



GREEN LAKE COUNTY

571 County Road A, Green Lake, WI 54941

The following documents are included in the packet for the *Green Lake County Board of Adjustment* business meeting and public hearing that is scheduled for Friday, November 17, 2017. The business meeting begins at 9:00 a.m. The public hearing will begin at 10:00 a.m.

Packet Pages:

1. **Agenda**
- 2-4. **Minutes of 10/20/17**
5. **Public Hearing Notice**
- 6-16. **Meeting materials for Public Hearing Item I:**
Del Monte Foods, Inc. - Jay Ruenger, Plant Manager
Linda Kurtz, Agent for WE Energies, Mi-Tech Services, Inc.
Town of Mackford



GREEN LAKE COUNTY BOARD OF ADJUSTMENT

Carole DeCramer
Board Secretary

Number: 920-294-4156
Email: cdecrumer@co.green-lake.wi.us

Board of Adjustment Meeting Notice

Date: November 17, 2017 Time: 9:00 AM

Green Lake County Government Center, 571 County Road A, Green Lake, WI
West Wing, Lower Level, County Board Room #0902

AGENDA

All line items are subject to any and all action by this Board, unless noted.

**Board of
Adjustment
Members:**

Janice Hardesty
Board Chair

Ron Triemstra
Board Vice Chair

Kathleen Moore

John Gende
Alternate 1

Vacant Alternate 2

NOTE: Meeting area is accessible to the physically disabled. Anyone planning to attend who needs visual or audio assistance should contact Carole DeCramer at 920-294-4156 the day before the meeting no later than noon.

1. Call to order
2. Roll call
3. Pledge of Allegiance
4. Certification of open meeting law
5. Agenda
6. Minutes: 10/20/17
7. Adjourn for field inspection

Public hearing matters will not begin before 10:00 a.m.

8. Public hearing matters

Item I: Owner: Del Monte Foods, Inc., Jay Ruenger, Plant Manager **Applicant:** Linda Kurtz, Agent for WE Energies, Mi-Tech Services, Inc. **Site Description:** W1866 County Road S, Parcel #010-00108-0000, Part of the NE $\frac{1}{4}$ of Section 8, T14N, R13E; ± 29.46 acres; Town of Mackford **Request:** Variance from Section 350-20 B. Front, side and rear-yard regulations of the Zoning Ordinance, to construct a building over the existing heater unit of a natural gas regulator station 7' from the side yard setback; whereas, a 20' setback is required.

- a. Public Hearing
 - b. Board Discussion & Deliberation
 - c. Board Decision
9. Correspondence
 10. Next meeting date
 11. Adjournment

**GREEN LAKE COUNTY
BOARD OF ADJUSTMENT**
Meeting Minutes – Friday, October 20, 2017

CALL TO ORDER

The meeting of the Board of Adjustment was called to order by Chair Hardesty at 9:00 a.m. in County Board Room 0902 of the Government Center, Green Lake, WI. The requirements of the open meeting law were certified as being met.

Present: John Gende (alternate), Janice Hardesty, Ron Triemstra

Absent: Kathleen Moore

Also present: Matt Kirkman, Land Use Planning and Zoning Director

Krista Kamke, Code Enforcement Officer

Carole DeCramer, Board Secretary

Kate Worth, Worth Court Reporting

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Motion by Triemstra/Gende, unanimously carried, to approve the agenda.

APPROVAL OF MINUTES

Motion by Triemstra/Gende, unanimously carried, to approve the 09/15/17 minutes.

RECESS FOR FIELD INSPECTION

Time: 9:02 a.m.

Audio of Board discussion is available upon request from the Green Lake County Land Use Planning and Zoning Department.

PUBLIC HEARING MATTERS

Board reconvened at 10:00 a.m.

Chair Hardesty read the Rules of Order.

Item I: Owner/Applicant: John Rozek **Site Description:** N2913 State Road 44, Parcel #006-01272-0000, Pleasant Point Plat Lot 1, Part of Government Lot 4 of Section 29, T15N, R13E **Request:** Section 350-38.E.(1) of the Zoning Ordinance to construct a 26'x 24' detached accessory structure that would be set back 29' from the front lot line; whereas, a 67' setback is required. Also covered within 350-38.E.(1) is the request for relief from the rear-yard setback, with the proposed structure 14' from the rear lot line; whereas, a 25' setback is required.

- a. Public hearing

John Rozek, N2913 State Road 44 – Spoke in favor of the request.

The Board discussed with Mr. Rozek the following:

- The home is not a permanent residence.
- It is used for seasonal storage.
- It is open year round.

