

MEETING: REGULAR MEETING OF THE BOARD OF ZONING APPEALS

DATE & TIME: Thursday, February 27, 2025 at 5:30 PM

**LOCATION: Germantown Village Hall Board Room
N112 W17001 Mequon Road**

NOTICE: Citizens not wishing to attend the meeting personally or virtually may submit any public comments by sending an email to comments@germantownwi.gov by 4 p.m. on the day of the meeting so that it can be provided to the members of the body for their consideration.

AGENDA

- I. **CALL TO ORDER:** *This meeting has been given public notice in accordance with Section 19.83 and 19.84, Wis. Stats, in such form that will apprise the general public and news media of subject matter that is intended for consideration and action.*
- II. **ROLL CALL:**
- III. **APPROVAL OF MINUTES:**
 - A. November 21, 2024
- IV. **PUBLIC HEARINGS:**
 - A. The purpose of said hearing will be to hear any and all parties, their attorneys, or agents, for or against an APPEAL OF AN ADMINISTRATIVE DETERMINATION OF THE PLAN COMMISSION filed by **OneEnergy Development LLC**, Appellant and Wayne Lutynski, Property Owner. The Plan Commission determination subject of this appeal was made on December 9, 2024, and resulted in the denial and resulted in the denial (a motion to approve failed) of a Site Plan application for the development and operation of a 30-acre, 6 megawatt solar energy conversion facility on the subject property in an A-1: Agricultural Zoning District.
- V. **ADJOURNMENT:**

UPON REASONABLE NOTICE, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, please contact the Village Clerk at (262)250-4745 at least 2 days prior to the meeting.

NOTICE OF PUBLIC HEARING

VILLAGE OF GERMANTOWN

NOTICE IS HEREBY GIVEN that a Public Hearing will be held before the Board of Zoning Appeals, Village of Germantown, WI:

Germantown Village Hall Board Room
N112 W17001 Mequon Road
Germantown WI 53022

Date and Time: **Thursday, February 27, 2025 - 5:30 P.M.**

THE PURPOSE of said hearing will be to hear any and all parties, their attorneys or agents, for or against an **APPEAL OF AN ADMINISTRATIVE DETERMINATION OF THE PLAN COMMISSION** filed by **OneEnergy Development LLC**, Appellant, and Wayne Lutynski, Property Owner. The Plan Commission determination subject of this appeal was made on December 9, 2024, and resulted in the denial (a motion to approve failed) of a Site Plan application for the development and operation of a 30-acre, 6 megawatt solar energy conversion facility on the subject property in an A-1: Agricultural Zoning District.

A copy of the application and supporting documents are on file in the Village Clerk's office and available for public inspection during the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday and can be viewed on the Village website under Legal Notices at:

<https://www.germantownwi.gov/>

Citizens wishing to submit any public comments may do so by sending them by email to: comments@germantownwi.gov no later than 4:00 pm on the meeting date listed above.

Date Submitted: February 5, 2025.

