

# 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.

**PRELIMINARY PLAN**  
**SCHOLAR RIDGE ESTATES**  
 ALL OF THE NORTHWEST 1/4 AND THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 24, TOWNSHIP 20 NORTH, RANGE 16 EAST, TOWN OF CLAYTON, WINNEBAGO COUNTY, WISCONSIN

**OWNER/DEVELOPER:**  
 CLAYTON DEVELOPMENT GROUP, LLC  
 2065 AMERICAN DRIVE, SUITE A  
 MENAISH, WI 54956  
 (920) 408-9401

**SUBJECT:**  
 WOLF Z  
 1445 MORNING DRIVE  
 MENAISH, WI 54956  
 (920) 751-4600

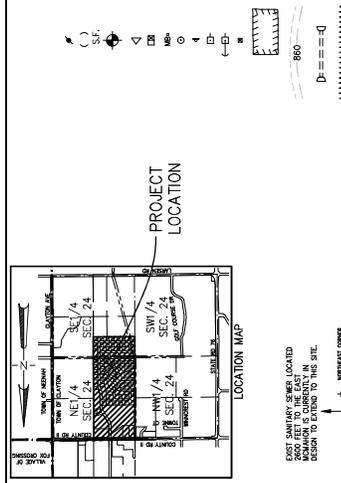
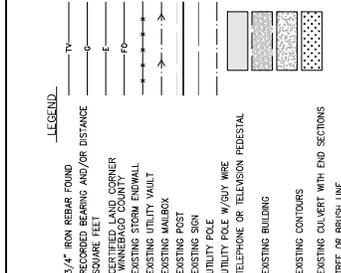
**DEPARTMENT OF INTERIORS**  
**ADMINISTRATIVE SERVICES**  
 TOWN OF CLAYTON  
 - VILLAGE OF FOX CROSSING  
 - WINNEBAGO COUNTY PLANNING & ZONING

BEARINGS ARE REFERENCED TO THE NORTH LINE OF THE NORTHEAST 1/4 OF SECTION 24, TOWNSHIP 20 NORTH, RANGE 16 EAST, WHICH BEARS N89°22'57"E 111.00' TO THE WEST LINE OF THE WEST 1/4 OF SECTION 24, TOWNSHIP 20 NORTH, RANGE 16 EAST, AS PUBLISHED FOR WINNEBAGO COUNTY.

SCALE - FEET  
 120 60 0 120

- LEGEND**
- 3/4" IRON REBAR FOUND
  - RECORDED BEARING AND/OR DISTANCE
  - SQUARE FEET
  - CERTIFIED LAND CORNER
  - WINNEBAGO COUNTY
  - EXISTING STORM SEWAGE
  - EXISTING UTILITY MAINT
  - EXISTING POLE
  - EXISTING SIGN
  - UTILITY POLE W/6" WIRE
  - UTILITY POLE W/3" WIRE
  - TELEPHONE OR TELEVISION PEDESTAL
  - EXISTING BUILDING
  - EXISTING CONTOURS
  - EXISTING CULVERT WITH END SECTIONS
  - TREE OR BRUSH LINE
  - SOIL BORING LOCATION
  - PHASE 1 FUTURE PHASES
  - STORM WATER POND
  - OUTLET 1
  - OUTLET 2
  - OUTLET 3
  - OUTLET 4

- CABLE TELEVISION - BURIED
- GAS MAIN
- ELECTRIC CABLE - BURIED
- 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 DAVID ENGINEERING & ENVIRONMENTAL, INC. TRAVIS STUCK DATED OCT. 29, 2022