Code Enforcement Officer Krista Kamke reviewed the request for the Board. She explained that the staff report covered alternative building sites. There is not much buildable area. By the time the setbacks are factored in, he has 140-150 sqft left for buildable space. It is a half-acre lot, but it's a corner lot with intense setbacks. Mr. Rozek wishes to build a two-car detached garage. The hardship, in staff's opinion, is the limited building space. The impervious surfaces with the proposed garage would be under the standard maximum of 15% on the property, as required by the Shoreland Zoning Ordinance. The flood fringe area is present on the property but only along the shoreline of Little Green Lake.

Chair Hardesty read, for the record, two pieces of correspondence (see attached).

Exhibit 1 – A letter from Mike and Carla Burns, property owners at N2921 State Road 44. They were unable to attend the meeting and asked if the letter could be read into the record for consideration by the Board of Adjustment. They asked that their list of concerns be addressed.

Exhibit 2 – An email sent by Kelly Nicolaus, Access Management Coordinator, North Central Region, Wisconsin Rapids, Wisconsin Department of Transportation. Ms. Nicolaus stated that, after reviewing their files, the Department of Transportation has determined that they do not have highway setbacks on this property.

10:11 a.m. Motion by Triemstra/Gende, unanimously carried, to close the public hearing portion of the meeting.

- b. Board discussion and deliberation to include relevant correspondence.

Motion by Triemstra/Gende, for the purpose of discussion, to grant the variance request from Section 350-38.E.(1) of the County Zoning Ordinance to construct a 26'X24' detached accessory structure that would be set back 29' from the front lot line; whereas, a 67' setback is required. Also covered within 350-38.E.(1) is the request for relief from the rear-yard setback, with the proposed structure 14' from the rear lot line; whereas, a 25' setback is required.

The Board discussed the three criteria for deciding a variance request:

- *Unnecessary hardship*

Hardesty – There is very little space and it is an oddly-shaped lot. It is a hardship for him without a variance.
Triemstra – Researched property taxes for that area and the assessor is assessing that property equally to the surrounding properties that do not have the setback limitations. The value of Mr. Rozek's property should be different from the neighbors'. It's a hardship in that he is paying the same amount of taxes that everyone else is paying, yet cannot utilize his land the way everyone else can.

Gende – Concurred with Triemstra.

- *Unique property limitations*

Hardesty – After looking at the aerial photo with setbacks highlighted, there is no buildable location.

Triemstra - There is a nice spot for garage except it falls within the 75' setback. The location Mr. Rozek has chosen is probably the most reasonable for what he wants to accomplish. The suggestion, offered by the

correspondence sent by Mike and Carla Burns, does not alleviate the situation he's in. (Hardesty concurred.) The property is not conducive for putting something more on it. Gende added that he is still adding another garage. Kamke added that it is still under the 15% impervious surface standard.

- *Harm to the public*

Triemstra – This property encroaches the county's highway setback. State Road 44, in this area, is flat and the speed limit is reduced to 45 mph because of accesses. There is not much traffic, it is seasonally heavy, and there are several large trees that the property owner said will remain. The trees act as a natural barrier, and putting a garage behind the trees is of no harm to the public. Hardesty added that the trees are, at least, 10' away.

At this point in the discussion, Kirkman added that this proposal was structured based on accessing the garage from neighbors' property. According to the correspondence received from the neighbors, that may not be an option. After further discussion, Hardesty stated that this isn't part of this jurisdiction and the Board will vote on the request as presented. The easement issue is between Mr. Rozek and his neighbors, which becomes a civil matter and not for this Board to decide. Kirkman suggested reopening the public hearing to ask further questions of Mr. Rozek and the Board replied that they were not in favor of that.

c. Board decision.

The Board agreed upon a friendly amendment which would include the three conditions, as listed in the staff report, to the above motion:

1. As-built Certificate of Survey to be provided to the county upon completion of construction showing finished location.
2. Require property owner to re-vegetate impervious surfaces associated with the lot equal to the square footage of the proposed garage.

Roll call: Gende – aye, Hardesty - aye, Triemstra - aye. Motion approved.

CORRESPONDENCE - None

NEXT MEETING DATE

November 17, 2017

ADJOURN

Motion by Triemstra/Hardesty, unanimously carried, to adjourn.

Time: 10:30 a.m.

RECORDED BY:

Carole DeCramer

Board of Adjustment Secretary

APPROVED ON:

NOTICE OF PUBLIC HEARING

The Green Lake County Board of Adjustment will hold a Public Hearing in County Board Room #0902 of the Green Lake County Government Center, 571 County Road A, Green Lake, Wisconsin, on ***Friday, November 17, 2017, at 9:00 a.m.*** The meeting will adjourn for site inspection of the following item:

Item I: Owner: Jay Ruenger, Plant Manager, Del Monte Foods, Inc. **Applicant:** Linda Kurtz, Agent for WE Energies, Mi-Tech Services, Inc. **Site Description:** W1866 County Road S, Parcel #010-00108-0000, Part of the NE $\frac{1}{4}$ of Section 8, T14N, R13E; ±29.46 acres; Town of Mackford
Request: Variance from Section 350-20 B. Front, side and rear-yard regulations of the Zoning Ordinance, to construct a building over the existing heater unit of a natural gas regulator station 7' from the side yard setback; whereas, a 20' setback is required.