Donna Ott, Village Clerk

Dates Published: February 12, 2025 and February 19, 2025

VILLAGE OF GERMANTOWN
OFFICE OF THE VILLAGE CLERK
N112 W17001 MEOUON ROAD/ P. O. BOX 337
GERMANTOWN WI 53022-0337

HOW TO APPEAL TO THE ZONING BOARD OF APPEALS

- [] Fill out an application form available from the Village Clerk and attach supporting documents. (Survey of property showing location of structures, rendering of buildings, renderings of signs, etc.)
- [] File your appeal within 30 days after the date of written notice of order or decision from which the appeal/application is taken.
- [] Submit an application fee of \$570. This fee is used to pay costs of notice publication, mailings and other administrative costs.
- [] Allow a minimum of three weeks for your hearing date to be set. The Board of Zoning Appeals has set monthly meetings. If your application falls within the required time frame for notice, your appeal will be heard at the next meeting. If not, your application will be held over to the next meeting. This is due to State Law requiring two publications of the public hearing in the official paper. The last date for publication cannot be less than 7 days prior to the hearing. The official paper is published on Wednesday.
- [] You will receive from the Board Secretary a notice of public hearing, indicating the date, time and place of your hearing.
- [] Appear, at the hearing to explain the application and to answer any questions. You may appear personally or by an agent, and/or with an attorney.
- [] You will receive an official notice of decision of your appeal by "certified mail" within five (5) days following the meeting. The notice will show the date of filing in the Board's office should you wish to appeal the decision to Washington County Circuit Court.
- [] If your appeal is granted, substantial work must commence within six (6) months of the filing of the decision, or the variance will expire.
- [] If your appeal is denied, you may commence action in circuit court within 30 days of date of filing or file a revised permit application in accordance with the building and/or zoning requirements with the Zoning Administrator or Building Inspector.

VILLAGE OF GERMANTOWN
OFFICE OF THE VILLAGE CLERK
N112 W17001 MEOUON ROAD/P. O. BOX 337
GERMANTOWN WI 53022-0337

BOARD OF ZONING APPEALS
NOTICE OF APPEAL OR APPLICATION

Case No. _____
Filing Date _____
Fee Paid \$ _____
Hearing Date: _____
Notice Mailed: _____
Notices Published: ____/____

To: Board of Zoning Appeals
Village of Germantown, Wisconsin

NOTICE IS HEREBY GIVEN that the undersigned hereby (appeals for relief from a decision of an administrative official) (applies for the following described right or privilege) :

1. Appellant's or Applicant's Name: OneEnergy Development, LLC
Address: 10 N Livingston St. Ste 201 Madison, WI 53703
Phone No. : 262 573 3089

2. Appellant's or applicants' interest in property:
() Owner; () Tenant; () Mortgagee; (X) Agent.

3. Property Owner's Name: Wayne Lutynski
Address: W167N11183 Queens Ct. Germantown, WI 53022
Phone No.: 414 659 8901

4. Address of property: To be assigned. Approximately 43.257821°, -88.131597° parcels 092994, 092979, 091987, and 091986
Lot _____, Block _____, Tax Parcel No. GTNV _____, Zoning District: A-1

5. Present use of the property: Agricultural

6. Proposed use of the property: Solar electric generation facility

7. Previous Appeal or Application (if any)? Yes () No (X)

If YES, list date of hearing: _____ and Decision of previous hearing: _____

8. Identify the **PURPOSE** for this appeal or application. Please circle appropriate item below and provide the requested information. Attach a separate sheet, if necessary.

(a) Appeal of decision or order of Administrative Official and Request for Interpretation of Zoning/Building Code.

- 1. Date of decision or order:
December 9, 2024
- 2. Description of decision or order: Motion to approve failed by vote of 5 to 1.
- 3. Decision or order is erroneous because:
Please see attachment.

(b) Request for Variance of Zoning/Building Code.

- 1. Describe the requested variance and dimension of variance:

- 2. Explain how the Variance, IF granted, is consistent with the spirit, purpose and intent of the Code:

- 3. Describe the exceptional, extraordinary or unusual conditions or circumstances that apply specifically to this lot/parcel, use, structure, or intended use that **DO NOT** apply generally to other properties or uses in the SAME district:

- 4. Describe what special conditions exist which cause practical difficulty or unnecessary hardship, IF variance is NOT granted:

- 5. Explain why the variance **IS NECESSARY** for the preservation and enjoyment of substantial property rights possessed by other properties in the SAME district:

6. Explain how this variance, IF granted, **WILL NOT** create substantial detriment to adjacent property, **WILL NOT** be contrary to the public interest and **WILL NOT** endanger public safety and interest:

(c) Request for interpretation of regulations of the Zoning Code or the District boundaries of the Zoning Map.

1. List applicable section(s) of the Zoning Code: _____
2. Describe proposed use/activity/construction: _____

3. Explain reasons supporting requested action: _____

4. Has request been referred to Plan Commission? Yes () No ()
If YES, give recommendation of Plan Commission: _____

(d) Permission for Temporary Use Permit.