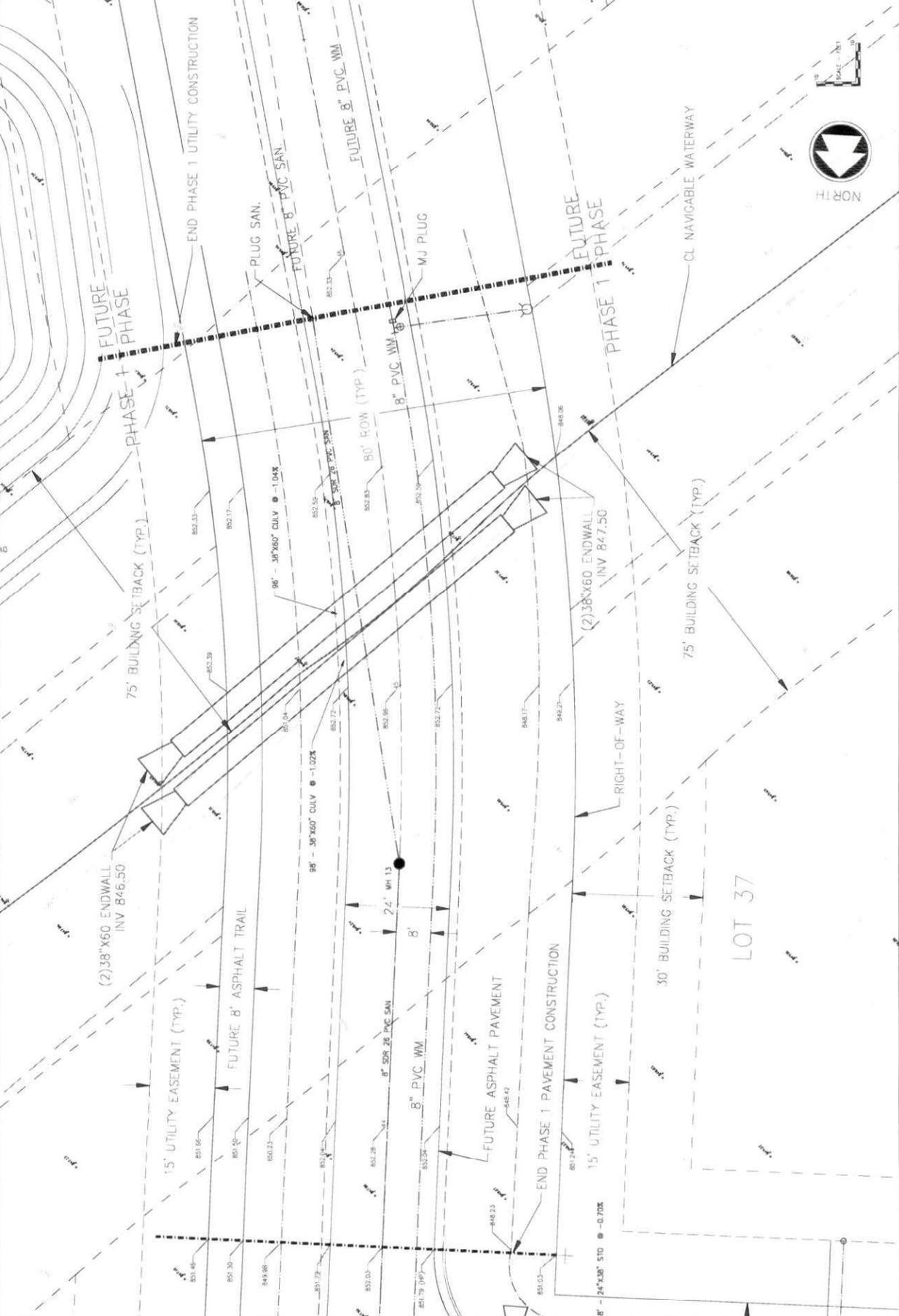
DATE: APRIL 2023  
 PROJECT NO.: C1069 (19-22-2027)  
 SHEET NO.: 1 OF 2

McMAHON ASSOCIATES, INC.  
 1445 MORNING DRIVE, SUITE A  
 MENAISH, WISCONSIN 54956  
 PH 920.751.4500 FAX 920.751.4294 MCMARCP.COM





NO.	DATE	DESCRIPTION
1	11/17/2011	ISSUED FOR PERMIT
2	01/10/2012	REVISED TO ADD NOTES
3	02/01/2012	REVISED TO ADD NOTES
4	02/01/2012	REVISED TO ADD NOTES
5	02/01/2012	REVISED TO ADD NOTES
6	02/01/2012	REVISED TO ADD NOTES
7	02/01/2012	REVISED TO ADD NOTES
8	02/01/2012	REVISED TO ADD NOTES
9	02/01/2012	REVISED TO ADD NOTES
10	02/01/2012	REVISED TO ADD NOTES

