

# Winnebago County Planning and Zoning Department

NOTICE OF PUBLIC HEARING  
BOARD OF ADJUSTMENT  
August 29, 2023

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 August 29, 2023 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 VARIANCE REQUEST

**Application No.:** 2023-VA-6440

**Applicant:** LIEBHAUSER, DEREK

**Agent:** WOELZ, DOUG MCMAHON GROUP

**Location of Premises:** 2689 COUNTY RD II

**Tax Parcel No.:** 006-0617, 006-0618, 006-0632

**Legal Description:** Being all of the NW 1/4 of the NE 1/4, all of the SW 1/4 of the NE 1/4, and part of the NW 1/4 of the SE 1/4 all in Section 24, Township 20 North, Range 16 East, Town of Clayton, Winnebago County, Wisconsin.

**Explanation:** Applicant is requesting a variance for a sub-standard shore yard setback requirement.

DESCRIPTION:	CODE REFERENCE:	REQUIRED:	PROPOSED:
The shore yard setback from the nearest point of any structure shall be at least 75 ft from the OHWM unless exempt under section 6.1(1) or reduced under section 6.2.	27-6.1	Shore Yard: 75ft	Shore Yard: 0ft

## INITIAL STAFF REPORT

**Sanitation:** Required; ; Municipal

**Overlays:** Shoreland, wetlands

**Current Zoning:** A-2 General Agriculture

**Surrounding Zoning:** **North:** I-1; **South:** No County Zoning; **East:** A-2; **West:** No County Zoning;

**Code Reference:** 27-6.1

**Description of Proposed Use:** Applicant is requesting a variance for a sub-standard shore yard setback requirement.

### THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER/APPLICANT

**Describe your project, include the proposed dimensions and setbacks:** See Attached.

**Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property:** See Attached.

**Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:** See Attached.

**Describe how the granting of the requested variance will not harm the public interest or have adverse affects on surrounding properties:** See Attached.

### SECTION REFERENCE AND BASIS OF DECISION

**Basis of Decision: Town/County Zoning Code: 23.7-234**

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.

### Shoreland Zoning Code

#### 27.14.8 Variances

(a) **Generally.** 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 unique property conditions, not common to adjacent lots or premises; (3) the variance is not contrary to the public interest; and (4) the variance is consistent with the purpose of this chapter.

## VARIANCE APPLICATION

Responses may be typed on a separate sheet and attached to this form.

Applicant, please fill out all of the questions in your own words.

**C-1 Describe your project, include the dimensions and proposed setbacks:**

The project includes the construction of a 156 lot subdivision (Scholar Ridge Estates), generally located on the south side of County Road II between N Clayton Ave and Winncrest Rd, in the Town of Clayton, Winnebago County, Wisconsin (NW ¼ of NE ¼, Section 24, T20N, R16E and SW ¼ of NE ¼, Section 24, T20N, R16E). Scholar Ridge Estates is a new construction development which will include medium density residential as well as multi-family residential which will assist in fostering economic development in the area. The proposed subdivision includes two navigable waterway crossings which are necessary to access the Southern half of the plat. Dimensions and proposed setbacks can be found on the preliminary plat and plans.

**C-2 Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property:**

The proposed subdivision includes two navigable waterway crossings which are required to access the Southern half of the subdivision. Two crossings are required to allow for fire protection and looping of the water main within the development.