The Board of Adjustment will reconvene at approximately **10:00 a.m.** to consider the item listed above. All interested persons wishing to be heard at the public hearing are invited to be present. Please note that *it is not uncommon for an owner/applicant to withdraw a request at the last minute.* Call the Green Lake County **Land Use Planning and Zoning Department at (920) 294-4156** for further detailed information concerning this notice, to verify that the agenda item you may be interested in has not been withdrawn from the agenda, or for information related to the outcome of the public hearing item.

Publish: November 2, 2017 and November 9, 2017

ITEM I VARIANCE

OWNER:

Del Monte Foods Inc.

APPLICANT:

WE Energies
Linda Kurtz

REQUEST: The owner/applicant is requesting a variance from Section 350-20 B. of the Zoning Ordinance to construct a building over the existing heater unit of a natural gas regulator station 7 feet from the side yard setback; whereas, as 20 foot setback is required.

PARCEL NUMBER / LOCATION: Parcel number 010-00108-0000, being in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$, located in Sections 8, T14N, R13E, Town of Mackford. The subject site is located at W1866 County Road S.

EXISTING ZONING AND USES OF ADJACENT AREA: The subject site is zoned I, Industrial. The zoning of the surrounding lands is a mixture of industrial, agriculture, and residential. The City of Markesan's boundary is located west of the subject site.

ADDITIONAL INFORMATION / ANALYSIS: The owner/applicant would like to place an 8' x 15' shed over the existing heater unit. As stated in the application, the building is necessary to protect the heater unit from weather and reduce maintenance repairs.

There is a lot adjacent to the subject site, owned by Condon Oil Company that is 0.42 acres in size. This separated lot is creating the setback issue for the applicant. Del Monte Foods, Inc. owns the lands surrounding this lot. Further, with Industrial zoning, the side yard setback is greater than all of the other zoning districts. The required side yard setback for Industrial zoning is 20 feet, versus the 12 foot setback. Additionally, the natural gas regulator station is located on a minimally sized (0.14 acres) easement area granted to WE Energies by Del Monte Foods, Inc.

VARIANCE CRITERIA: To qualify for a variance, it must be demonstrated that the property meets the following 3 requirements:

- 1) Unnecessary Hardship
 - compliance with standards would be unreasonably burdensome (Snyder)
 - short-term, long-term and cumulative effects on public interest in neighborhood, community, and even the state (Ziervogel)
 - hardship may not be self-created (State ex rel. Markdale Corp. v. Board of Appeals)
 - property, as a whole, must be considered, not just a portion (State v. Winnebago County)
 - economic or financial hardship is not a justification (State v. Winnebago County)
- 2) Unique Property Limitations
 - limitations such as steep slope, wetland, shape or size that are not shared by other properties and prevent compliance with ordinance (State v. Kenosha BOA)
 - circumstances of the applicant, such as a growing family or the need for a larger garage, are not a factor in considering variances (Snyder)

- limitations common to a number of properties are not a justification (Arndorfer v. Sauk County BOA)
 - alternative designs and locations on the property have been investigated (State v. Winnebago County)
- 3) No Harm to Public Interest
 - ordinance purpose and intent, variance may not harm public interest (State v. Winnebago County)
 - only allow minimal relief for use of property, may include conditions (Robert M. Anderson, *American Law of Zoning*)

STAFF COMMENTS: Staff has the following comments related to this request:

1) Unnecessary Hardship

- Compliance is unreasonably burdensome as the property has a very limited area to build a new structure due to limited easement area.
- There is no short-term, long-term, and cumulative effect on the public interest. The new structure would meet the highway setback and not cause any visual interference. If the vacant lot were to be developed in the future, the lesser side yard relief would not create any negative effect.
- The hardship is not self-created. The 0.42 acres lot has been in existence since 1952 and was never owned by the Del Monte Foods, Inc.
- There are other possible sites to build a new storage shed. However, the purpose of the building is to cover the existing, exposed heater unit to protect it from the weather.
- The owner/applicant has mentioned economic or financial hardships in this case. However, staff feels it would be unreasonably burdensome to move the natural gas heater unit.

