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 <u>Town/County Zoning Code</u>, Chapter 26, the <u>Floodplain Zoning Code</u>, and Chapter 27, <u>the Shoreland Zoning Code</u>. 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: Oft |

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.

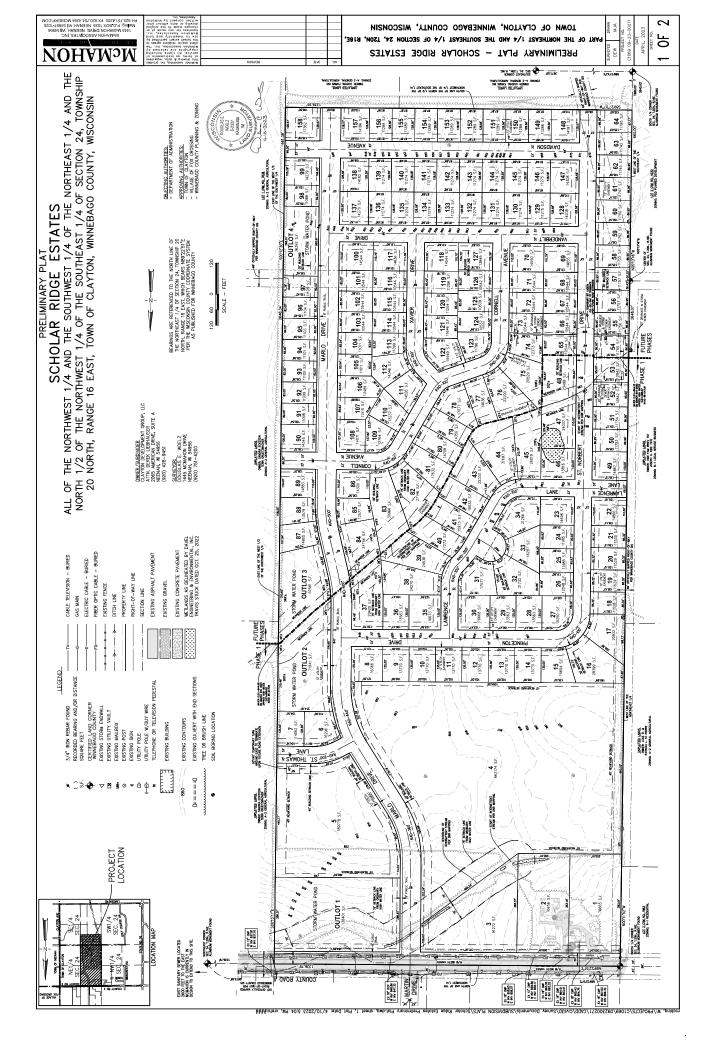
C-3 Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:

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.



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PRELIMINARY PLAT SCHOLAR RIDGE ESTATES

- 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 (8-1) DISTRICT OR COMMUNITY BUSINESS (8-2) DISTRICT
 - (2 LOTS) LOTS 4 & 5 MULTIFAMILY RESIDENTIAL (R-4) DISTRICT
- (154 LOTS & 2 OUTOTS) LOTS 18 THRU 26, LOTS 31 THRU 34, LOTS 38 THRU 158 AND OUTLOTS 3 & 4 SUBURBAN RESIDENTIAL (R-2) DISHIP OF THE TOTAL THRU SE & 4 OUTLOTS

(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

- 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 SUBJOIDED AREA = 81.488 ACRES DEDICATED STREET AREA = 20.176 ACRES UNCAL FEET OF STREETS = 14.197 UN. FEET.
- MINIMUM LOT REQUIREMENTS PER ZONING ORDINANCES (SEWERED LOTS):

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- 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.

PRIVATE RESTRICTIONS/COVENANTS TO BE FILED WITH THE FINAL PLAT.

- ALL EXEMENTS TO BE SHOWN ON THE INAL, PAJ.

 SEE UTILITY PLANS FOR EXEMBED AND MATERS.

 ALL LOST DOE SERVICED BY PUBLIC SEWER AND WATER.