**C-3 Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:**

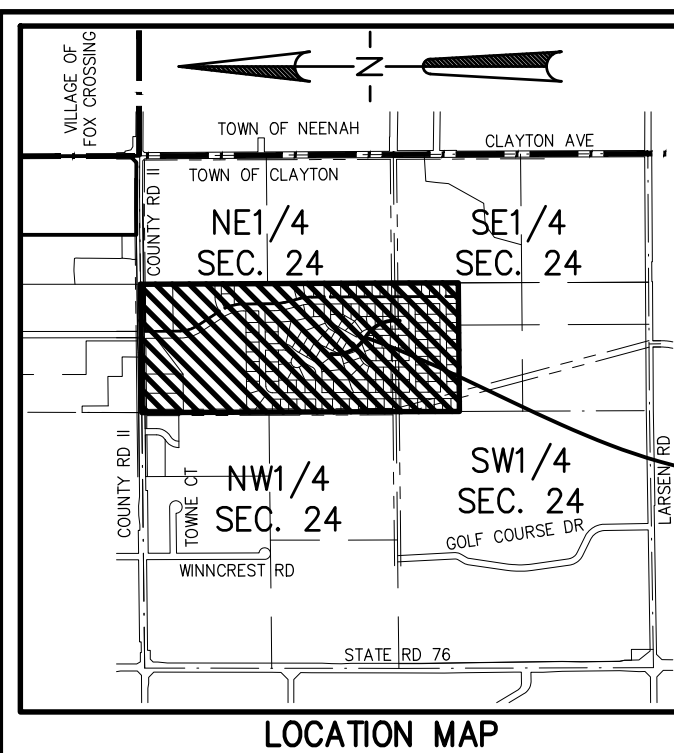
The subject property contains a waterway that was determined to be navigable by the Wisconsin DNR. Because the navigable waterway extends the entire width of the property, development to the South of the stream would not be possible without crossing the waterway.

**C-4 Describe how the granting of the requested variance will not harm public interest or have adverse affects on surrounding properties. :**

Both culvert crossings shall be professionally engineered and permitted as to not adversely affect surrounding properties.

The proposed development follows the Town of Clayton's Comprehensive and Future Land Use Plan.





PROJECT LOCATION

EXIST SANITARY SEWER LOCATED 2600 FEET TO THE EAST. MCMAHON IS CURRENTLY IN DESIGN TO EXTEND TO THIS SITE.

- LEGEND**
- 3/4" IRON REBAR FOUND
  - RECORDED BEARING AND/OR DISTANCE
  - S.F.
  - CERTIFIED LAND CORNER WINNEBAGO COUNTY
  - EXISTING STORM ENDWALL
  - EXISTING UTILITY VAULT
  - EXISTING MAILBOX
  - EXISTING POST
  - EXISTING SIGN
  - UTILITY POLE
  - UTILITY POLE W/GUY WIRE
  - TELEPHONE OR TELEVISION PEDESTAL
  - EXISTING BUILDING
  - EXISTING CONTOURS
  - EXISTING CULVERT WITH END SECTIONS
  - TREE OR BRUSH LINE
  - SOIL BORING LOCATION
  - TV CABLE TELEVISION - BURIED
  - G GAS MAIN
  - E ELECTRIC CABLE - BURIED
  - FO FIBER OPTIC CABLE - BURIED
  - EXISTING FENCE
  - DITCH LINE
  - PROPERTY LINE
  - RIGHT-OF-WAY LINE
  - SECTION LINE
  - EXISTING ASPHALT PAVEMENT
  - EXISTING GRAVEL
  - EXISTING CONCRETE PAVEMENT
  - WETLANDS AS DELINEATED BY DAVEL ENGINEERING & ENVIRONMENTAL, INC. TRAVIS STUCK DATED OCT. 25, 2022

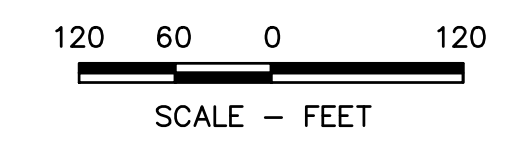
# PRELIMINARY PLAT SCHOLAR RIDGE ESTATES

ALL OF THE NORTHWEST 1/4 AND THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE NORTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 24, TOWNSHIP 20 NORTH, RANGE 16 EAST, TOWN OF CLAYTON, WINNEBAGO COUNTY, WISCONSIN

**OWNER/SUBDIVIDER**  
CLAYTON DEVELOPMENT GROUP, LLC  
ATTN: DEREK LIEBHAUSER  
2065 AMERICAN DRIVE, SUITE A  
NEENAH, WI 54956  
(920) 428-9451