2) Unique Property Limitations

- There is no physical limiting factors located on this site. The lot to the east is creating the property limitation.
- The applicant's circumstances do not appear to be a factor in this variance request.
- It does appear that the subject site is unique as there is the small lot adjacent to the subject site causing the setback issue. Del Monte Foods, Inc. owns all the lands surrounding the small lot.
- The applicant has not investigated alternative sites because the purpose of the building is to protect the existing heater unit.

3) Harm to Public Interest

- There doesn't appear to be a harm to public interest as the highway setback is easily met. The proposed shed would not cause any visual obstruction for the public. The variance relief to the side yard setback does not appear to cause any future problems to the lot adjacent to its location.
- The request may be seen as minimal relief as the owner/applicant is proposing to place a shed over the existing heater unit. This shed is big enough to enclose the unit and not create any storage space within it.

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(Arndorfer v. Sauk County BOA)
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BOARD OF ADJUSTMENT STAFF REPORT

November 17, 2017

PUBLIC HEARING**ITEM I****VARIANCE****OWNER:**

Del Monte Foods Inc.

APPLICANT:WE Energies
Linda Kurtz

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GREEN LAKE COUNTY

VARIANCE APPLICATION

Provide the following information and any other detailed information related to the variance.

Date Received: 9-21-17

Fee Received: \$375

Del Monte Foods, Inc.

Linda Kuntz (Agent for WE Energies)

Owner Name

Applicant Name

Jay Ruengs 9/15/17
Owner Signature Date

Linda Kurtz 9-18-17
Applicant Signature Date

680 East John Street

1700 Industrial Drive

Markesan, WI. 53946

Green Bay WI 54302
City State Zip

Haus-Diu

Wavelength/Cell Phone

Home Pheno

York Cell Phone

Site Address 1866 County Rd S

Tax Parcel ID # 010 - 00108 - 0000

NW $\frac{1}{4}$, NE $\frac{1}{4}$, Section 8, T 14 N, R 13 E

Lot CSM # Town of Macksford

For the Board of Adjustment to grant a variance, the owner/applicant must clearly demonstrate that there is an unnecessary hardship present when strictly applying an ordinance standard; that the hardship is due to unique site limitations; and in granting a variance the public interest is being protected.

The burden of proof rest upon the property owner to show all 3 criteria are being met.

A variance is not a convenience to the property owner and should not be granted routinely.

Attach additional sheets, if necessary, to provide the information requested.

1. Explain your proposed plans and how they vary from the required dimensional standards:

Install an 8' x 15' x 9' tall building on a new concrete slab over the existing heater unit of a natural gas regulator station. The station is in a 62' by 100' easement in a property Zoned Industrial and has a 20' side yard setback. We propose to install the building 7' from the side yard, lot line.

2. Explain the hardship imposed by the Ordinance:

In recent years, it is becoming industry standard to increase the level of safety @ these sites. Having a building over the heater unit will add more security from potential vandals. The natural gas regulating equipment will be in a locked building within a locked fence. This will also reduce service calls to restart pilot lights, which are blown out by the wind. Maintenance staff will have reduced time spent in shoveling and thawing pipes, if the equipment is protected from the elements. The ordinance does not allow for these needs.