1. Describe use requested: _____
2. Proposed commencement date: _____
3. Proposed termination date: _____

(e) A determination that an unspecified or unclassified use is permitted in a Zoning District.

1. Describe use requested:

2. Attach copy of recommendation of Village Plan Commission.

(f) Permission to substitute a MORE restrictive non-conforming use for an existing non-conforming use.

1. Attach copy of recommendation of Village Plan Commission.
2. Attach copy of certification of Zoning Administrator to legality of present non-conforming use.

- 3. Date of commencement of present use: _____
- 4. Value of improvement on date use became non-conforming (attach documentation supporting value): \$ _____
- 5. Present value of all existing improvements, additions and alterations since date use became non-conforming (attach documentation): \$ _____

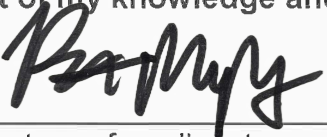
REQUIRED DOCUMENTATION

Each appeal or application must be accompanied by:

- A. Current plat or survey of the lot/parcel, with complete details of the site, dimensioned, elevation data, easements, existing and proposed physical features, yards and setbacks, etc.
- B. Attachments as outlined above.
- C. Filing fee(s)
- D. Copy of decision or order which is the basis of this appeal/application.
- E. Name and Address of counsel IF appellant/applicant elects to be represented by counsel.
- F. Any additional fee of \$ _____ to cover the administrative costs if a contested case is requested.

I hereby certify that the above application and/or appeal and all attachments hereto are true, correct and complete to the best of my knowledge and belief.

Dated: January 6, 2025



Signature of applicant or appellant

17.52 - BOARD OF ZONING APPEALS.

- (1) **MEMBERSHIP.** See section 1.30(1) of this Code.
- (2) **ORGANIZATION.** The Board of Zoning Appeals shall organize and adopt rules and procedure for its own government in accordance with the provisions of this chapter.
 - (a) *Meetings.* Meetings shall be held at the call of the chairman and shall be open, to the public.
 - (b) *Minutes.* Minutes of the proceedings and a record of all actions shall be kept by the secretary showing the vote of each member upon each question, the reasons for the Board's determination and its findings of fact. These records shall be immediately filed in the office of the Board and shall be a public record.
 - (c) *Concurring Vote.* (Am. Ord. #12-09) The concurring vote of a majority of the quorum of the Board shall be necessary to correct an error; grant a variance; make an interpretation; and permit a utility, temporary, unclassified or substituted use.
- (3) **POWERS.** The Board of Zoning Appeals shall have the following powers:
 - (a) *Errors.* To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator.
 - (b) *Variances.* To hear and grant appeals for variances as will not be contrary to the public interest when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship so that the spirit and purpose of this chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.
 - (c) *Interpretations.* To hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
 - (d) *Substitutions.* To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
 - (e) *Permits.* The Board may reverse, affirm wholly or partly modify the requirements appealed from, and may issue or direct the issuance of a permit.
 - (f) *Assistance.* The Board may request assistance from other Village officers, departments, commissions and boards.
 - (g) *Oaths.* The Chairman may administer oaths and compel the attendance of witnesses.
- (4) **APPEALS.** (Rep. & Recr. Ord. #2-94; Am. Ord. #19-96) Appeals of any administrative determination of the Zoning Administrator, the Building Inspector or the Plan Commission concerning the literal enforcement of this chapter and chapters 14 and 18 of this Code may be made by any person aggrieved or by any officer, department or board of the Village. Such appeals shall be filed with the Secretary within 30 days after receiving actual or constructive notice of the administrative decision or order or the granting of a permit by the Zoning Administrator, Building Inspector or Plan Commission. Such appeals and applications shall include the following:
 - (a) Name and address of the applicant.
 - (b) What administrative determination is being appealed and the basis for the appeal.
- (5) **HEARINGS.** The Board shall fix a reasonable time and place for the required public hearing and shall give notice as specified in section 17.53 of this chapter. At the hearing, the appellant or applicant may appear in person or be represented by an agent or attorney.
- (6) **FINDINGS.** No variance to the provisions of this chapter shall be granted by the Board unless it finds, beyond a reasonable doubt, that all the following facts and conditions exist and so indicates such in the minutes of its proceedings.