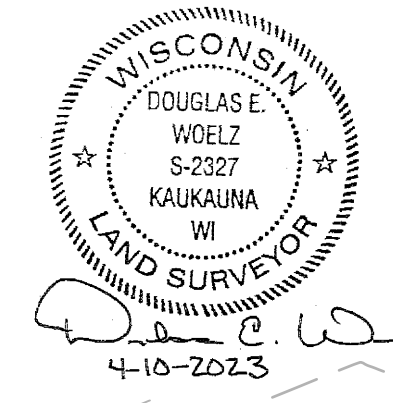
**SURVEYOR**  
DOUGLAS E. WOELZ  
1445 MCMAHON DRIVE  
NEENAH, WI 54956  
(920) 751-4200

BEARINGS ARE REFERENCED TO THE NORTH LINE OF THE NORTHEAST 1/4 OF SECTION 24, TOWNSHIP 20 NORTH, RANGE 16 EAST, WHICH BEARS N89°22'51"E PER THE WISCONSIN COUNTY COORDINATE SYSTEM AS PUBLISHED FOR WINNEBAGO COUNTY



**OBJECTING AUTHORITIES:**  
- DEPARTMENT OF ADMINISTRATION

**APPROVING AUTHORITIES:**  
- TOWN OF CLAYTON  
- VILLAGE OF FOX CROSSING  
- WINNEBAGO COUNTY PLANNING & ZONING



**MCMAHON ENGINEERS ARCHITECTS**  
MCMAHON ASSOCIATES, INC.  
1445 MCMAHON DRIVE NEENAH, WI 54956  
Mailing: P.O. BOX 1025 NEENAH, WI 54957-1025  
PH 920.751.4200 FX 920.751.4284 MCMGRP.COM

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NO.	DATE	REVISION

**PRELIMINARY PLAT - SCHOLAR RIDGE ESTATES**  
**PART OF THE NORTHEAST 1/4 AND THE SOUTHWEST 1/4 OF SECTION 24, T20N, R16E,**  
**TOWN OF CLAYTON, WINNEBAGO COUNTY, WISCONSIN**

SURVEYED	DRAWN
DEW	MJA
PROJECT NO.	
C1069 09-23-00271	
DATE	
APRIL, 2023	
SHEET NO.	
1 OF 2	



# PRELIMINARY PLAT SCHOLAR RIDGE ESTATES

ALL OF THE NORTHWEST 1/4 AND THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE NORTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 24, TOWNSHIP 20 NORTH, RANGE 16 EAST, TOWN OF CLAYTON, WINNEBAGO COUNTY, WISCONSIN