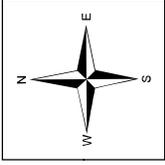


**Application #23-VA-6440**

Date of Hearing:  
August 29, 2023

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

Subject Parcel(s):  
0060617 / 0060618 /  
0060632



Winnebago County  
WINGS Project

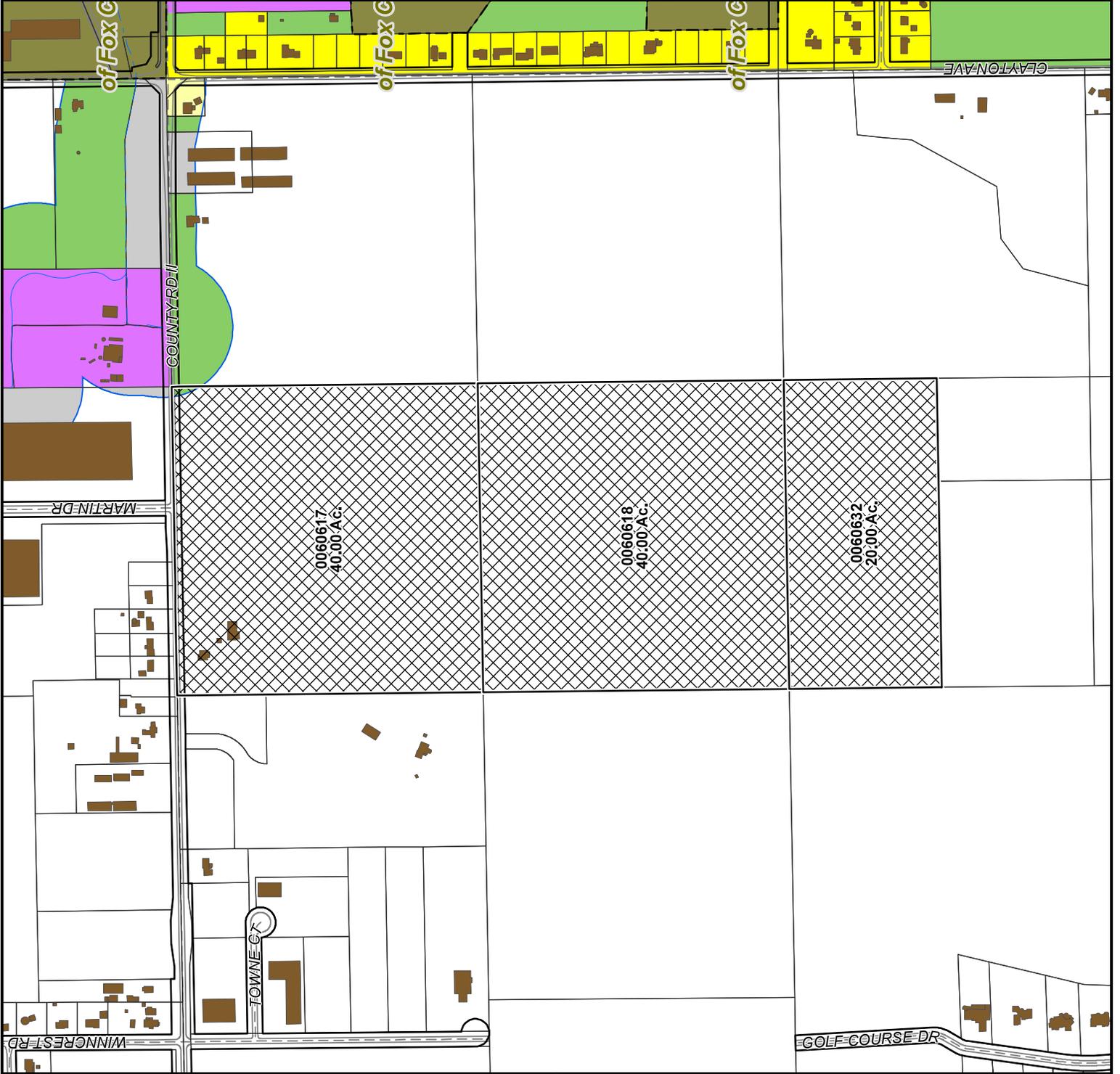
**Scale**  
1 inch : 600 feet

**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



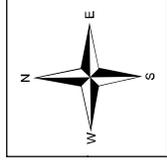
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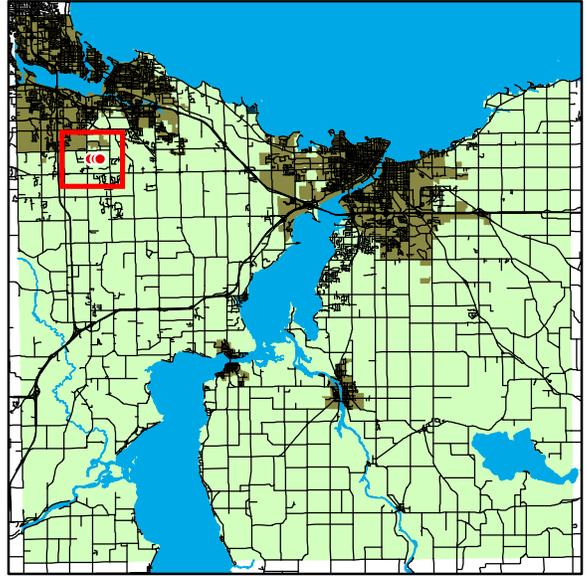
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*Winnebago County  
WINGS Project*