 OUTLINGS TO BE OWNED AND WANTANED BY THE TOWN OF CLAYTON OR BY A HOME OWNERS
 ASSOCIATION.
- ANY AGRILLINGA, PARATILE WHOM IS DISTURBED, OUT OR BROCKELA AS PART OF THE DIRECTORURY OF THE PLAT OR DISCAMPION FOR HOME CONSTRUCTION MAST BE REPARED AND/OF RECOURTED THE TOWN THE THE DRAWN AS GRIGHALLY DISSONED. THE COST OF THE PERMAN REPORTED WISH WAS THE REPART FOR THE AGRILLY DISSONED. THE A JURISDICTIONAL DETERMINATION/ARTIFICIAL WETLAND EXEMPTION REQUEST IS TO BE FILED WITH THE WISCONSIN DNR'S GFFICE TO ALLOW THE FILLING OF WETLAND AREAS SHOWN ON LOTS 45, 46 & 47 (WETLAND AREA IS LESS THAN 10,000 S.F.)
- THE LOCATION OF THE APPROXIANTE ORDINARY HIGH WATER WARK SHALL RE THE POINT ON THE BANK OF THE NAMOLBLE STREAM UP TO WHICH THE RESEARCH AND ACTION OF STRAFACE WHITER IS DO COMPINIOUS. STO LEAKE, A DISTINCTIVE MARK BY ENDSION, DESTRUCTION OF THE RECOVENIZED CHARACTERSTICS.
- any Land Below the ordinary high water mark of a lang or a nangable stream is subject to the public trust in nangable. Waters that is established under article ix, section 1, of the state constitution.
- THE LOTS DEPALLO ON THIS MAP. IS AJANCENT TO PROPERTIES THAT, AS OF THE DATE OF THIS DOCUMENT, ARE BEING URED, FOR AGENCINED, MERCELS SOME WINDOWN BEINEY HAT THE ACTIVITIES ASSOCIATED WITH AGRICULTURAL USE CONSTITUTE A MUSINANCE OF COPILLOT WITH THE QUALITY RESPECTATION STATEMENT IS INTENDED TO PROVIDE THEIR PROPERTIES.
 WITH NOTICE THAT AGRICULTURAL ACTIVITIES MAY ENST ON THE ADJACENT PROPERTIES.

HE FOLLOWING EXCENDING.

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when Menny 1, or Self Mentherine Newthered 2005151F, 2346.42 the transition of the Menny 1, or Self Mentherine Newthered 2007151F, 2346.42 the transition of East line to the Southerest corner Thereof. There SOUTHERS 2005.42 the Menny 1, or the Menny 1, or the Menny 1, or the Southerest 1/4 to the Southerst 1/4 to the Southerst 1, or the Newtherest 1/4 to the Southerst corner thereof; There SOUTHERS 2007WW 1,333,26 feet often the Southerst corner thereof; There NOD7151°W, 660.00 feet along the West line of the Southerst corner thereof in the Charles of and Section 2. The Rene NOD17162W, 2646.07 feet along the West line of said Newtherst 1/4 to the Point of Beginning.

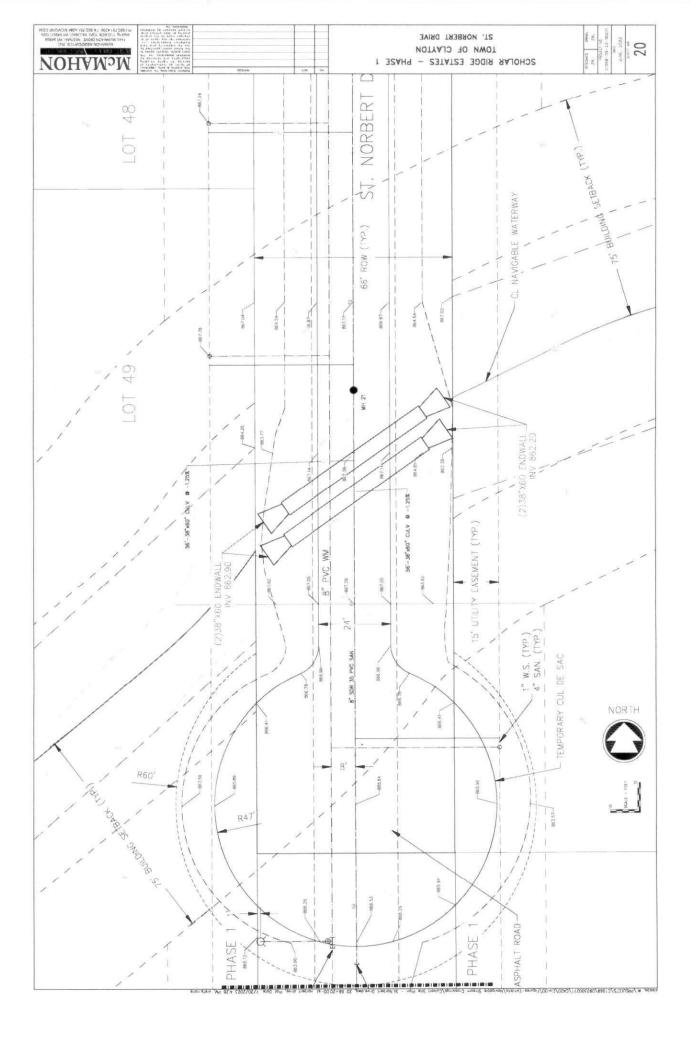
SINGLE FAMILY ZONING — 6% LAND DEDICATION REQUIREMENT TOTAL SINGLE FAMILY LOT AREA = 2,233,308 GF. (65.169 AGRES) LAND DEDICATION REQUIREMENT = 2,533,360 Y. (6 = 192,002,8 S.F. (3.49 AGRES) LAND DEDICATION REQUIREMENTS: (PARK, PLAYOROUND & RECREATION OPEN SPACE)