**NOTES**

- THE SUBJECT PROPERTY IS CURRENTLY ZONED: A-2 GENERAL AGRICULTURAL
- PROPOSED ZONING FOR THIS DEVELOPMENT:
  - (3 LOTS & 1 OUTLOT) LOTS 1 THRU 3 & OUTLOT 1 - LOCAL SERVICE BUSINESS (B-1) DISTRICT OR COMMUNITY BUSINESS (B-2) DISTRICT
  - (2 LOTS) LOTS 4 & 5 - MULTIFAMILY RESIDENTIAL (R-4) DISTRICT
  - (19 LOTS & 1 OUTLOT) LOTS 6 THRU 17, LOTS 27 THRU 30, LOTS 35 THRU 37 AND OUTLOT 2 - TWO-FAMILY RESIDENTIAL (R-3) DISTRICT
  - (134 LOTS & 2 OUTLOTS) LOTS 18 THRU 26, LOTS 31 THRU 34, LOTS 38 THRU 158 AND OUTLOTS 3 & 4 - SUBURBAN RESIDENTIAL (R-2) DISTRICT
- TOTAL DEVELOPMENT = 158 LOTS & 4 OUTLOTS
- FRONTYARD BUILDING SETBACKS TO BE 30 FEET FOR SUBURBAN & TWO-FAMILY RESIDENTIAL LOTS AND 40 FEET FOR MULTIFAMILY RESIDENTIAL LOTS
- THE TOTAL AREA OF THIS DEVELOPMENT = 101.661 ACRES
- NET SUBDIVIDED AREA = 81.485 ACRES
- DEDICATED STREET AREA = 20.176 ACRES
- LINEAL FEET OF STREETS = 14,197 LIN. FEET.
- MINIMUM LOT REQUIREMENTS PER ZONING ORDINANCES (SEWERED LOTS):
  - (B-1) BUSINESS DISTRICT/(B-2) COMMUNITY BUSINESS DISTRICT  
MINIMUM LOT SIZE = 15,000 S.F.  
MINIMUM LOT WIDTH = 85 FEET  
MINIMUM ROAD FRONTAGE = 75 FEET
  - (R-4) MULTIFAMILY RESIDENTIAL DISTRICT  
MINIMUM LOT SIZE = 15,000 S.F.  
MINIMUM LOT WIDTH = 120 FEET  
MINIMUM ROAD FRONTAGE = 33 FEET
  - (R-3) TWO-FAMILY RESIDENTIAL DISTRICT  
MINIMUM LOT SIZE (TWO FAMILY UNITS) = 10,000 S.F.  
MINIMUM LOT WIDTH = 85 FEET  
MINIMUM ROAD FRONTAGE = 33 FEET
  - (R-2) SUBURBAN RESIDENTIAL DISTRICT  
MINIMUM LOT SIZE = 9,000 S.F.  
MINIMUM LOT WIDTH = 65 FEET  
MINIMUM ROAD FRONTAGE = 33 FEET
- MINIMUM LOT SIZE WITHIN DEVELOPMENT = 10,537 S.F. (LOT 124)
- MINIMUM LOT WIDTH WITHIN DEVELOPMENT = 80 FEET
- MINIMUM ROAD FRONTAGE WITHIN DEVELOPMENT = 55.27 FEET (LOTS 32 & 33)
- AVERAGE LOT SIZE (R-2) SUBURBAN RESIDENTIAL DISTRICT = 13,769 S.F.
- AVERAGE LOT SIZE (R-3) TWO-FAMILY RESIDENTIAL DISTRICT = 16,473 S.F.
- ALL EASEMENTS TO BE SHOWN ON THE FINAL PLAT.
- SEE UTILITY PLANS FOR EXISTING AND PROPOSED UTILITIES.
- ALL LOTS TO BE SERVICED BY PUBLIC SEWER AND WATER.
- OUTLOTS TO BE OWNED AND MAINTAINED BY THE TOWN OF CLAYTON OR BY A HOME OWNERS ASSOCIATION.
- PRIVATE RESTRICTIONS/COVENANTS TO BE FILED WITH THE FINAL PLAT.
- A JURISDICTIONAL DETERMINATION/ARTIFICIAL WETLAND EXEMPTION REQUEST IS TO BE FILED WITH THE WISCONSIN DNR'S OFFICE TO ALLOW THE FILLING OF WETLAND AREAS SHOWN ON LOTS 45, 46 & 47 (WETLAND AREA IS LESS THAN 10,000 S.F.)
- ANY AGRICULTURAL DRAIN TILE WHICH IS DISTURBED, CUT OR BROKEN AS PART OF THE DEVELOPMENT OF THE PLAT OR EXCAVATION FOR HOME CONSTRUCTION MUST BE REPAIRED AND/ OR RELOCATED TO ALLOW FOR THE DRAIN TILE TO CONTINUE DRAINING AS ORIGINALLY DESIGNED. THE COST OF THE REPAIR OR RELOCATION MUST BE BORNE BY THE PARTY OR HIS AGENT DAMAGING THE DRAIN."
- THE LOCATION OF THE APPROXIMATE ORDINARY HIGH WATER MARK SHALL BE THE POINT ON THE BANK OF THE NAVIGABLE STREAM UP TO WHICH THE PRESENCE AND ACTION OF SURFACE WATER IS SO CONTINUOUS AS TO LEAVE A DISTINCTIVE MARK BY EROSION, DESTRUCTION OF TERRESTRIAL VEGETATION, OR OTHER RECOGNIZED CHARACTERISTICS.
- ANY LAND BELOW THE ORDINARY HIGH WATER MARK OF A LAKE OR A NAVIGABLE STREAM IS SUBJECT TO THE PUBLIC TRUST IN NAVIGABLE WATERS THAT IS ESTABLISHED UNDER ARTICLE IX, SECTION 1, OF THE STATE CONSTITUTION.
- RIGHT TO FARM COVENANT:  
THE LOTS CREATED ON THIS MAP IS ADJACENT TO PROPERTIES THAT, AS OF THE DATE OF THIS DOCUMENT, ARE BEING USED FOR AGRICULTURAL PURPOSES. SOME INDIVIDUALS BELIEVE THAT THE ACTIVITIES ASSOCIATED WITH AGRICULTURAL USE CONSTITUTE A NUISANCE OR CONFLICT WITH THE QUIET ENJOYMENT OF THEIR PROPERTY. THIS STATEMENT IS INTENDED TO PROVIDE THIRD PARTIES WITH NOTICE THAT AGRICULTURAL ACTIVITIES MAY EXIST ON THE ADJACENT PROPERTIES.

