

# Winnebago County Planning and Zoning Department

## NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT October 25, 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 October 25, 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 VARIANCE REQUEST

**Application No.:** 2022-VA-6190

**Applicant:** GIACOMINI, DEAN & JODENE

**Agent:** NONE

**Location of Premises:** 3061 BELLAIRE LN

**Tax Parcel No.:** 018-009912

**Legal Description:** Being part of the NW 1/4 of the SW 1/4 of Section 3, Township 18 North, Range 16 East, Town of Oshkosh, 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: 6.17 ft & 7 ft

INITIAL STAFF REPORT



**Sanitation:** Existing; Municipal

**Overlays:** Shoreland, floodplain

**Current Zoning:** R-1 Rural Residential

**Surrounding Zoning:** North: R-1; South: R-1; East: R-1; West: Lake Butte des Morts;

**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 home construction asking for variance of floodplain fill since there is not 15' in all directions. Request for minimum of 6.17' on south side and 7' on the north side. Retaining walls to be built as shown on plat of survey NOT to extend into the 67.2' average shore yard setback.

**Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property:** N/A Use is residential

**Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:** Size of current existing building does not allow adequate room for living space nor adequate mechanicals to be built in. Necessity is for a home to be constructed with master bedroom that will require 1st flr main level design.

**Describe how the granting of the requested variance will not harm the public interest or have adverse affects on surrounding properties:** Mitigation efforts will be adhered to as per plat survey provided. Appropriate setbacks to be held as per C-1 (question number one) above. Long term effects of typical and similar variances with neighborhood and public interest have previously been done with other properties in the neighborhood.

**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.

**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**

### **27.14.8 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.

Existing

# PLAT OF SURVEY

PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 3, TOWNSHIP 18 NORTH, RANGE 16 EAST, TOWN OF OSHKOSH, WINNEBAGO COUNTY, WISCONSIN.

SITE ADDRESS:  
3061 BELLAIRE LANE  
TAX PARCEL NUMBER:  
018009912  
DOCUMENT NUMBER:  
1886316

TOTAL AREA:  
11,276 SQ.FT. ± / 0.259 AC. ±  
30% OF TOTAL AREA = 3,383 SQ.FT.

EXISTING IMPERVIOUS AREA:  
DRIVEWAY = 885 SQ.FT.  
GARAGE = 734 SQ.FT.  
WITH OVERHANG = 860 SQ.FT.  
COTTAGE = 19 SQ.FT.  
STOOP = 360 SQ.FT.  
WALKWAY = 2,858 SQ.FT.  
TOTAL AREA = 25.35% IMPERVIOUS