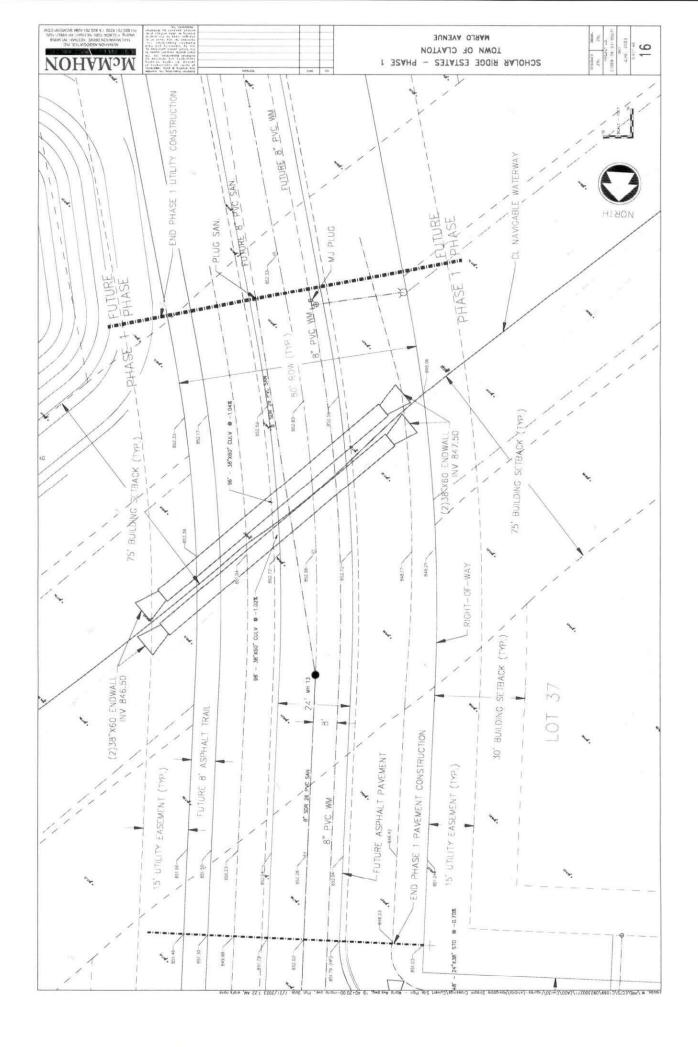
TWO FAMILY ZOWING — 8% LAND DEDICATION REQUIREMENT TOTAL TWO FAMILY LOT AREA = 565,765 S.F. (1161 ACRES) LAND DEDICATION REQUIREMENT = 505,765 X. .08 = 49,461.2 S.F. (0.93 ACRES)

