not be contrary to or harm the public interest given the general purposes of the zoning regulations and the specific purposes of the requirement in question.

The board shall grant a variance only if the board can make an affirmative finding for all of the criteria listed in this section.

Floodplain Zoning Code

26.6-7 Variances

(a) **Review criteria.** The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to adoption of the floodplain chapter and unique property conditions, not common to adjacent lots or premises—in such case the chapter or map must be amended—; (3) the variance is not contrary to the public interest; and (4) the variance is consistent with the purpose of this chapter in s. 26.1-5.

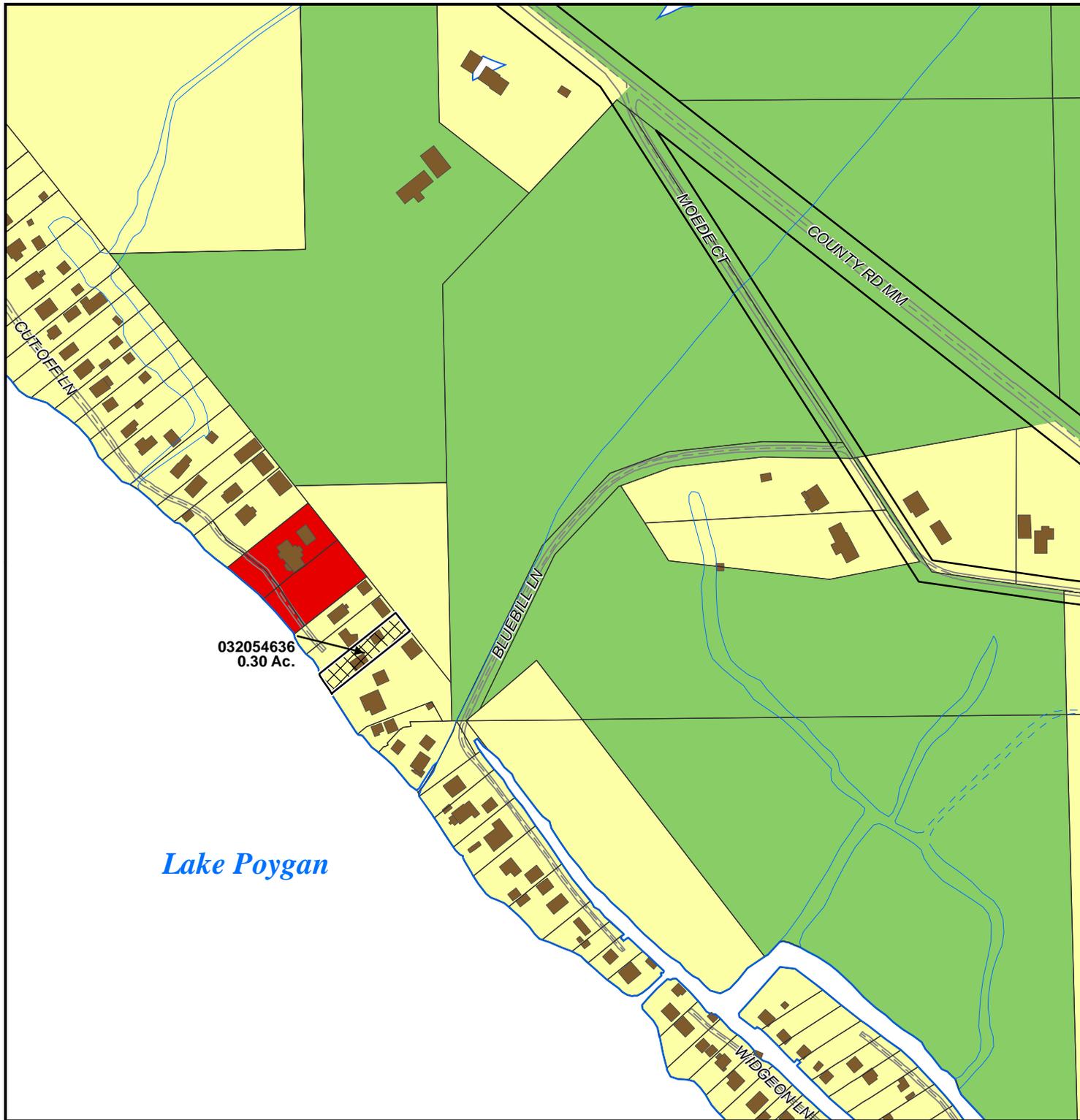
(b) **Additional criteria.** In addition to the criteria in subsection (a), to qualify for a variance under FEMA regulations, the following criteria must be met:

(1) The variance shall not cause any increase in the regional flood elevation;

(2) Variances can only be granted for lots that are less than 0.5 acres and are contiguous to existing structures constructed below the regional flood elevation;

(3) Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts, and shall not be contrary to the purpose of the chapter.

(c) **Limitations.** A variance shall not (1) grant, extend, or increase any use prohibited in the zoning district; (2) be granted for a hardship based solely on an economic gain or loss; (3) be granted for a hardship which is self-created; (4) damage the rights or property values of other persons in the area; (5) allow actions without the amendments to this chapter or map(s) required in s. 26.6-4; or (6) allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.