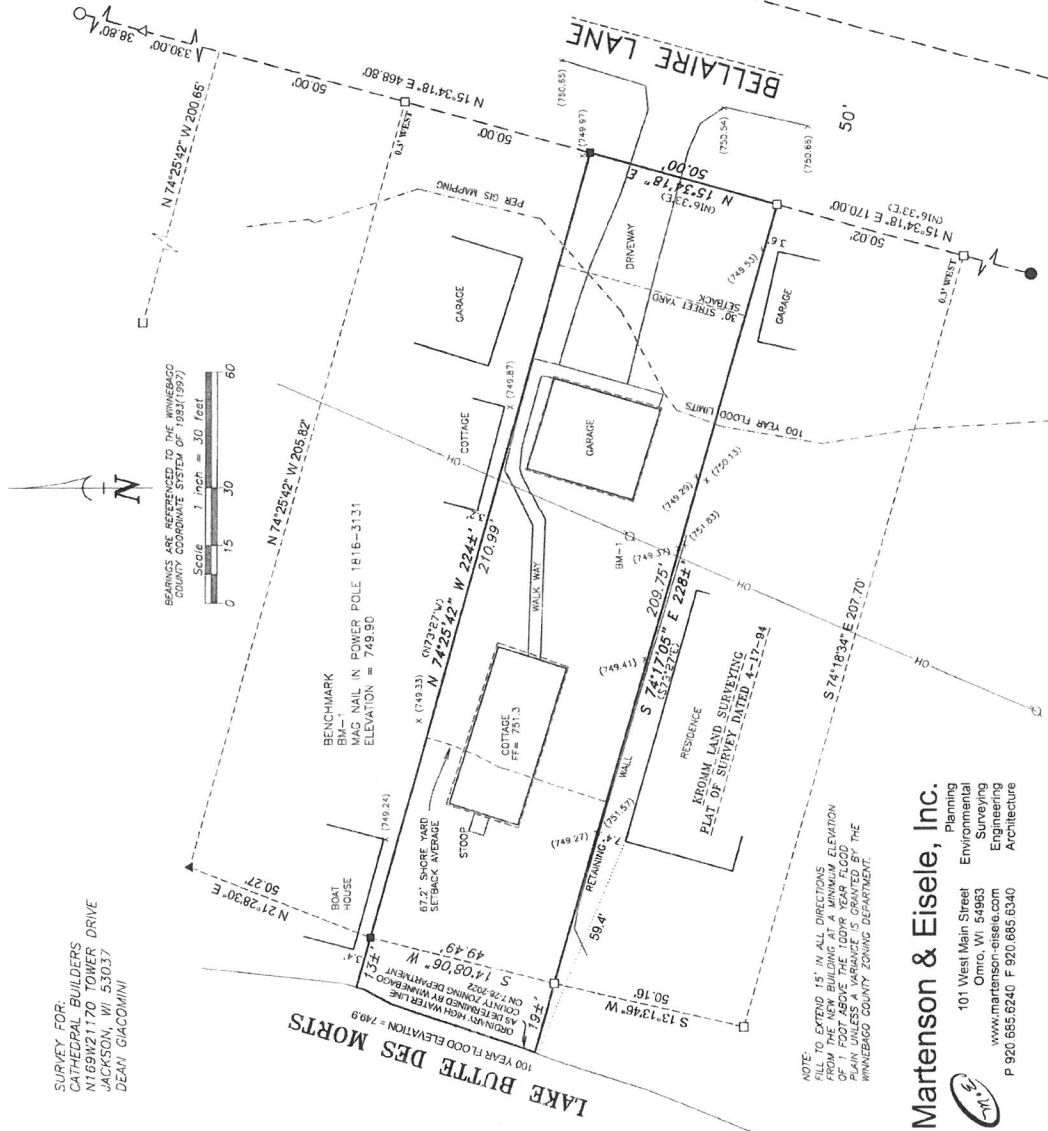
LEGEND  
 ■ 1-1/4" O.D. IRON PIPE SET 18" LONG  
 WIDENING 1.50 LBS. PER LIN. FOOT  
 ▲ ANGLE IRON FOUND  
 ○ 3/4" REBAR FOUND  
 □ 1-1/4" C.D. IRON PIPE FOUND  
 △ 1" BAR FOUND  
 ● "M&S" NAIL FOUND  
 ( ) RECORDED AS

## SURVEYOR'S CERTIFICATE

I hereby certify that I have surveyed the property as shown, according to official records and that the plat shown herein is an accurate and correct representation of said survey.

Wisconsin Professional Land Surveyor \_\_\_\_\_ Date \_\_\_\_\_

PROJECT NO. 0-2726-001  
FILE 2726001BOUNDARY.DWG  
THIS INSTRUMENT WAS DRAFTED BY: OSL



SURVEY FOR:  
CATHEDRAL BUILDERS  
116912170 TOWER DRIVE  
JACKSON, WI 53037  
DEAN GIACOMINI

BENCHMARK  
M&S NAIL IN POWER POLE 1816-3131  
ELEVATION = 749.90

LAKE BUTTE DES MORTS  
100 YEAR FLOOD ELEVATION = 749.9

NOTE:  
BILL TO EXTEND 15' IN ALL DIRECTIONS FROM THE NEW BUILDING AT A MINIMUM ELEVATION OF 1 FOOT ABOVE THE 100 YEAR FLOOD OF LAKE BUTTE DES MORTS BY THE WINNEBAGO COUNTY ZONING DEPARTMENT.