3. Describe unique property feature(s) that create the hardship:

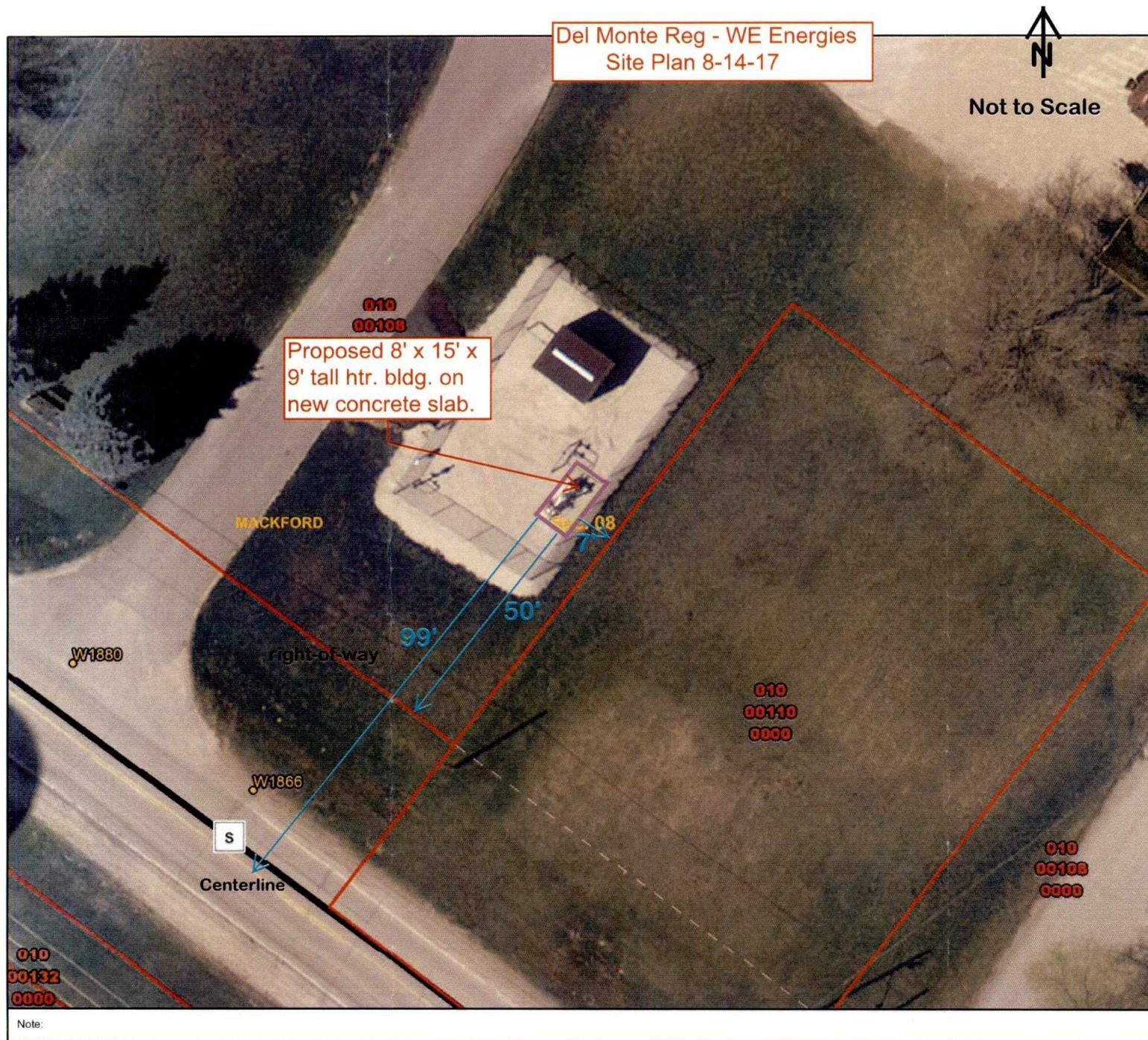
The easement area is small and is intentionally located near the street and property line ^{to the extent possible,} so as not to interfere with the property owners use of the land and so piping connections can run along public roadways. Unfortunately, the 20' setback would require a larger area of the owners property than what was agreed upon, and a great expense to move the existing heater unit. The associated expenses would be too great and a new property relocation would be needed.

4. Explain why the proposed variance will not harm the public interest:

A building at this location will not harm the public interest because it still meets the roadway setback and does not cause any health or visual nuisances. The abutting property is vacant land. There is an existing building on the site, which has not caused harm to public interest. The size of the proposed building is quite small and should not cause any harm to the environment in which it will be located.