**DRAINAGE EASEMENT RESTRICTIONS:**

THE FOLLOWING USES AND STRUCTURES ARE PROHIBITED WITHIN ALL DRAINAGE EASEMENTS: FILLING, GRADING AND EXCAVATING EXCEPT FOR CONSTRUCTION OF DRAINAGE WAYS AND DRAINAGE FACILITIES; THE CULTIVATION OF CROPS, FRUITS OR VEGETABLES; THE DUMPING OR DEPOSITING OF ASHES, WASTE, COMPOST OR MATERIALS OF ANY KIND; THE STORAGE OF VEHICLES, EQUIPMENT, MATERIALS OR PERSONAL PROPERTY OF ANY KIND; AND CONSTRUCTING, ERECTING OR MOVING ANY BUILDING OR STRUCTURE, INCLUDING FENCES, WITHIN THE DRAINAGE CASEMENT.

**MAINTENANCE OF DRAINAGE IMPROVEMENTS:**

MAINTENANCE OF DRAINAGE WAYS AND ASSOCIATED DRAINAGE IMPROVEMENTS SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNERS. WINNEBAGO COUNTY AND THE TOWN RETAIN THE RIGHT TO PERFORM MAINTENANCE OR REPAIRS. THE COST OF THE MAINTENANCE AND REPAIRS SHALL BE EQUALLY ASSESSED AMONG THE PROPERTY OWNERS. THE PURCHASE OF ANY LOT CONSTITUTES A WAIVER OF OBJECTION AND AGREEMENT TO PAY ANY SUCH ASSESSMENT WHICH SHALL BE PLACED ON THE TAX BILL AS A SPECIAL ASSESSMENT.

**DRAINAGE MAINTENANCE EASEMENT:**

WINNEBAGO COUNTY AND THE TOWN SHALL HAVE AN UNQUALIFIED RIGHT TO ENTER UPON ANY DRAINAGE EASEMENT OR OUTLOT FOR INSPECTION AND, IF NECESSARY, MAINTENANCE AND REPAIR OF THE DRAINAGE WAYS AND ASSOCIATED DRAINAGE IMPROVEMENTS.

"ANY AGRICULTURAL DRAIN TILE WHICH IS DISTURBED, CUT OR BROKEN AS PART OF THE DEVELOPMENT OF THE PLAT OR EXCAVATION FOR HOME CONSTRUCTION MUST BE REPAIRED AND/ OR RELOCATED TO ALLOW FOR THE DRAIN TILE TO CONTINUE DRAINING AS ORIGINALLY DESIGNED. THE COST OF THE REPAIR OR RELOCATION MUST BE BORNE BY THE PARTY OR HIS AGENT DAMAGING THE DRAIN."

**PROPERTY DESCRIPTION:** All of the Northwest 1/4 and the Southwest 1/4 of the Northeast 1/4 and the North 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 24, Township 20 North, Range 16 East, Town of Clayton, Winnebago County, Wisconsin containing 4,428,349 square feet (101.661 acres) of land more or less and described as follows:

Beginning at the North 1/4 corner of said Section 24; Thence N89°22'51"E, 1336.79 feet along the North line of the Northwest 1/4 of said Section 24 to the East line of the West 1/2 of said Northeast 1/4; Thence S00°15'17"E, 2648.34 feet along said East line to the Southeast corner thereof; Thence S00°12'30"E, 661.38 feet along the East line of the North 1/2 of the Northwest 1/4 of the Southeast 1/4 to the Southeast corner thereof; Thence S89°27'07"W, 1339.26 feet along the South line of the North 1/2 of the Northwest 1/4 of the Southeast 1/4 to the Southwest corner thereof; Thence N00°13'16"W, 660.00 feet along the West line of said Southeast 1/4 to the Center of said Section 24; Thence N00°11'52"W, 2648.07 feet along the West line of said Northeast 1/4 to the Point of Beginning.

