

Winnebago County Planning and Zoning Department

NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT

6/26/2018

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, Chapter 27 the Shoreland Zoning Code, and Chapter 24 the Wittman Regional Airport 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 6/26/2018 at 5:30 p.m. 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 are invited to be present. 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

Applicant:

UNITED COOPERATIVE

Agent:

None

File Number:

2018-VA-4530

Location of Premises:

2550 CLAIRVILLE RD
OSHKOSH, WI 54904

Tax Parcel No.:

002-0413

Legal Description:

Being a part of the SW 1/4 of the SW 1/4, Section 32, Township 18 North, Range 16 East, Town of Algoma, Winnebago County, Wisconsin.

Description of Proposed Project:

Applicant is requesting a 135' tall grain bin in the AIR-6 overlay district where a maximum of 80.1' is allowed

<u>DESCRIPTION:</u>	<u>CODE REFERENCE:</u>	<u>REQUIRED:</u>	<u>PROPOSED:</u>
Applicant is requesting a variance to erect a grain storage bin that will exceed the maximum height allowed in the AIR-6 Wittman Airport overlay district.	24.5-7 (Wittman Regional Airport Zoning Code)	80.1' or less	135'

INITIAL STAFF REPORT

Sanitation:

Existing System
Private System

Overlays:

Wittman Airport

Current or Proposed Zoning:

A-1 Agribusiness

Code Reference:

24.5-7 (Wittman Regional Airport Zoning Code)

Description of Proposed Use:

Applicant is requesting a 135' tall grain bin in the AIR-6 overlay district where a maximum of 80.1' is allowed

Surrounding Zoning:

North: City of Oshkosh Zoning

South: ETZA-City of Oshkosh Zoning

East: City of Oshkosh Zoning

West: City of Oshkosh Zoning

THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER / APPLICANT

Describe your project, include the proposed dimensions and setbacks:

Expand storage for grain to better accommodate the agricultural needs of the customers. Project will consist of installation of one bin and conveyance. *See attachments for set backs and heights.

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

The current use of the property is as a grain and agronomy business. Grain is received, conditioned and stored for producers. It is later marketed for producers and moved to market by participation in 100 unit trains.

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

The property is well suited for its use. It is located by highways and rail and has a good agricultural draw area. It is located within an area that has height restrictions that were adopted in 2012 by the county of Winnebago.

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

Property is currently being used as a grain elevator and currently already has permitted equipment or equal or greater height on the site. We do not expect any negative impact to surrounding property.

SECTION REFERENCE AND BASIS OF DECISION

Town/County Zoning Code

23.7-234 Basis of decision

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.