- (a) *Preservation of Intent.* No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use or conditional use in that particular district.
 - (b) *Exceptional Circumstances.* There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance should not be of so general or recurrent nature as to suggest that this chapter should be changed.
 - (c) *Hardships Not Grounds for Variance.* No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
 - (d) *Preservation of Property Rights.* The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - (e) *Absence of Detriment.* No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this chapter or the public interest.
- (7) **DECISION.** The Board shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, the Zoning Administrator and the Plan Commission.
- (a) *Conditions.* Conditions may be placed upon any zoning permit ordered or authorized by the Board.
 - (b) *Variations, Substitutions or Use Permits.* Variations, substitutions or use permits granted by the Board shall expire within 6 months unless substantial work has commenced pursuant to such grant.
- (8) **REVIEW BY COURT OF RECORD.** Any person aggrieved by any decision of the Board may present to a court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board.

State law references—Zoning board of appeals, Wis. Stats. §§ 61.35, 62.23(7)(e).

Chairperson Barry R. White
Zoning Board of Appeals
Village of Germantown
N112W17001 Mequon Rd.
Germantown, WI 53022

Via certified mail and e-mail.

**Appeal of OneEnergy Development, LLC
Before the Village of Germantown Board of Zoning Appeals**

OneEnergy Development, LLC (OneEnergy), by its attorneys Michael Best & Friedrich LLP, respectfully requests¹ that the Village Zoning Board of Appeals (Board of Appeals) reverse an erroneous decision (Final Decision) made on December 9, 2024,² by the Village of Germantown (Village) Plan Commission (Plan Commission) to deny OneEnergy’s application (Application) for a Site Plan Review to construct an approximately six-megawatt solar electric generation facility in the Village (Project).

The Plan Commission’s role was strictly limited to review of OneEnergy’s Site Plan for any defect in form or required information, any violation of village ordinances, or the inadequacy of utilities.³ OneEnergy presented all the information required – then Village staff recommended that the Plan Commission approve the Site Plan. In declining to approve the Site Plan, the Plan Commission failed to follow its legal mandate and committed multiple errors that warrant reversal of the Final Decision.

¹ This appeal is made pursuant to Village Zoning Ordinance §§ 17.43(8) and 17.52(3)(a).

² An appeal to the Board of Appeals “shall be filed with the Secretary within 30 days after receiving actual or constructive notice of the administrative decision or order or the granting of a permit by the Zoning Administrator, Building Inspector or Plan Commission.” See Village Zoning Ordinance § 17.52(4). This appeal was timely filed within 30 days of December 9, 2024.

³ Village Zoning Ordinance § 17.43(7).

First, the Plan Commission does not have authority under the Village’s ordinances to deny the Project’s Site Plan Review. Second, the Plan Commission acted beyond its limited authority to regulate solar energy by denying the Project’s Site Plan Review. Third, the Final Decision is unlawful because it is arbitrary and not rationally explained.

By not following the law or appropriately considering the facts, the Plan Commission has wasted taxpayer’s time, money, and resources with this additional process, and illegally tried to control a taxpayer’s property. Therefore, the Board of Appeals should protect the Village, reverse the Final Decision, and grant the Project’s Site Plan Review.⁴

1. The Plan Commission Does Not Have Authority Under the Village’s Ordinances to Deny the Project’s Site Plan Review.

The Village Zoning Ordinance states that denial by the Plan Commission of a site plan *“shall be limited to any defect in form or required information, or any violation of any provision of this chapter or any ordinance, or the inadequacy of any utility.”*⁵

The Plan Commission denied the Application without finding that it had any legal deficiencies. Nor could they have, since the Application complied with all requirements of the Zoning Ordinance and all other Village requirements, consistent with Village staff’s recommendation that the Application be approved. Specifically, Village staff acknowledged that *“the project complies with the A-1 District zoning standards. The solar array structures comply with setbacks, building height, and the proposed agricultural fence complies with code.”*⁶ The Plan

⁴ See Wis. Stat. § 62.23(7)(e)(8) (providing the Board of Appeals authority to issue permits, stating it may “reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit.”); see also Wis. Stat. § 61.35 (explaining that Wis. Stat. § 62.23 applies to Villages).