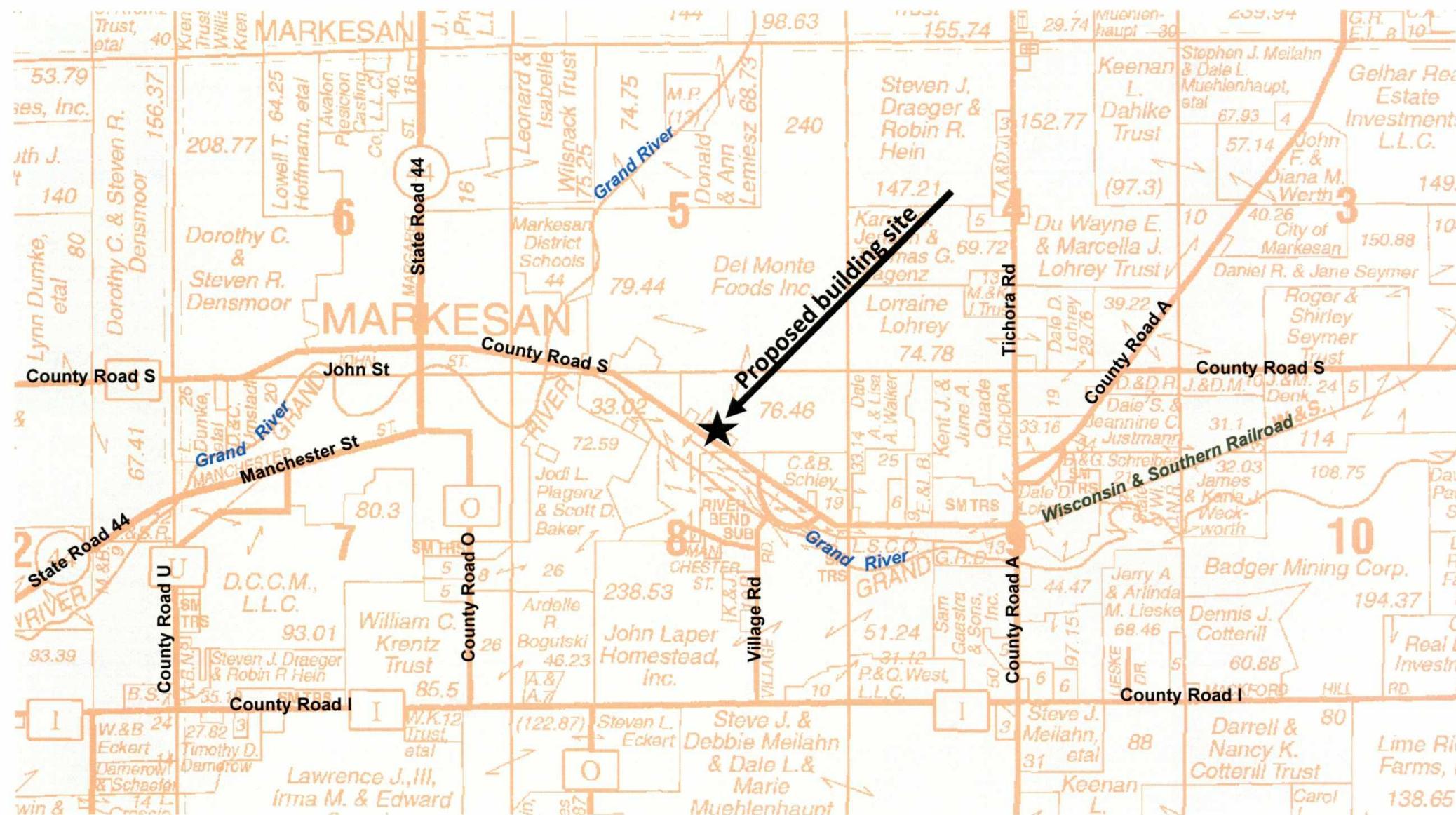
5. Explain why the property can not be utilized without a variance:

The property (easement area) can be utilized, but the ^{heater} equipment will have a shorter lifespan + require more frequent maintenance and will not be as safe without the heater building.