Application #22-VA-6030

Date of Hearing:

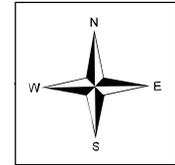
June 28, 2022

Owner(s):

KISH, JOHN /
KISH, ANGELA

Subject Parcel(s):

032054636



Winnebago County
WINGS Project

Scale

1 inch : 300 feet

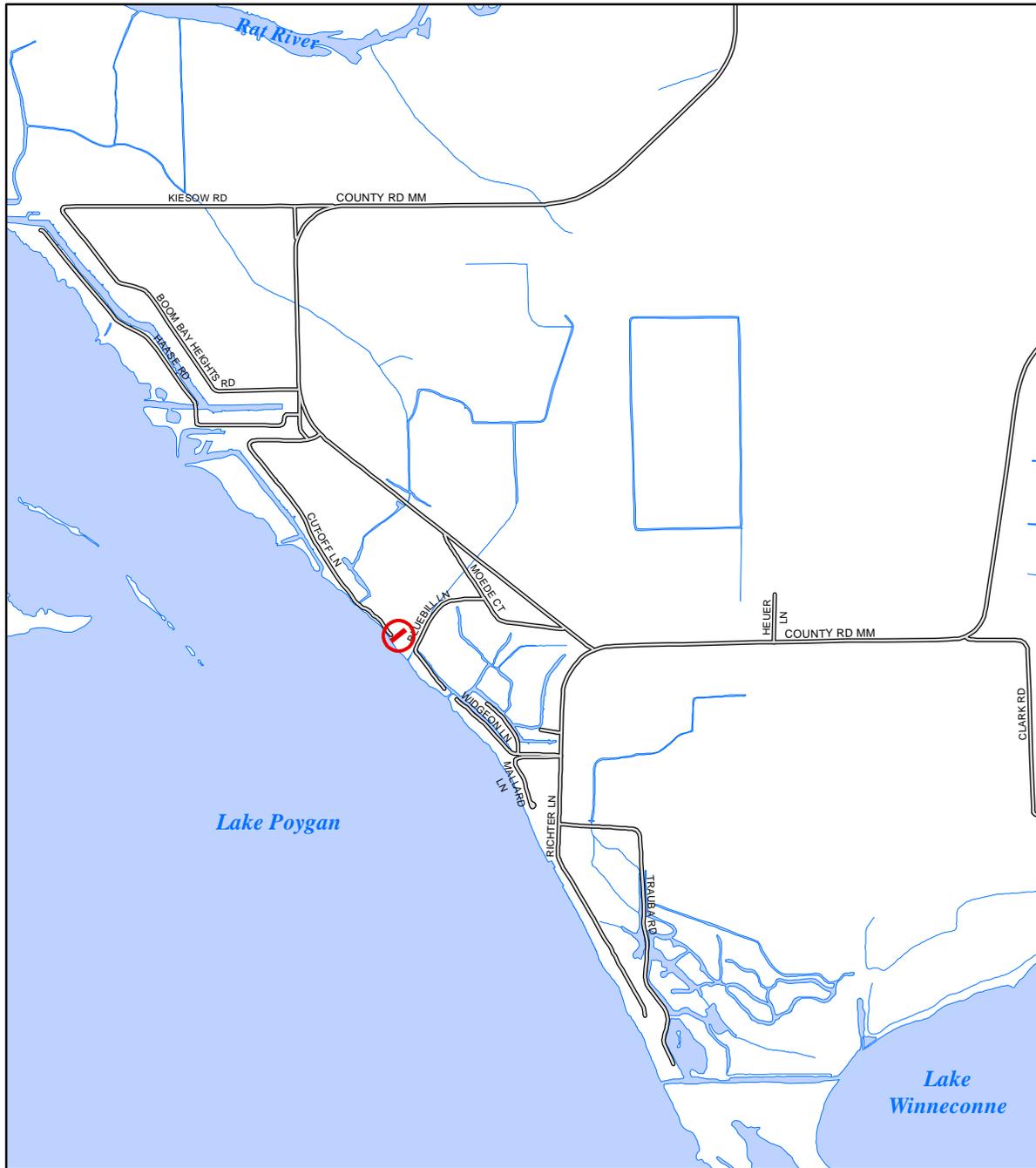
County Zoning Districts

R-1	PDD	B-1
R-2	A-1	B-2
R-3	A-2	B-3
R-4	I-1	M-1
R-8	I-2	Town Zoning

City of Oshkosh Extraterritorial
Zoning Jurisdiction

Incorporated Area

○ = SITE



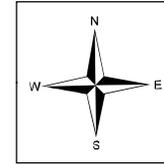
1 inch : 2,000 feet

Application #22-VA-6030

Date of Hearing:
June 28, 2022

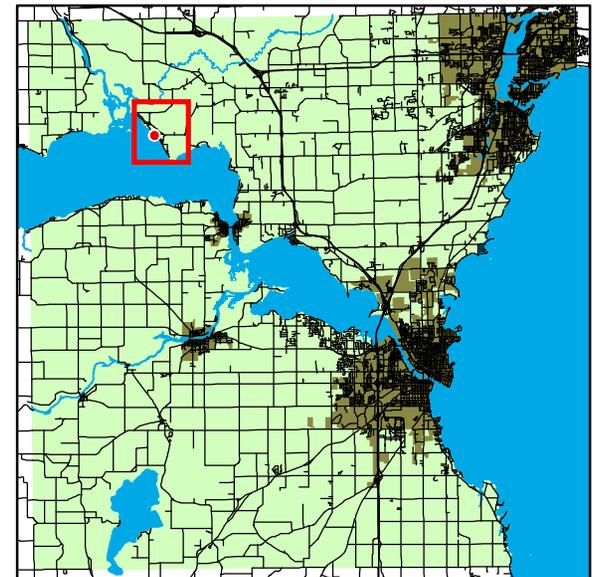
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KISH, JOHN /
KISH, ANGELA

Subject Parcel(s):
032054636



*Winnebago County
WINGS Project*

● = SITE



WINNEBAGO COUNTY

Winnebago County Planning and Zoning Department

NOTICE OF PUBLIC HEARING

BOARD OF ADJUSTMENT

June 28, 2022

TO WHOM IT MAY CONCERN:

The applicant(s) listed below has filed a Notice Of Appeal which is regulated by one or more of the following ordinances: Chapter 23, the Town/County Zoning Code, Chapter 26, the Floodplain Zoning Code, and Chapter 27, the Shoreland Zoning Code.