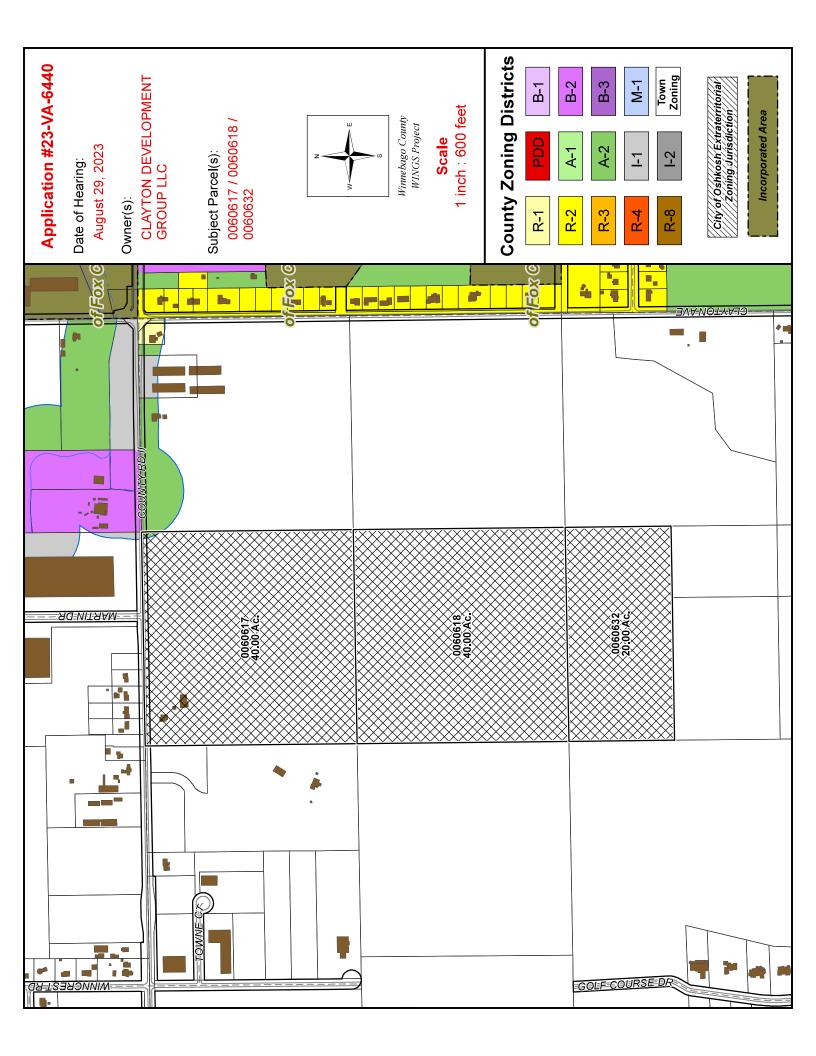
MULTIPLE FAMILY ZONING — 12% LAND DEDICATION REQUIREMENT TOTAL MULTIPLE FAMILY LOT AREA = 925,049 S.F. (21.24 ACRES) LAND DEDICATION REQUIREMENT = 925,049 X .12 = 111,005.88 (2.55 ACRES)

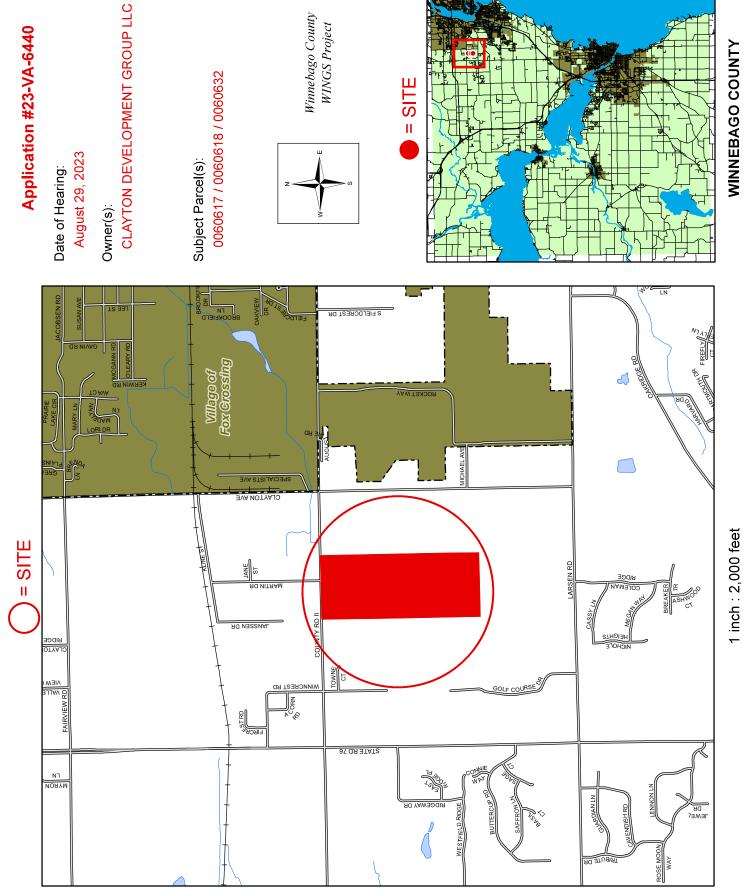
TOTAL LAND DEDICATION REQUIREDENT = 303,482.88 (6.97 AORES)
LAND DEDICATION REPORTED = 205,989 S.F. (7.48 AORES)
TO OUTOT = 158,407 S.F. (161 AORES)
OUTOT = 158,407 S.F. (117 AORES)
OUTOT 2 = 77.941 S.F. (118 AORES)
OUTOT 2 = 52,819 S.F. (128 AORES)
OUTOT 3 = 52,819 S.F. (128 AORES)











WINNEBAGO COUNTY