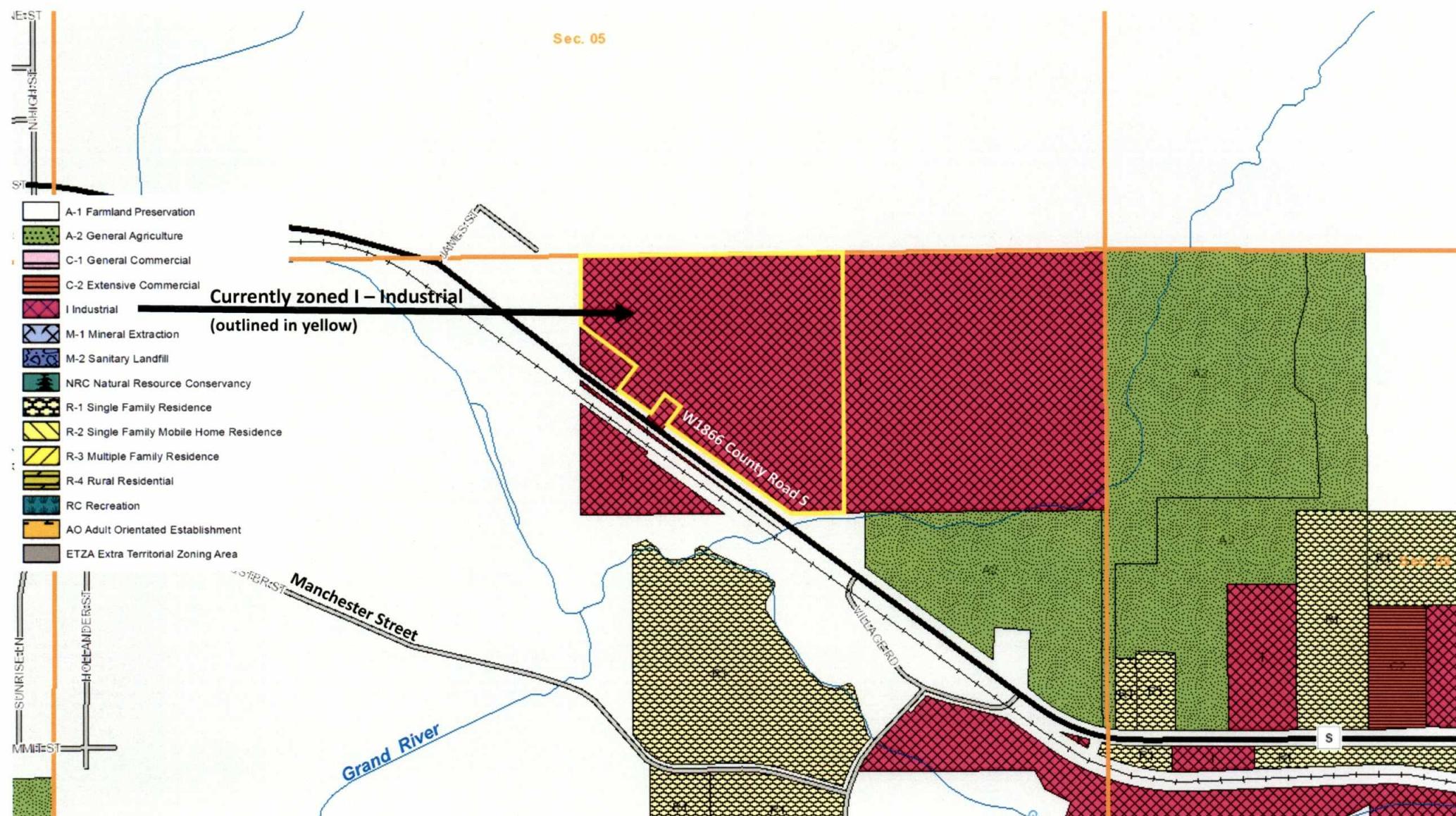
GIS Viewer Map
Green Lake County, WI

Owner: Del Monte Foods, Inc., Jay Ruenger, Plant Manager Applicant: Linda Kurtz, Agent for WE Energies, Mi-Tech Services, Inc.