The Winnebago County Board of Adjustment will be holding a public hearing on May 31, 2022 at 5:30 PM in Conference Room 120 of the County Administration Building located at 112 Otter Ave, Oshkosh, WI.

All interested persons wishing to be heard at the public hearing may appear in person or via Zoom using the meeting information below. A direct link to the Zoom Meeting is available on the Winnebago County Meetings and Agenda calendar on the above indicated date.

Zoom Meeting Information Link: <https://www.co.winnebago.wi.us/planning-and-zoning/boa-meeting-links>

Additional Instructions can be found at: <https://www.co.winnebago.wi.us/planning-and-zoning>.

For further detailed information concerning this notice, contact the Town Clerk or the Winnebago County Zoning office, where the application is available for viewing.

INFORMATION ON APPEAL REQUEST

Application No.: 22-AP-01

Applicant: LAMAR CENTRAL OUTDOOR, LLC

Agent: TRAVIS SCHREURS – MENN LAW FIRM LTD

Location of Premises: SOUTH OF 1498 BLACK OAK SCHOOL RD (IN ROAD RIGHT-OF-WAY)

Tax Parcel No.: 012-0248

Legal Description: Being a part of the NW 1/4 of the SW 1/4 of Section 15, all in Township 17 North, Range 16 East, Town of Nekimi, Winnebago County, Wisconsin.

Explanation: Applicant is appealing a decision made by Winnebago County Planning & Zoning Staff to deny a permit for an off-premise directional sign electronic face replacement.

DESCRIPTION:	CODE REFERENCE:	REQUIRED:	PROPOSED:
Recognizing that there may be situations where a property owner or another party believes that the zoning administrator made an error in administering a zoning code, the state legislature established a mechanism to allow a review of the alleged error by the board of adjustment. This division describes the requirements and procedures for reviewing an alleged administrative error.	23.7-251	NA	NA

INITIAL STAFF REPORT

Sanitation: None

Overlays: None

Current Zoning: N/A

Surrounding Zoning: North: N/A; South: N/A; East: N/A West: N/A;

SECTION REFERENCE AND BASIS OF DECISION

Basis of Decision: Town/County Zoning Code: 23.7-254

(a) Generally. The Board of Adjustment shall determine if the zoning administrator made an error in judgment as applied to the instance being appealed.



MENN
L A W F I R M LTD.

480 Pilgrim Way, Suite 1200
P.O. Box 10597
Green Bay, WI 54307-0597
p 920.435.4391
f 920.435.0730

Attorney Travis T. Schreurs
Travis-Schreurs@mennlaw.com
Direct Phone: 920-857-2719

April 1, 2022

Ms. Sue Ertmer
County Clerk
112 Otter Avenue
Oshkosh, WI 54901

Winnebago County Board of Adjustment
112 Otter Ave 3rd Floor
PO Box 2808
Oshkosh, WI 54901

Mr. Cary Rowe
112 Otter Ave 3rd Floor
PO Box 2808
Oshkosh, WI 54901

RE: Lamar Central Outdoor, LLC appeal

To Whom It May Concern:

Enclosed is a Notice of Appeal and accompanying exhibits as referenced in my email of March 31, 2022.

If you have any questions, please do not hesitate to contact me.

Sincerely,

MENN LAW FIRM, LTD.

A handwritten signature in black ink, appearing to read 'Travis T. Schreurs', written in a cursive style.

Travis T. Schreurs

TTS/ml
Enclosures

NOTICE OF APPEAL

To: Ms. Sue Ertmer
County Clerk
112 Otter Avenue
Oshkosh, WI 54901

Winnebago County Board of Adjustment
112 Otter Ave 3rd Floor
PO Box 2808
Oshkosh, WI 54901

Mr. Cary Rowe
Zoning Administrator
112 Otter Ave 3rd Floor
PO Box 2808
Oshkosh, WI 54901

Subject Property: Tax Parcel No. 0120248 – Town of Nekimi

Applicant: Lamar Central Outdoor, LLC d/b/a Lamar Advertising (“Lamar”)

On February 23, 2022, Lamar submitted a Zoning Permit Application identifying its upcoming project to replace one static face of a sign located at the above-described property (the “Sign”) with a digital face (see Exhibit “A,” attached hereto and incorporated herein by reference). On March 15, 2022, the Winnebago County Zoning Administrator, Mr. Cary Rowe, documented his decision denying the building Zoning Permit Application (the “Denial”) (see Exhibit “B,” attached hereto and incorporated herein by reference) citing Ordinance Secs. 23.12-12, 23.12-17 and 23.13-8 and further stating that:

“Sign is non-conforming since its an off premise directional sign (Sec 23.12-12) that exceeds size and height standards. Permit is denied since the proposal does not meet the requirements of Sec. 23.13-8(b) of the Winnebago County Town/County Zoning Code.”

Lamar asserts that Mr. Rowe’s Denial was an error in judgment and misinterprets the Winnebago County Ordinances. Therefore, pursuant to Ordinance Secs. 23.7-252, 23.7-253 and 23.7-277, Lamar submits this Notice of Appeal to the Board of Adjustment.