**Martenson & Eisele, Inc.**  
 Planning  
 Environmental  
 Surveying  
 Engineering  
 Architecture  
 101 West Main Street  
 Oshkosh, WI 54903  
 www.martenson-eisele.com  
 P 920.685.6240 F 920.685.6340

Reboard.

# PRELIMINARY SITE PLAN

PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 3, TOWNSHIP 18 NORTH, RANGE 16 EAST, TOWN OF OSHKOSH, WINNEBAGO COUNTY, WISCONSIN.

SITE ADDRESS:  
3061 BELLAIRE LANE  
TAX PARCEL NUMBER:  
018009912  
DOCUMENT NUMBER  
1886316

TOTAL AREA:  
11,276 SQ.FT. ± / 0.259 AC. ±

30% OF TOTAL AREA = 3,383 SQ.FT.

EXISTING IMPERVIOUS AREA:  
DRIVEWAY = 885 SQ.FT.  
GARAGE = 734 SQ.FT.  
COTTAGE WITH OVERHANG = 860 SQ.FT.  
KITCHEN OVERHANG = 19 SQ.FT.  
WALKWAY = 360 SQ.FT.

TOTAL AREA = 2,858 SQ.FT.  
= 25.35% IMPERVIOUS

30% OF TOTAL AREA = 3,383 SQ.FT.

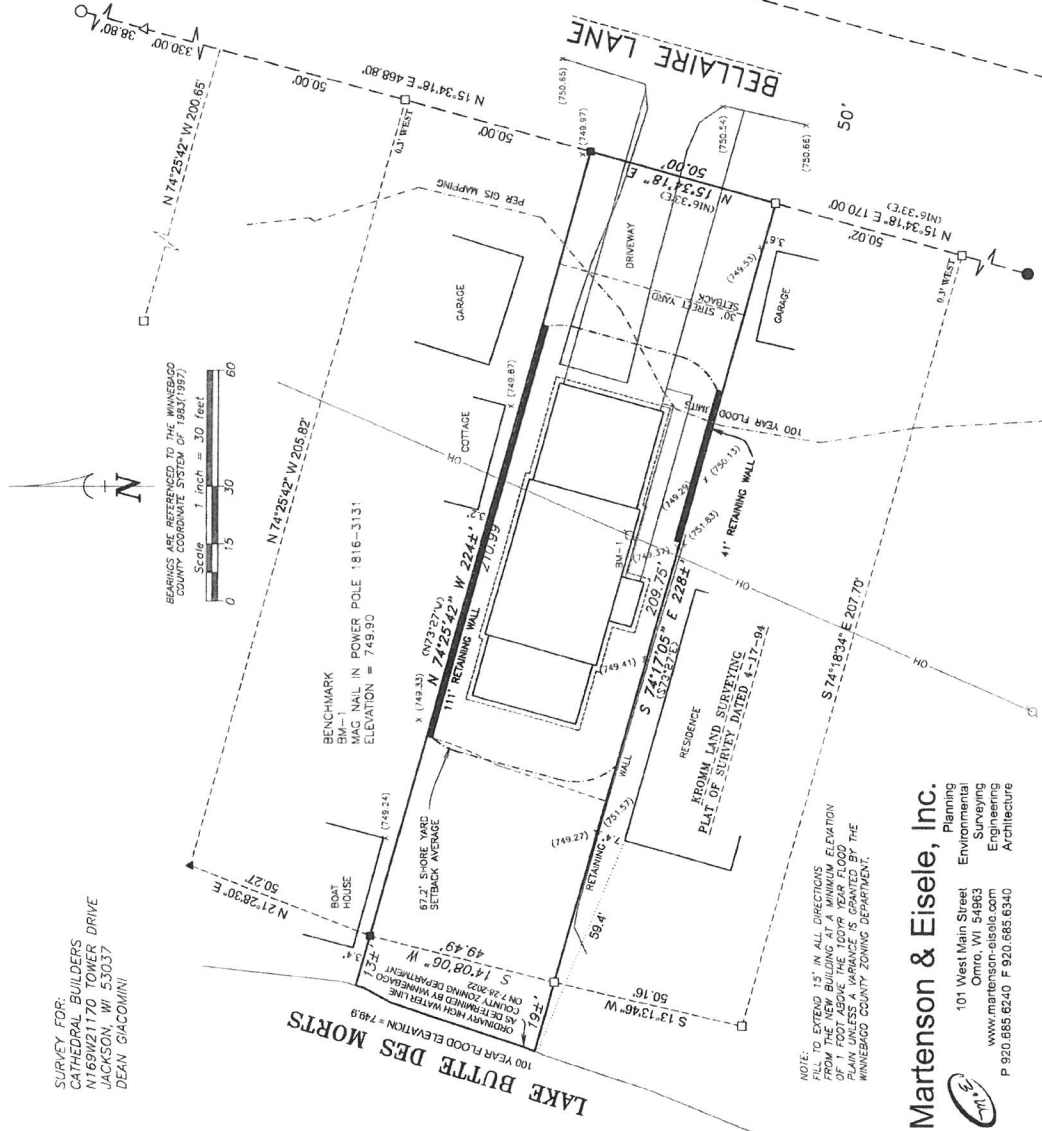
40% OF TOTAL AREA = 4510 SQ.FT. IF MITIGATION IS USED