Shoreland Zoning Code

27.6 -8 Variances

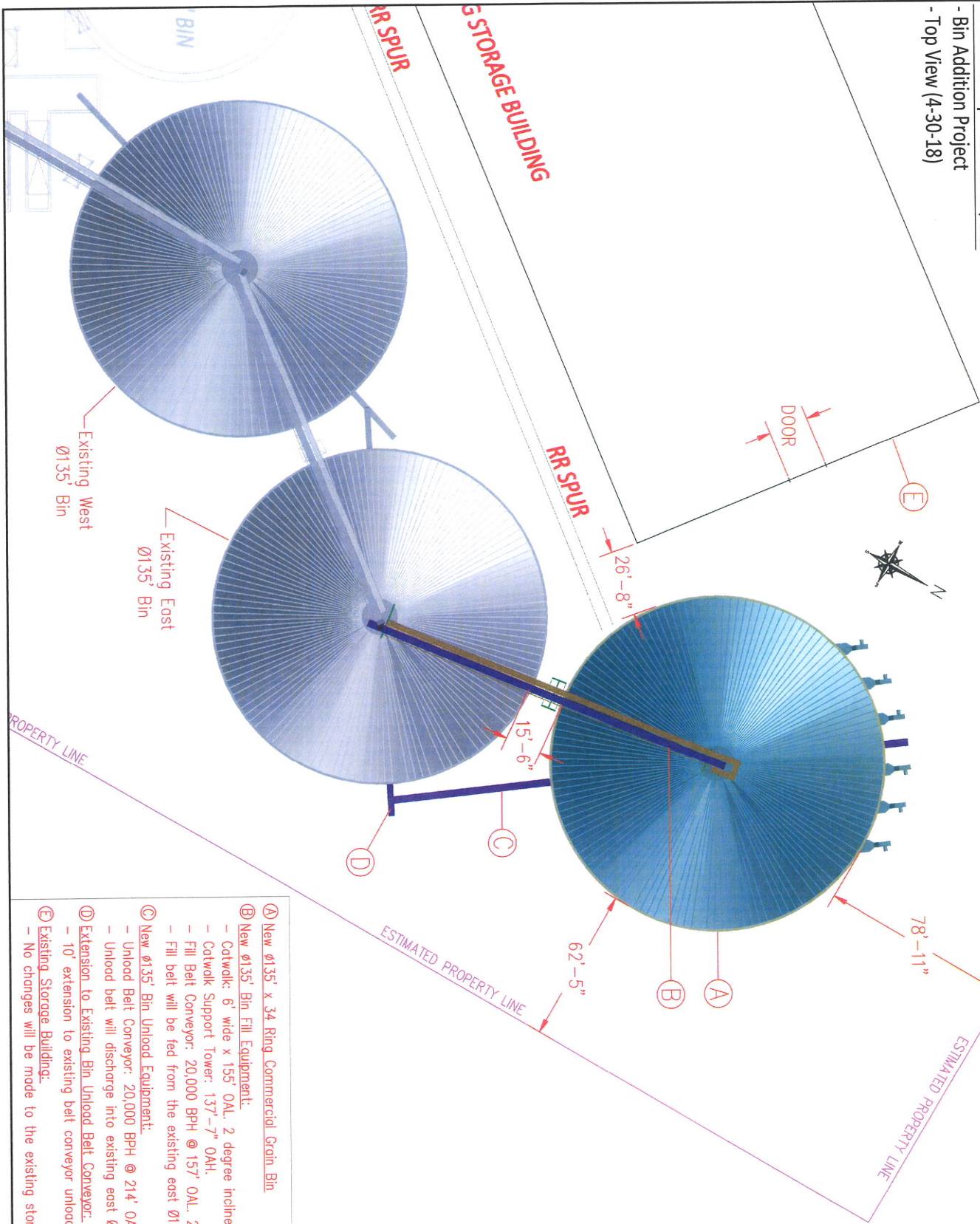
(a) **Generally.** The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to unique property conditions, not common to 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.

Additional Standards for Granting a Variance

Few areas of land use law are as extensively litigated as the standards necessary to qualify for a variance. The rich case law concerning variances provides these additional guiding principles that a zoning board should rely on in their decision-making. Published court decisions provide guidance for board members and are cited in the endnotes. Websites for accessing case law are provided in Appendix B.

- **Parcel-as-a-whole.** The entire parcel, not just a portion of the parcel, must be considered when applying the unnecessary hardship test.
- **Self-imposed hardship.** An applicant may not claim hardship because of conditions which are self-imposed. Examples include excavating a pond on a vacant lot and then arguing that there is no suitable location for a home; claiming hardship for a substandard lot after selling off portions that would have allowed building in compliance; and claiming hardship after starting construction without required permits or during a pending appeal.
- **Circumstances of applicant.** Circumstances of an applicant such as a growing family or desire for a larger garage are not a factor in deciding variances.
- **Financial hardship.** Economic loss or financial hardships do not justify a variance. The test is not whether a variance would maximize economic value of a property.
- **Nearby violations.** Nearby ordinance violations, even if similar to the requested variance, do not provide grounds for granting a variance.
- **Objections from neighbors.** A lack of objections from neighbors does not provide a basis for granting a variance.

United Coop - Oshkosh, WI
 - Bin Addition Project
 - Top View (4-30-18)



- Ⓐ New 135' x 34 Ring Commercial Grain Bin
- Ⓑ New 135' Bin Fill Equipment:
 - Catwalk: 6' wide x 155' OAL, 2 degree incline.
 - Catwalk Support Tower: 137'-7" OAH.
 - Fill Belt Conveyor: 20,000 BPH @ 157' OAL, 2 degree incline.
 - Fill belt will be fed from the existing east 135' fill conveyor.
- Ⓒ New 135' Bin Unload Equipment:
 - Unload Belt Conveyor: 20,000 BPH @ 214' OAL.
 - Unload belt will discharge into existing east 135' bin unload conveyor.
- Ⓓ Extension to Existing Bin Unload Belt Conveyor:
 - 10' extension to existing belt conveyor unload under east 135' bin.
- Ⓔ Existing Storage Building:
 - No changes will be made to the existing storage building.