As a basis for its appeal, Lamar argues that:

1. The Sign is not necessarily an Off-Premise Directional Sign as that term is defined in Ordinance Sec. 23.3-1(b)(197). Therefore, the "size and height standards" of Ordinance Sec. 23.12-12 cited in the Denial are inapplicable.
2. The Denial states, in error "Sign is non-conforming since it is an off premise directional sign."
3. Rather, the Sign is a nonconforming sign under Ordinance Sec. 23.12-17 and therefore "subject to the provisions of article 13 of [Chapter 13] relating to nonconformities." Article 13 allows for the reconstruction of nonconforming structures.
4. Ordinance Sec. 23.13-8 requires an improper content-based distinction as it conditions the approval of a Zoning Permit Application for off-premise signs that seek to install an electronic message display upon the removal of five existing nonconforming off-premise signs, and does not require the same action for any other signs.

Lamar hereby requests that a hearing on this appeal be scheduled before the Winnebago County Board of Adjustment.

MENN LAW FIRM, LTD.

By:


Cynthia Caine Treleven
Attorney for Applicant

By:


Travis T. Schreurs
Attorney for Applicant

P.O. Box 10597
Green Bay, WI 54307
Phone: (920) 435-4391
Fax: (920) 435-0730
Cynthia-Treleven@mennlaw.com
Travis-Schreurs@mennlaw.com

EXHIBIT "A"
WINNEBAGO COUNTY

112 Otter Ave, 3rd Floor
Oshkosh, WI 54901
920-232-3344

Review fee: \$165.00
Complete & sign only this side of application

ZONING PERMIT APPLICATION

Town of: Nekimi Tax Parcel No.: 0120248

(STOP - If this property does not have an address assigned by OUR office, submit an on-line [Address Request Application](#) prior to submitting any permit applications)

Address of affected property: No site address found

Postal City: Oshkosh Zip 54902

Property Owner of Record: Bradley Egg Farm, Inc.

Applicant/Builder: Lamar Advertising

(We can fill in the information below if you're not sure)

Plat name/CSM: _____ Block _____ Lot # _____

Contact information below is for: Owner Applicant/Builder

Contact Name: Lamar Advertising / Attn: Renee St. Laurent

Mailing Address: PO Box 5846

City: De Pere ST WI Zip 54115

Contact Phone: (920) 347-1765 Cell Phone: _____

E-mail Address: rstlaurent@lamar.com

I would like to receive my permit by: E-Mail Mail

Proposed start date: 6/1/2022 Estimated Cost: \$ 150,000.00

Type of Construction: New Addition Alteration
 Other: Change one face to digital

Existing Use: Vacant Single Family Dwelling
 Other: _____

Existing Structures: Vacant House Attached Garage
Other/Additional Structures: existing billboard Detached Garage

Describe your building/project (structure type, size, material, etc.):
Keep existing structure and replace one face with a digital face.

All single and multi-family dwelling zoning permit applications MUST include first floor blueprints

Is there a walk-out basement?: Yes No
1st Floor 2nd Floor Garage Other

Wall Hgt: _____

Sq. Ft: _____

Peak Height: _____ Mid-Peak Height: _____

Applicant must read and sign:

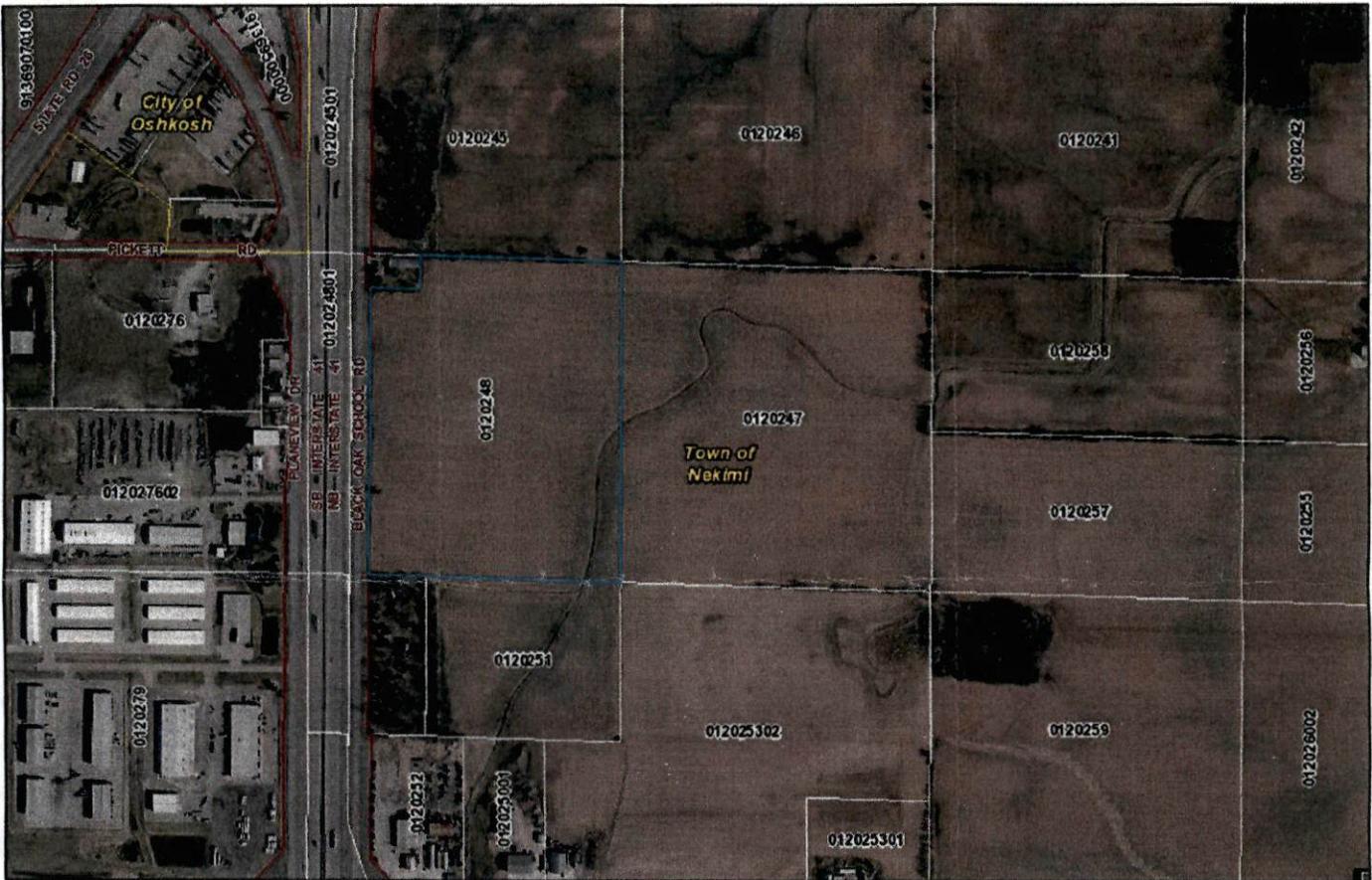
1. In accordance with Wisconsin State Statute 59.691, the information provided herein is to give you notice regarding potential wetlands. You are responsible for complying with state and federal laws concerning construction near or on wetlands, lakes, and streams. Wetlands that are not associated with open waters can be difficult to identify. Failure to comply may result in removal or modification of construction that violates the law or other penalties or costs. For more information, visit the Department of Natural Resources Wetland Identification web page <http://dnr.wi.gov/topic/surfacewater/swdv> or contact your local DNR office.
2. As the applicant, I hereby acknowledge notice of this wetland information.
3. As the application I hereby grant permission for County Zoning Staff to enter the property for inspection purposes.
4. As the applicant I hereby acknowledge that this permit is null & void if issued in error or if any facts are misrepresented.