⁵ Village Zoning Ordinance § 17.43(7) (emphasis added).

⁶ Village Staff Report, Appendix B at 7.

Commission did not identify any errors with this interpretation, and as a result did not have discretion to deny the Application.

Moreover, section 17.12(1)(r) of the Village municipal code identifies Solar as a “permitted use” in the A-1 district. A “permitted use” is often referred to as a use by right. For example, in the RS-3 zone, single family housing is a permitted use.⁷ If the property owner follows all of the applicable building codes and regulations, the property owner has a vested right to build the home. In short, for permissive use, there is no “discretionary review” by the municipality, but only review for compliance with codes and standards. By attempting to exercise discretionary review over the Site Plan, the Village exceeded its authority under its own zoning ordinance. Therefore, the Board of Appeals should reverse the Final Decision and grant the Project’s Site Plan Review.

2. The Plan Commission Acted Outside of its Limited Authority to Regulate Solar Energy by Denying the Project’s Site Plan Review.

Even if the Plan Commission had discretion to deny the Application, its decision should be reversed because it exceeded its limited authority under State law to regulate solar energy. To protect individual property owner’s rights to develop their own solar power systems, the Wisconsin state legislature restricted the ability of local governments to regulate solar energy systems.⁸ As a result, a village may restrict a solar electric generation facility, either directly or in effect, only if the restriction (1) serves to preserve or protect the public health or safety, (2) does not significantly increase the cost of the project or significantly decrease its efficiency, or (3) allows for an alternative system of comparable cost and efficiency to the project.⁹ A village cannot impose a restriction that falls outside these three categories. For example, the City of Mequon

⁷ *Town of Rhine v. Bizzell*, 2008 WI 76, ¶ 19, 311 Wis. 2d 1, 751 N.W.2d 780.

⁸ *State ex rel. Numrich v. City of Mequon Board of Zoning Appeals*, 2001 WI App 88 ¶¶ 17-18, 242 Wis. 2d 677, 626 N.W.2d 366.

⁹ Wis. Stat. § 66.0401(1m)(a-c).

improperly denied a wind farm’s conditional use permit application where it alluded that the wind farm would negatively impact property values and neighborhood aesthetics.¹⁰ The City also improperly considered the wind farm’s compatibility with the city’s land use and development plans.¹¹ The evidentiary record showed that the City’s denial was based at least in part on considerations outside of Wis. Stat. § 66.0401(1m), and a court found the City therefore had exceeded its authority.¹²

The Plan Commission denied the Application for political reasons to appease vocal, public opposition to the Project; therefore, its decision was not based on relevant factors under Wis. Stat. § 66.0401(1m).¹³ For example, as evidenced in the transcript excerpt provided as Appendix A, Plan Commissioner Dean Wolter stated at the public hearing:

“[E]verybody that has contacted me or reached out or signed a petition, were against it. We're talking a 100 plus people, not only yet signed the petition, but have reached out in one way or another. I haven't received one in favor, not one. I want, um so it becomes hard for me as a representative to to [sic] get behind something that people are adamantly against. . . .”

Commissioner Wolter said he could not discount the concerns of residents who, based on “their research . . . feel”¹⁴ concerned about the Project’s potential impact on property values¹⁵ and

¹⁰ *State ex rel. Numrich*, 2001 WI App at ¶¶ 22-23 (discussing Wis. Stat. § 66.031, which is now Wis. Stat. § 66.0401, which applies to both wind and solar facilities).