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MARQUETTE SYSTEMS INC.

1305 Frontage Road NW Byron, MN 55920
 Phone 507-775-6234 Fax: 507-775-6235

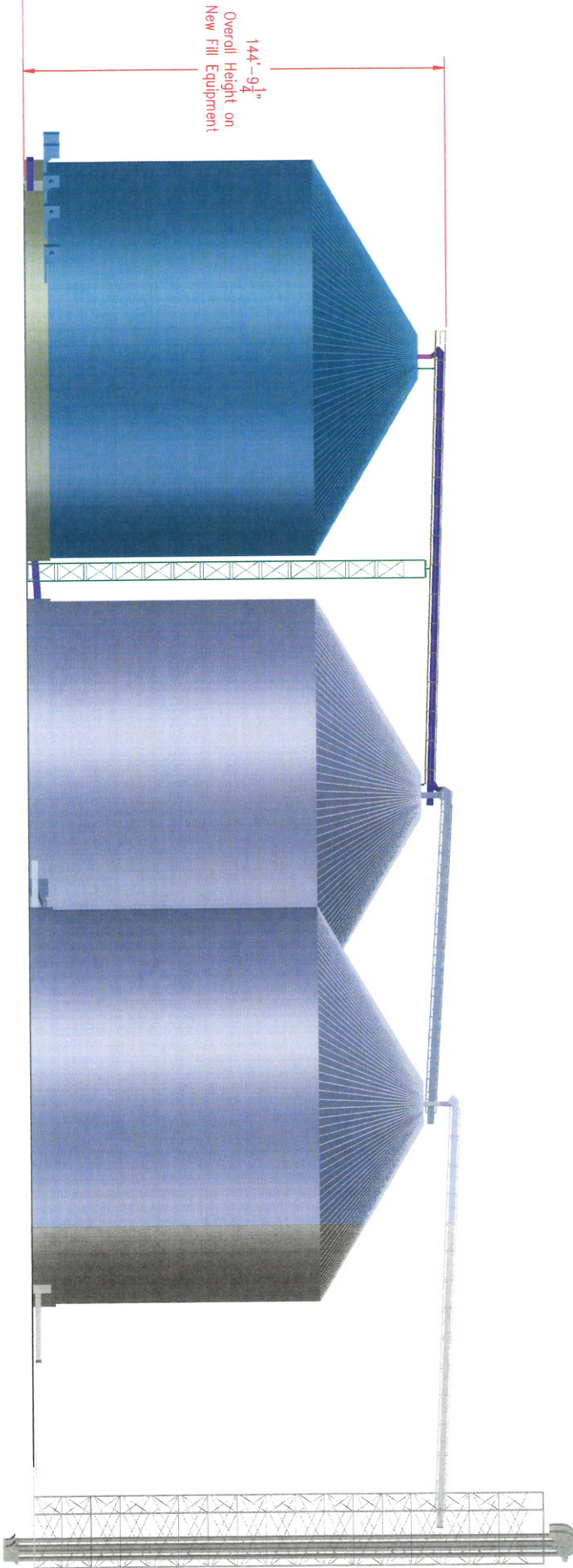
United Coop - Oshkosh, WI

Date

Sheet #

S1

United Coop - Oshkosh, WI
 - Bin Addition Project
 - Side View (5-2-18)



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MARQUETTE SYSTEMS INC.