Signature: Renee St. Laurent

Date: 2-23-22

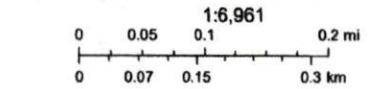
Submit application to our office with the ORIGINAL INK signature along with a complete site plan and the fee by mail or in person. DO NOT E-MAIL

Site Map



2/22/2022, 2:44:13 PM

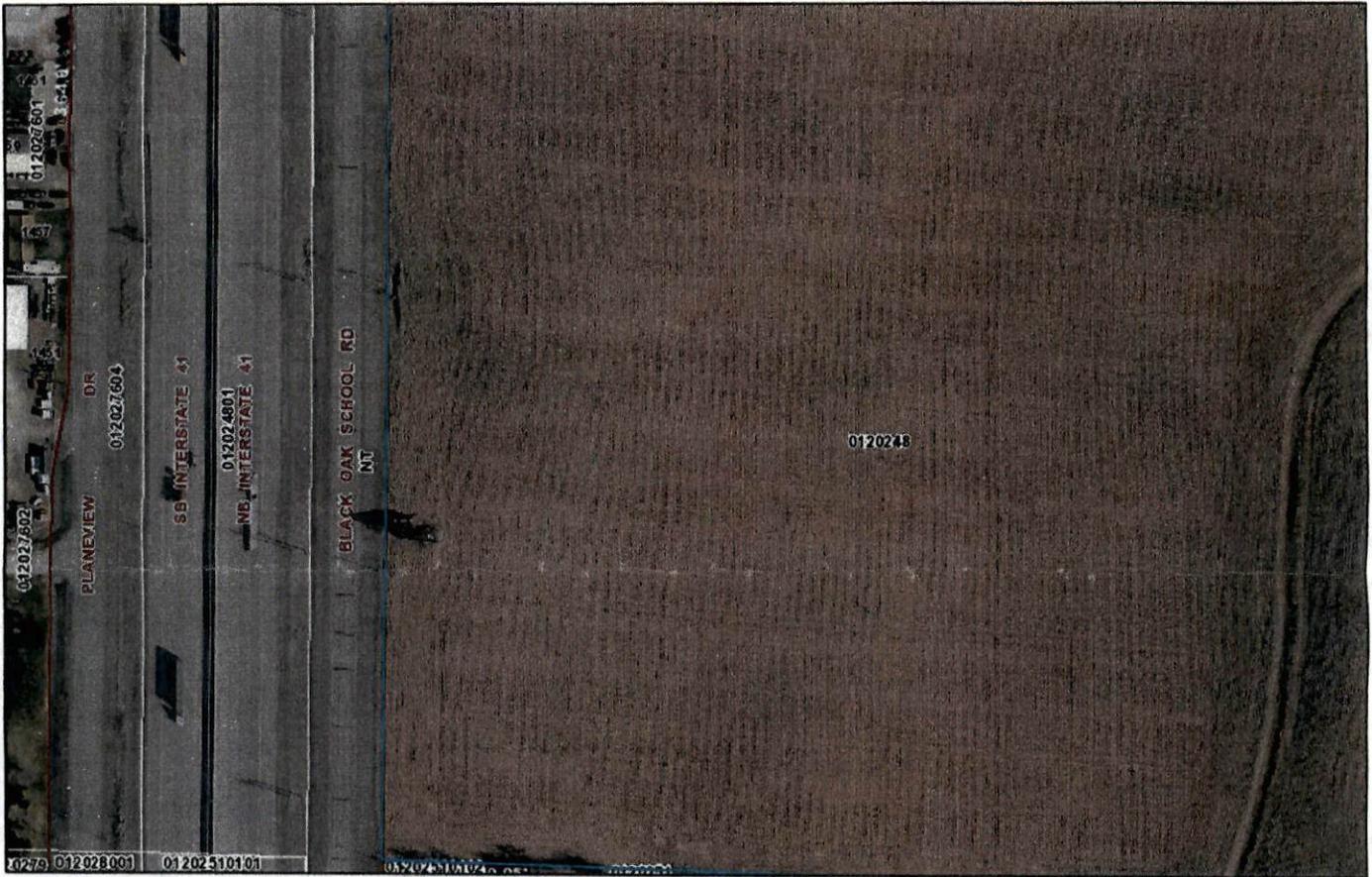
- | | | |
|-------------------------|--------------------------------------|------------------------------------|
| Adjacent Counties | Navigable Waterways | Navigable - Stream (unchecked) |
| Lakes, Ponds and Rivers | Navigable - Permanent (unchecked) | Navigable - Permanent (checked) |
| | Navigable - Intermittent (unchecked) | Navigable - Intermittent (checked) |