**NOTES:**

LAND DEDICATION REQUIREMENTS: (PARK, PLAYGROUND & RECREATION OPEN SPACE)

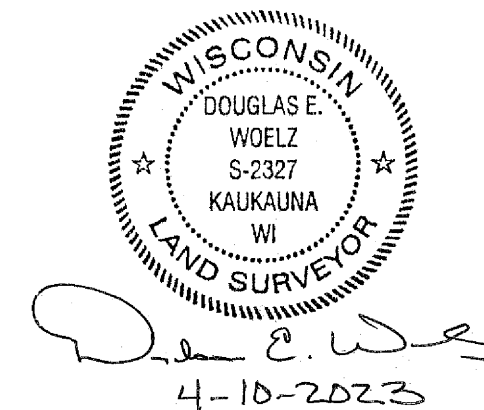
SINGLE FAMILY ZONING - 6% LAND DEDICATION REQUIREMENT  
TOTAL SINGLE FAMILY LOT AREA = 2,533,380 S.F. (58.158 ACRES)  
LAND DEDICATION REQUIREMENT = 2,533,380 X .06 = 152,002.8 S.F. (3.49 ACRES)

TWO FAMILY ZONING - 8% LAND DEDICATION REQUIREMENT  
TOTAL TWO FAMILY LOT AREA = 505,765 S.F. (11.61 ACRES)  
LAND DEDICATION REQUIREMENT = 505,765 X .08 = 40,461.2 S.F. (0.93 ACRES)

MULTIPLE FAMILY ZONING - 12% LAND DEDICATION REQUIREMENT  
TOTAL MULTIPLE FAMILY LOT AREA = 925,049 S.F. (21.24 ACRES)  
LAND DEDICATION REQUIREMENT = 925,049 X .12 = 111,005.88 (2.55 ACRES)

TOTAL LAND DEDICATION REQUIREMENT = 303,469.88 (6.97 ACRES)  
LAND DEDICATION PROVIDED = 325,989 S.F. (7.48 ACRES)  
TRAIL = 26,674 S.F. (0.61 ACRES)

- OUTLOT 1 = 138,401 S.F. (3.17 ACRES)
- OUTLOT 2 = 71,941 S.F. (1.65 ACRES)
- OUTLOT 3 = 52,581 S.F. (1.21 ACRES)
- OUTLOT 4 = 36,392 S.F. (0.84 ACRES)



**McMAHON**  
ENGINEERS ARCHITECTS  
McMAHON ASSOCIATES, INC.  
1445 McMAHON DRIVE NEENAH, WI 54956  
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NO.	DATE	REVISION

**PRELIMINARY PLAT - SCHOLAR RIDGE ESTATES**  
**PART OF THE NORTHEAST 1/4 AND THE SOUTHWEST 1/4 OF SECTION 24, T20N, R16E,**  
**TOWN OF CLAYTON, WINNEBAGO COUNTY, WISCONSIN**