¹¹ *Id.*

¹² *Id.* at ¶ 23.

¹³ The Plan Commission did not justify the Final Decision based on Wis. Stat. § 66.0401(1m)(b-c), and neither of these factors support the Final Decision. The Final Decision significantly decreases the Project’s efficiency because OneEnergy is not allowed to construct it. Wis. Stat. § 66.0401(1m)(b). The Final Decision does not allow for an alternative system of comparable cost and efficiency to the Project because OneEnergy does not have authority to construct a solar project in the Village. Wis. Stat. § 66.0401(1m)(c).

¹⁴ Appendix A at 2.

¹⁵ Appendix A at 2 (“Whether it be, you know of based on what they see for issues in regards to their research that they found about solar or how they feel what's gonna impact on investments that they've made in that area whether it's on their own property or their property value as a whole. and most of the people feel that it's gonna draw it down or present the negative impact for any future sales of property that are surrounding that area.”).

the environment.¹⁶ Wisconsin courts have found it improper to restrict a solar project because of factors outside the scope of Wis. Stat. § 66.0401(1m),¹⁷ such as property values and public opinion.

The Plan Commission tried to cover the tracks of its improper justification by claiming the Final Decision would preserve the “safety of the residents and the the [sic] kids within that area of the trucks going up and down.”¹⁸ However, no evidence was offered or considered in support of this safety concern. Village staff, as provided in Appendix B, supported approval of the Application¹⁹ without identifying any threats to public health or safety. Further, when the traffic concern was raised at the Plan Commission’s hearing, OneEnergy explained that the Project’s construction haul route will go away from the nearby school that the Plan Commission was concerned would see increased traffic.²⁰ Thus, the only evidence on this point in the record is that there is no legitimate basis for a concern over traffic safety. Nor is there any evidence the Project presents risks to public health or safety as compared to other types of approved construction projects. Even if there were a legitimate concern over traffic safety, those concerns must be addressed through reasonable conditions of approval, rather than outright rejection of the Project. These unsupported health and safety concerns were a *post-hoc* justification for the Final Decision’s transparent purpose: to avoid political backlash from the Project opposition.

The memorandum provided by the Village attorney to the Plan Commission, included as Appendix C, further supports a conclusion that the Final Decision was unlawful. The memorandum explained that the first factor in Wis. Stat. § 66.0401(1m) – whether a restriction serves to preserve or protect the public health or safety – is “the only possible area where a denial might meet the

¹⁶ Appendix A at 2 (explaining resident concerns about “negative long term what they feel are environmental impacts, from that facility.”).

¹⁷ See *State ex rel. Numrich*, 2001 WI App at ¶¶ 22-23.

¹⁸ Appendix A at 4.

¹⁹ Village Staff Report, Appendix B at 6, 9.

²⁰ Appendix A at 4.

statute.”²¹ The memorandum correctly noted, however, that the Project would not be a permitted use in the Village’s A-1 Agricultural District if it was unsafe in that area.²² The memorandum concluded that the Plan Commission could not deny the Application and instead could only impose standard restrictions, such as setbacks, height, and density.²³ The Plan Commission ignored the advice of its attorney and violated state law to appease the anti-solar advocates in attendance. The Board of Appeals should therefore reverse the Final Decision and grant the Project’s CSM and Site Plan Review because the Plan Commission acted outside of its limited authority to regulate solar energy.

3. The Final Decision Is Arbitrary and Not Rationally Explained in Violation of State Law.

Wisconsin courts reverse arbitrary municipal decisions on certiorari review.²⁴ An arbitrary decision is one that lacks a rational basis or results from unconsidered, willful, or unreasoned decision making.²⁵

The Plan Commission did not have a rational basis for denying the Application. The Final Decision was not based on fact or law – it was instead meant to quell the emotions of anti-solar advocates at its December 9, 2024, public meeting. The Plan Commission repeatedly referenced the feelings and unverified opinions of those opposing the Project as a basis for denial.²⁶ The Plan Commission’s public health and safety concerns are unsupported cover for the decision it felt was easiest and most politically beneficial – denying the Application to avoid facing a few vocal constituents. The Plan Commission provided a conclusory, one-sentence statement on health and

²¹ Appendix C at 2.