Winneshago County GIS, Imagery Date: April 2020

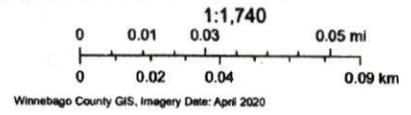
Winneshago County GIS
Winneshago County GIS | Imagery Date: April 2020 |

Site Map



2/22/2022, 2:38:18 PM

- | | | |
|-------------------------|--------------------------------------|------------------------------------|
| Adjacent Counties | Navigable Waterways | Navigable - Stream (unchecked) |
| Lakes, Ponds and Rivers | Navigable - Permanent (unchecked) | Navigable - Permanent (checked) |
| | Navigable - Intermittent (unchecked) | Navigable - Intermittent (checked) |

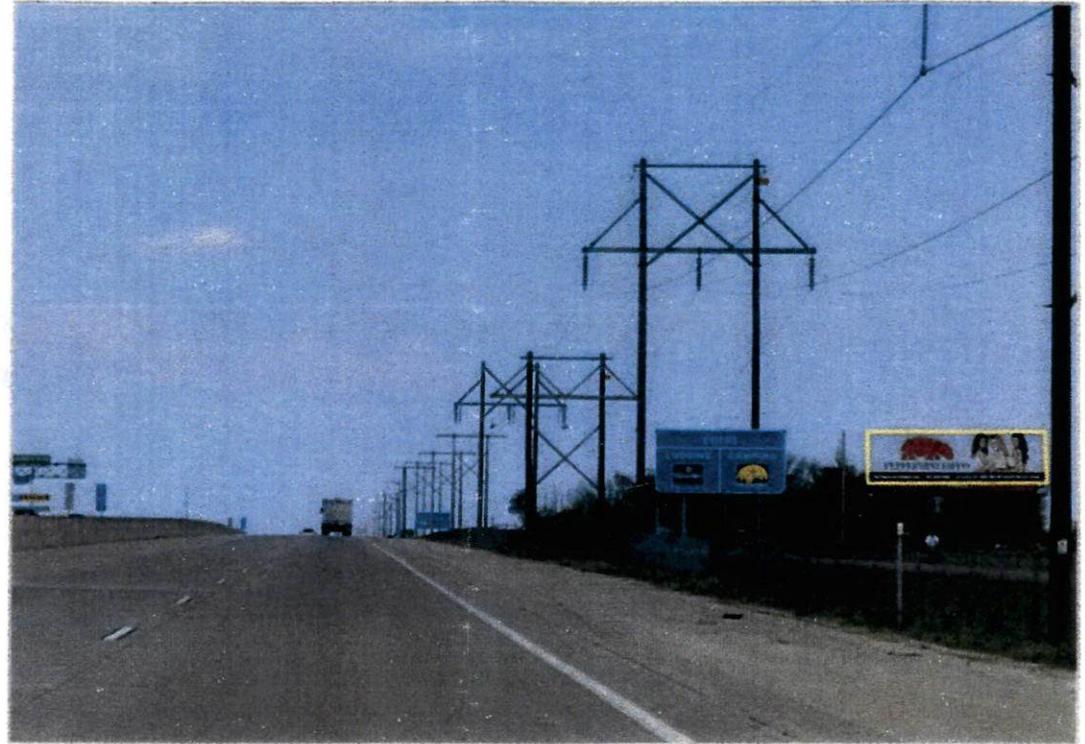


Winnebago County GIS
Winnebago County GIS | Imagery Date: April 2020 |

PANEL #40183

INTERSTATE 41 0.5 MI S/O HWY 26 ES

Page 4 of 4



LOCATION #1

ADVERTISING STRENGTHS: Highly visible Interstate 41 poster location, situated just south of Oshkosh, it will be visible to northbound traffic travelling into Oshkosh and the Fox Cities. Location is just south of outlet shopping and the EAA grounds, it will also reach consumers travelling north for recreational purposes

WEEKLY IMPRESSIONS: 181,245*

MEDIA TYPE/STYLE: Permanent Bulletin - Regular

LAT/LONG: [43.94231 / -88.58241](#)

MARKET: OSHKOSH

GEOGRAPHIC ID: 30705627

PANEL SIZE: 14' 0" x 48' 0" [View Spec Sheet](#)

VINYL SIZE: 15' 0" x 49' 0"