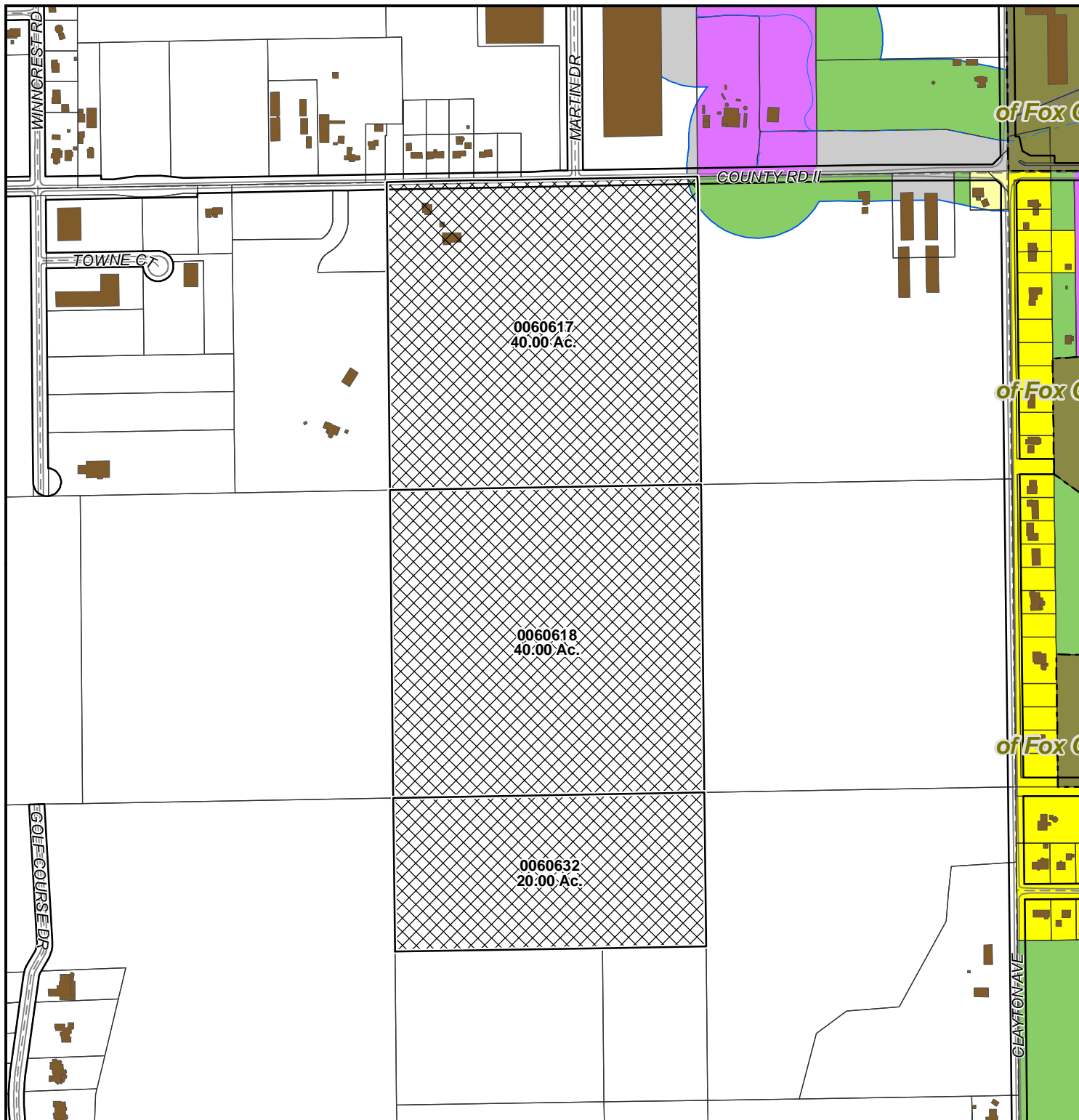
SURVEYED DEW	DRAWN MJA
PROJECT NO. C1069 09-23-00271	
DATE APRIL, 2023	
SHEET NO. <b>2 OF 2</b>	

m:\proj\092300271\CADD\Civil3D\Survey Documents\SUBDIVISION PLATS\Scholar Ridge Estates Preliminary Plat.dwg, sheet 2, Plot Date: 4/10/2023 5:04 PM, xrefs:###







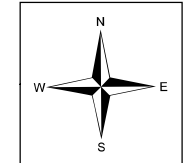


**Application #23-VA-6440**

Date of Hearing:  
August 29, 2023

Owner(s):  
**CLAYTON DEVELOPMENT GROUP LLC**

Subject Parcel(s):  
0060617 / 0060618 / 0060632



Winnebago County  
WINGS Project

**Scale**  
1 inch : 600 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