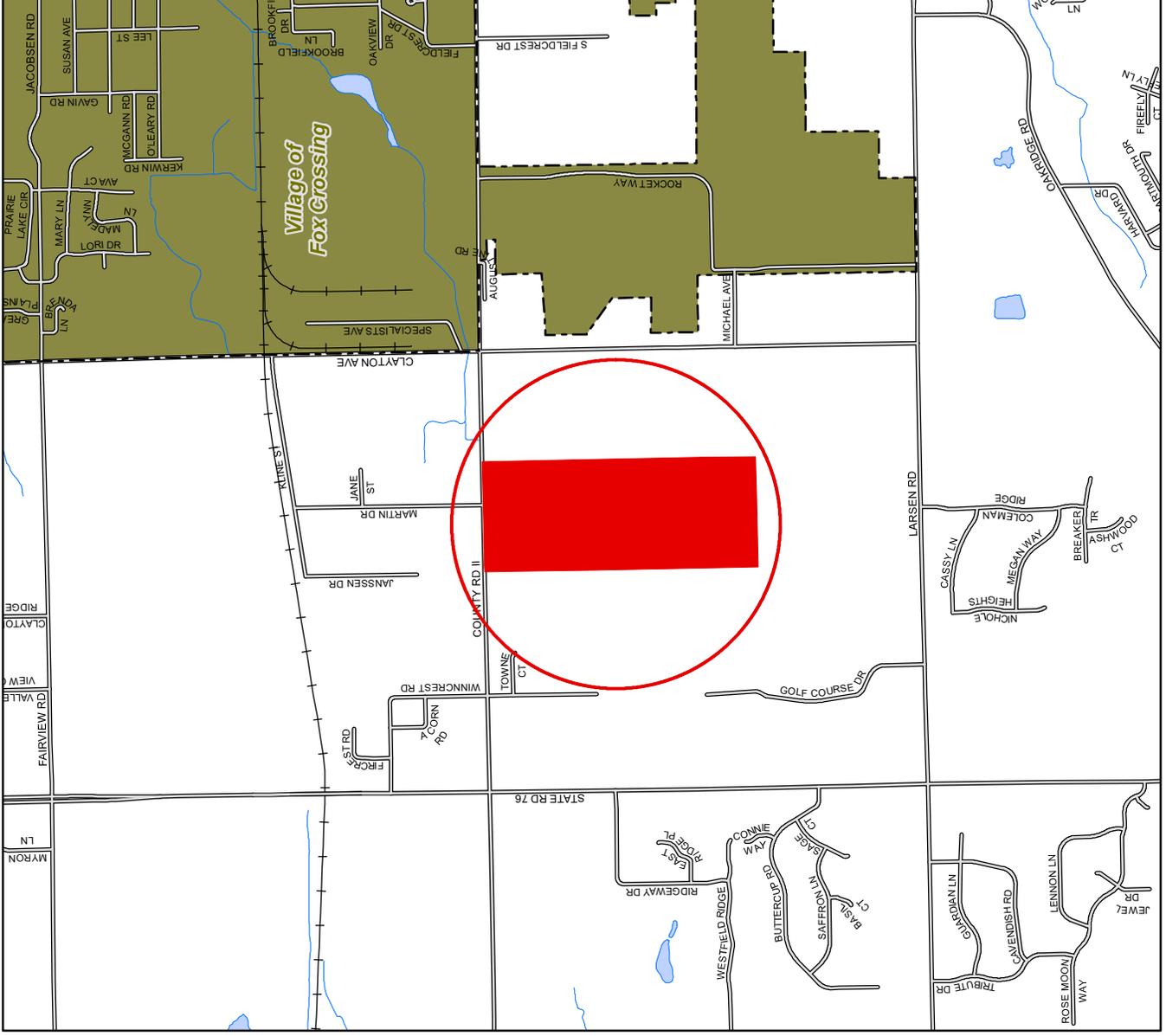


**● = SITE**



**WINNEBAGO COUNTY**

**○ = SITE**



1 inch : 2,000 feet