1305 Frontage Road NW Byron, MN 55920
 Phone 507-775-6234 Fax: 507-775-6235

United Coop – Oshkosh, WI

Date

Sheet #

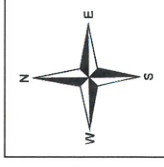
S2

Application #18-VA-4530

Date of Hearing:
June 26, 2018

Owner(s):
United Cooperative

Subject Parcel(s):
0020413



Winnebago County
WINGS Project

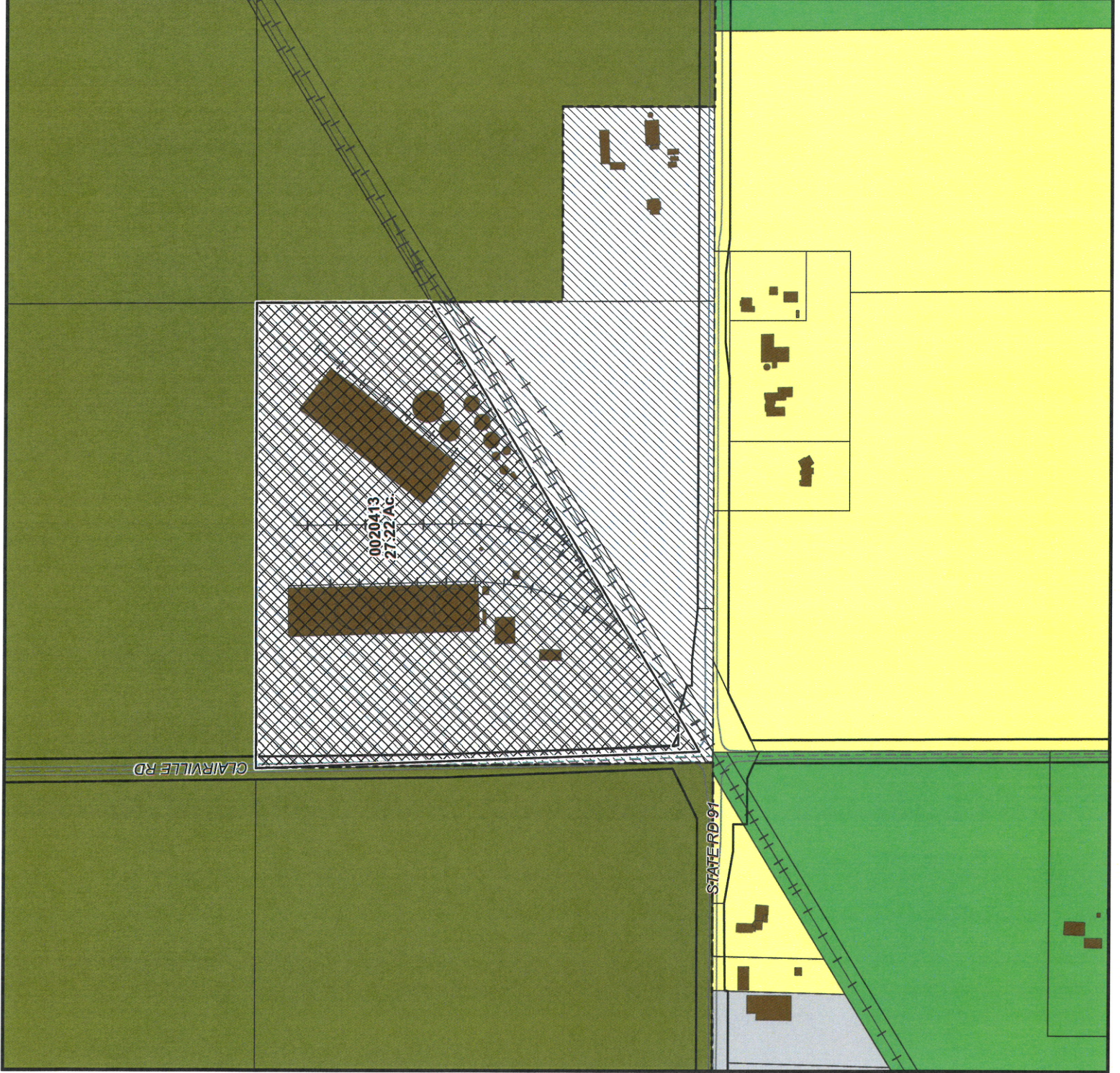
Scale
1 inch : 400 feet