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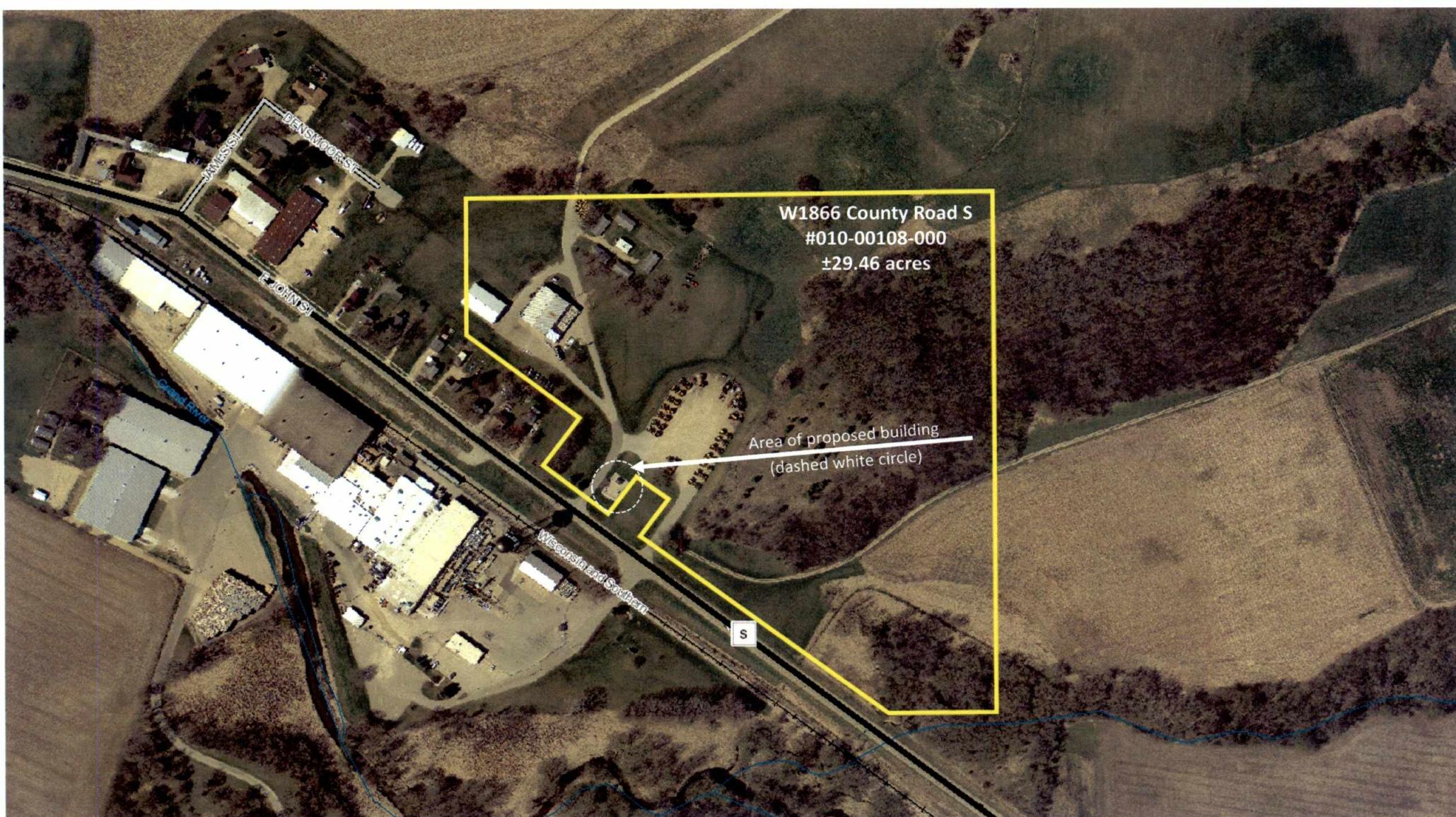
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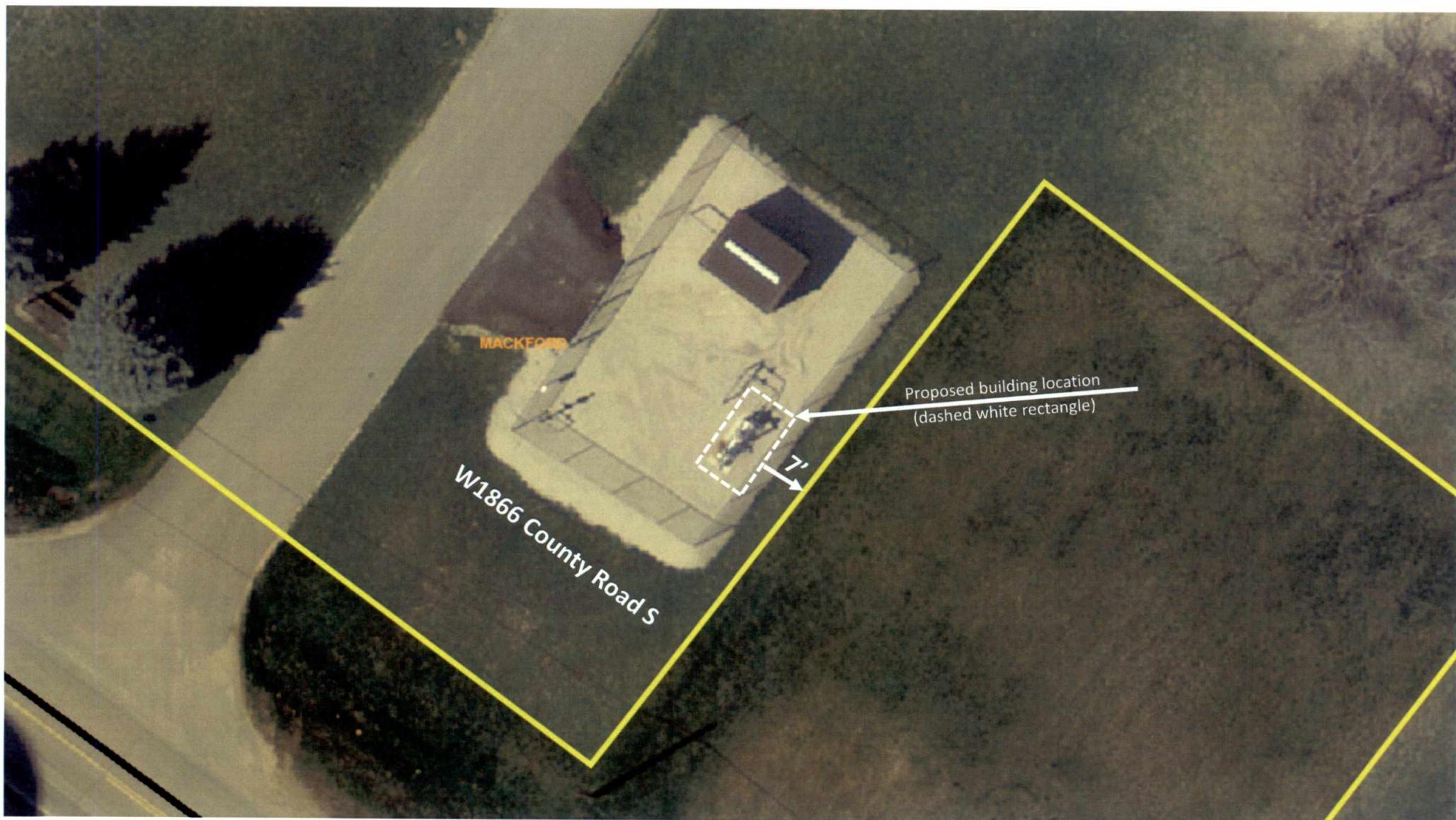
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