PROPOSED IMPERVIOUS AREA:  
DRIVEWAY = 1,520 SQ.FT.  
NEW RESIDENCE WITH 16" OVERHANG = 2835 SQ.FT.  
WALKWAY = 201 SQ.FT.

TOTAL AREA = 4556 SQ.FT.  
= 40.40% IMPERVIOUS

NOTE:  
THIS WOULD REQUIRE THE COUNTY TO GRANT A VARIANCE FOR 6.17' OF FILL ON THE SOUTH SIDE AND 7' OF FILL ON THE NORTH SIDE.

PROJECT NO. 0-2726-001  
FILE 2726001SITEPLAN.DWG  
THIS INSTRUMENT WAS DRAFTED BY: DSL



SURVEY FOR:  
CATHEDRAL BUILDERS TOWER DRIVE  
JACKSON, WI 53037  
DEAN GIACOMINI

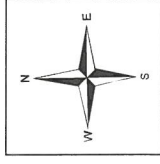
**Martenson & Eisele, Inc.**  
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**Application #22-VA-6190**

Date of Hearing:  
October 25, 2022

Owner(s):  
GIACOMINI JT REV TST,  
DEAN A AND JODENE L

Subject Parcel(s):  
018009912



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



**Application #22-VA-6190**

Date of Hearing:

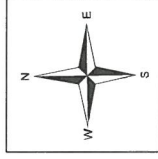
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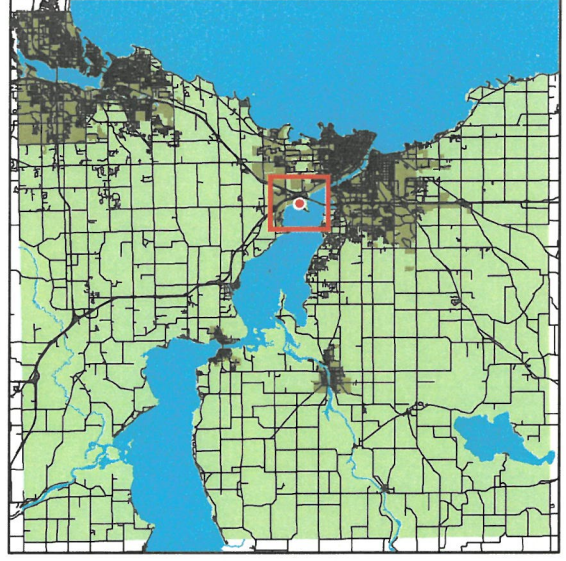
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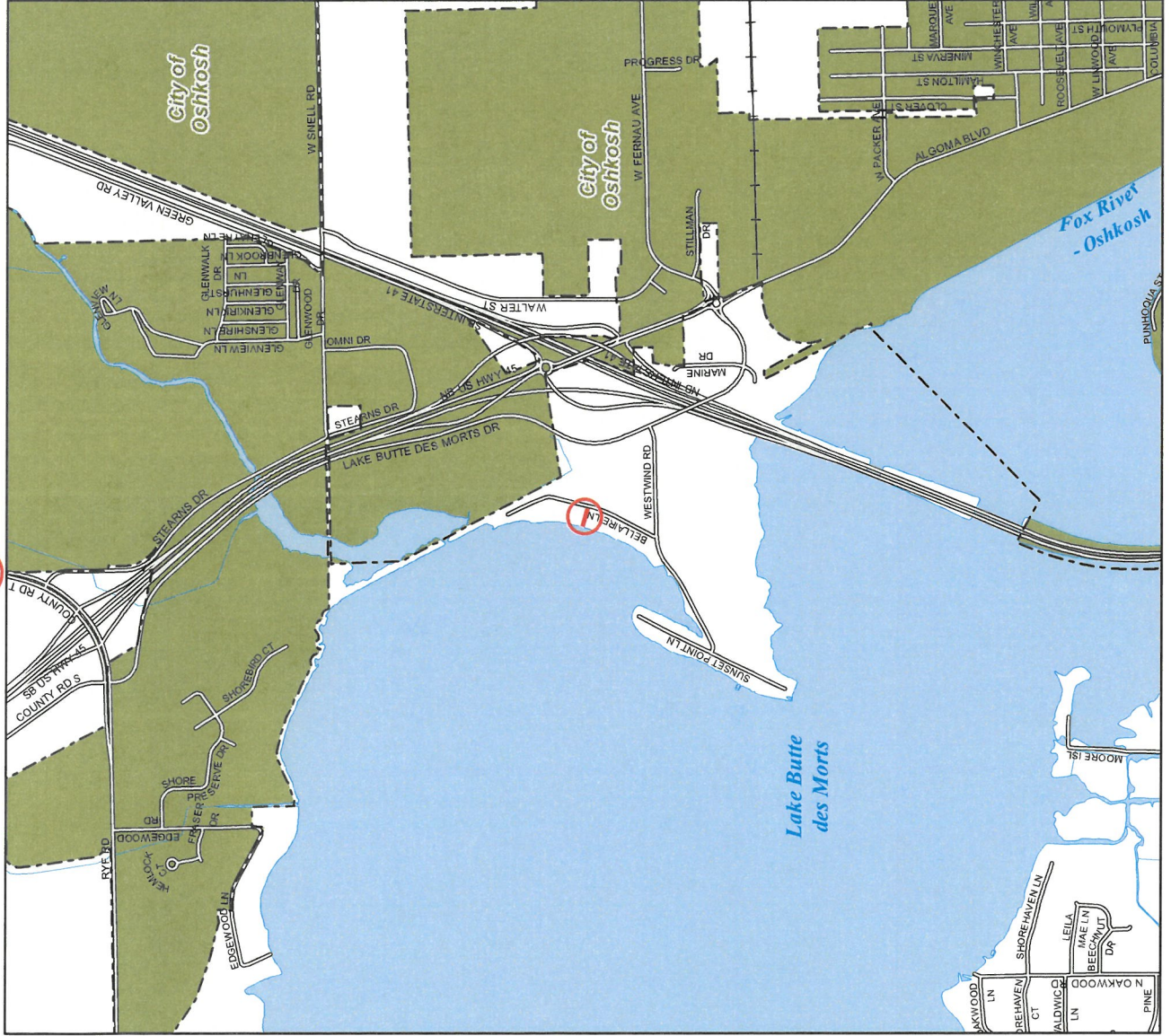
Winnebago County  
WINGS Project

● = SITE



WINNEBAGO COUNTY

○ = SITE



1 inch : 2,000 feet