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

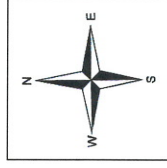


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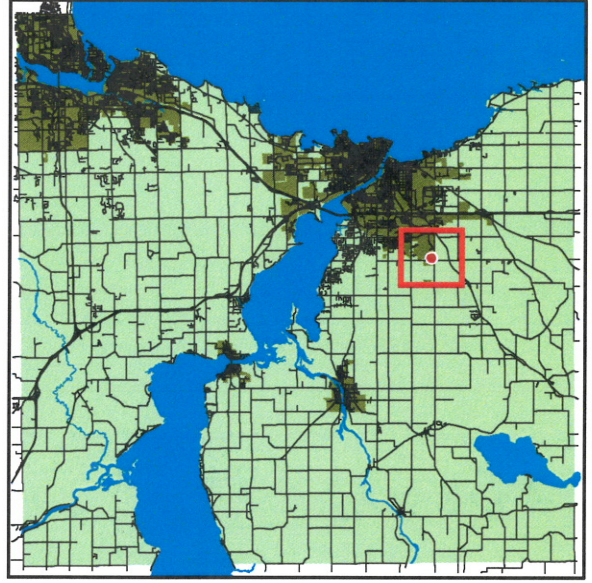
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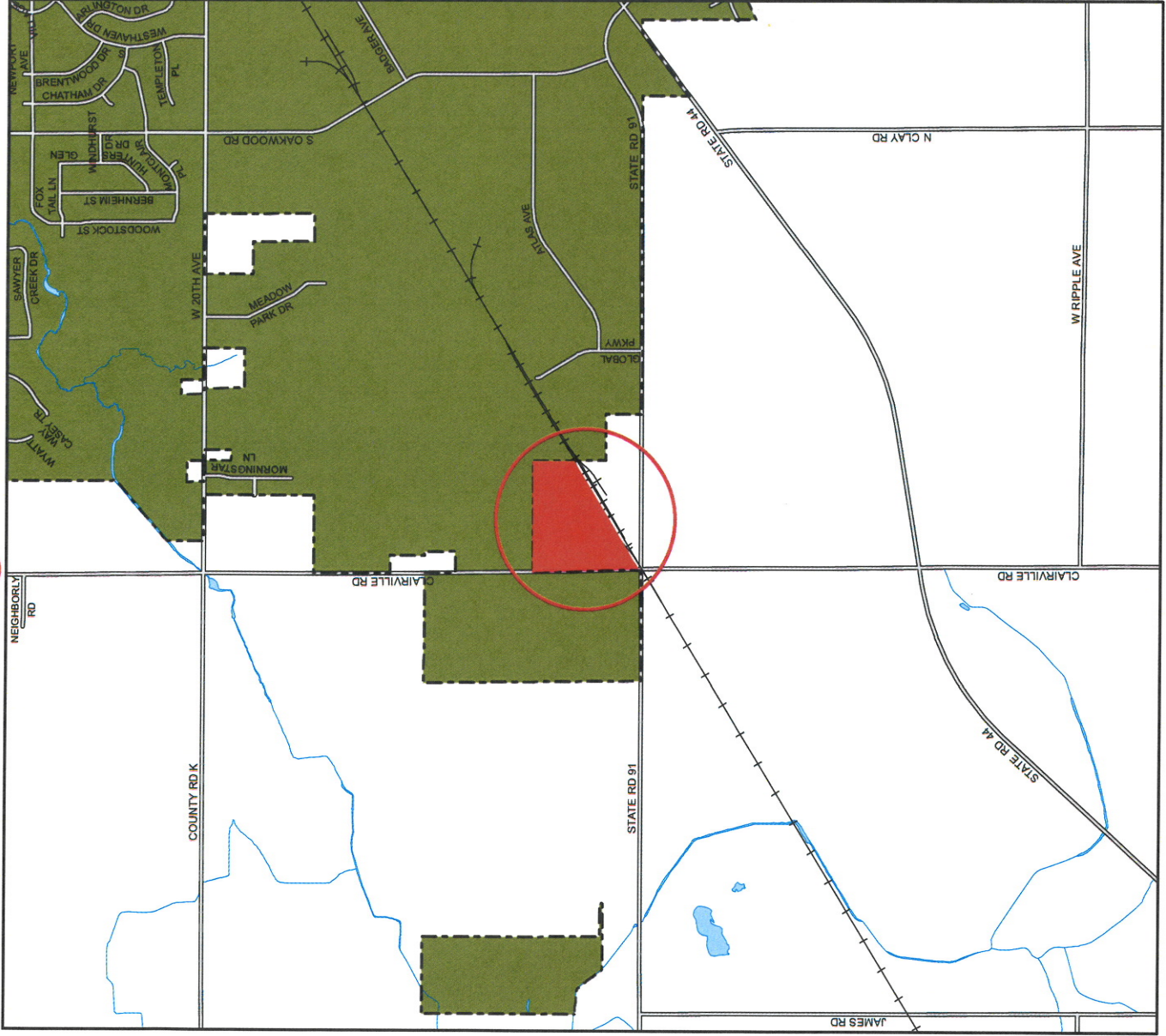
Winnebago County
WINGS Project

● = SITE



WINNEBAGO COUNTY

○ = SITE



1 inch : 2,000 feet