FACING/READ: South / Right

ILLUMINATED: YES

SHIPPING ADDRESS: 1800 Scheuring Road De Pere, WI 54115



EXHIBIT "B"

STAFF REVIEW ONLY

Zoning and Overlays:

Current Zoning R-2 SL No WL No
Pot. WL 1 FP No AIR No
SWDD _____

Fee Received: _____
Received By: _____
Assigned CEO: CAR
Log No.: _____
Receipt # _____

Special Standards Section: 23.12-17, 23.13-8

Access Controlled? No
Site Plan? Yes Plan of Operation? No
Parking? No Landscaping/Buffer Yards? No

Notes/Conditions:

Sanitary Facilities:

N/A
Sewer: Sanitary District: _____
Private: Permit No.: 1 Date: _____

* Sign is non-confirming since it's an off premise directional sign (Sec 23.12-12) that exceeds size and height standards.

Erosion Control/Storm Water:

N/A
 Y Permit No.: _____ Date Issued: _____

* Permit is denied since the proposal does not meet the requirements of sec. 23.13-8(b) of the Winnebago County Town/County Zoning Code.

Setbacks:

Principal

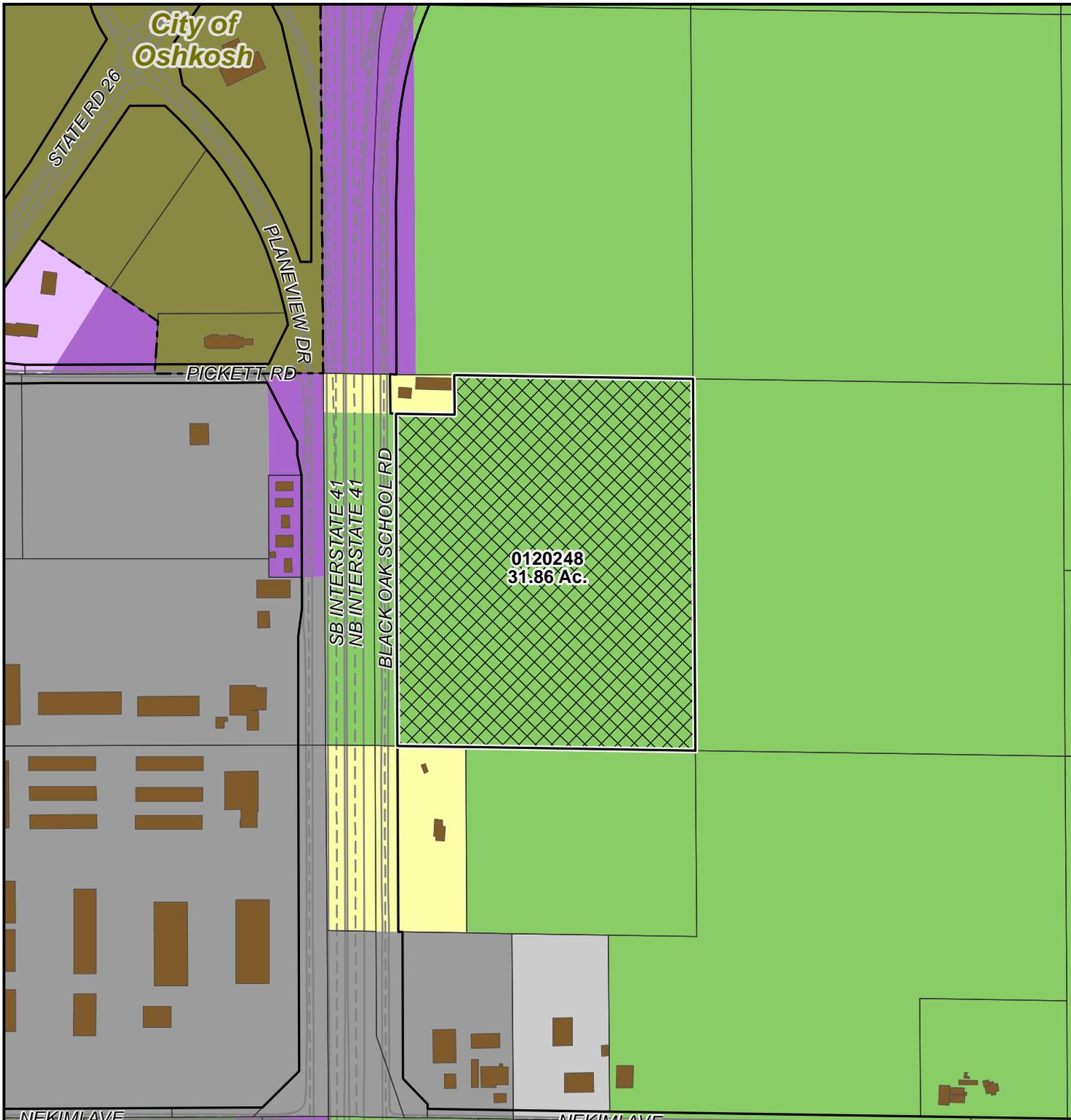
Street 1 Rear 1 Shore 1
Side 1 Side 1 Other 1

Accessory

Street 10' 10' Rear 1 Shore 1
Side 1 Side 1 Other 1

Denied

Issued by: Cathy Howe - Zoning Administrator Date: 3-15-22
Permit #: NA Census #: _____



Application #22-AP-01

Date of Hearing:

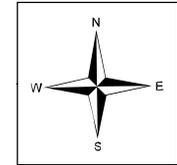
June 28, 2022

Owner(s):

BRADLEY EGG FARM INC

Subject Parcel(s):

0120248



Winnebago County
WINGS Project

Scale

1 inch : 500 feet

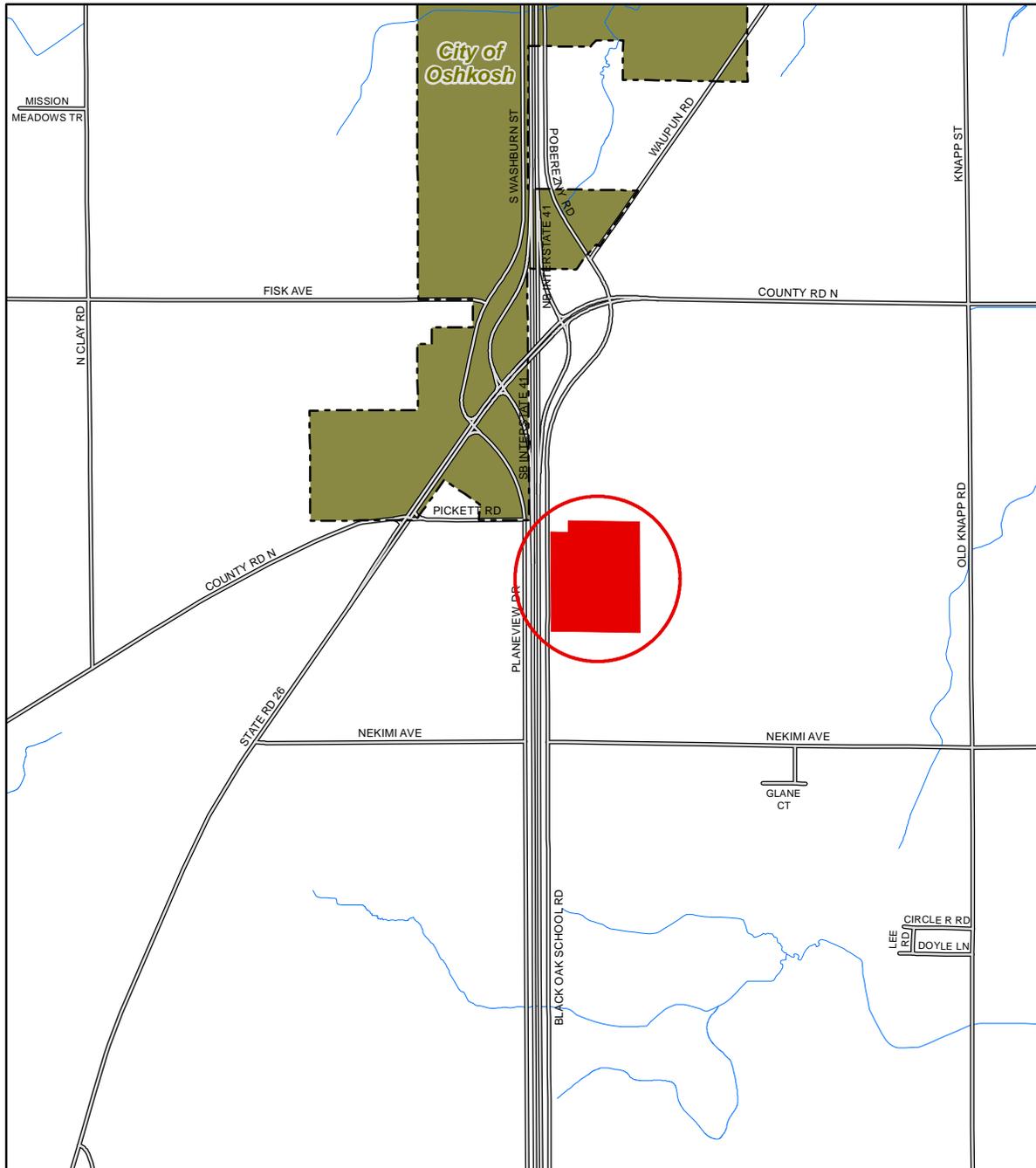
County Zoning Districts

R-1	PDD	B-1
R-2	A-1	B-2
R-3	A-2	B-3
R-4	I-1	M-1
R-8	I-2	Town Zoning

City of Oshkosh Extraterritorial
Zoning Jurisdiction

Incorporated Area

○ = SITE



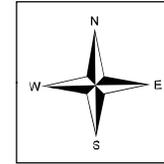
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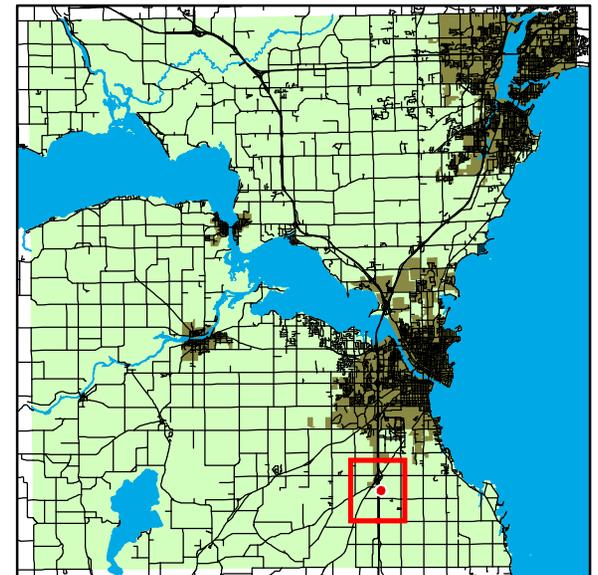
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Winnebago County
WINGS Project

● = SITE



WINNEBAGO COUNTY