²² *Id.*

²³ *Id.* (“[T]he only regulations that appear to be acceptable under the statute and the zoning code would be those standard considerations when reviewing a site plan — setbacks, density, height, etc.”).

²⁴ *Ottman v. Town of Primrose*, 2011 WI 18, ¶ 35, 332 Wis. 2d 3, 796 N.W.2d 41.

²⁵ *Nelson Bros. v. DOR*, 152 Wis.2d 746, 757, 449 N.W.2d 328, 332 (Ct. App. 1989).

²⁶ Appendix A at 2.

safety only *after* it had made the Final Decision and OneEnergy asked for a basis of denial.²⁷ The Plan Commission had no evidence to support a finding that the Project would pose an unreasonable health or safety risk, and provided no explanation for its finding in the Notification of Action attached as Appendix D. To the contrary, the Plan Commission was presented with, and ignored, (i) evidence that OneEnergy has safely developed dozens of similar projects across the state and Midwest,²⁸ (ii) a recommendation from Village staff to grant the Application,²⁹ and (iii) advice from the Village attorney to grant the Application.³⁰ The Final Decision was not the product of reasoned decision making but was instead an unlawful imposition of the Plan Commission's will.

The Board of Appeals should therefore reverse the Final Decision, do its job, and grant the Site Plan Review.

Respectfully submitted on January 6, 2025.

MICHAEL BEST & FRIEDRICH LLP

Electronically signed by Jordan Hemaïdan

Jordan Hemaïdan

SBN#: 1026993

Alex Peterson

SBN#: 1119487

Orrie Walsvik

SBN#: 1118846

1 South Pinckney Street, Suite 700

Madison, WI 53703

jjhemaidan@michaelbest.com

alpeterson@michaelbest.com

orrie.walsvik@michaelbest.com

Attorneys for OneEnergy Development, LLC

²⁷ *Id.* at 2.

²⁸ Village Staff Report, Appendix B at 3 (“OneEnergy has a portfolio that includes implementation of solar energy projects across the country, including 42 projects in the Midwest and 31 of those being in Wisconsin.”).

²⁹ *Id.* at 8-9.

³⁰ Appendix C at 2.

APPENDIX A

Excerpt of transcript of Village of Germantown Plan Commission Meeting 12.9.2024

Wolter: You know, we have a very full room and it is probably for one of two items, whether it's this item or the next new business item, but everybody that has contacted me or reached out or signed a petition, were against it. We're talking a 100 plus people, not only yet signed the petition, but have reached out in one way or another. I haven't received one in favor, not one. I want, um so it becomes hard for me as a representative to get behind something that people are adamantly against, and have their reasons for it. Whether it be, you know of based on what they see for issues in regards to their research that they found about solar or how they feel what's gonna impact on investments that they've made in that area whether it's on their own property or their property value as a whole. and most of the people feel that it's gonna draw it down or present the negative impact for any future sales of property that are surrounding that area. And it's it's tough to to discount that and it's also it should not be ignored. So we know we're going to see others and others are gonna probably be but I'm gonna say cleaner or not in the sense of the energy produced, but cleaner in the sense of where it's being proposed and this one is right in the middle of kind of the worst area I can think of based what shares on Rockfield Road and how the town and the village come back forth in that area. I mean, if it was all within, you know, Germantown village or Germantown town, I think it could be better discussed, but it's its impacting the whole. And has a direct impact to the school district as well for being across the street from their building, but that isn't as much negatively because of most of the people that are are talking out are more concerned about property values, um and and negative long term what they feel are environmental impacts, from that facility. So I it's tough for me to get behind. I understand the reason behind it. I understand Mr. Lutynski's ability to do what he wants with his personal property and bring this forward, but this is really driving a wedge into the middle of that whole community, there are gonna be a lot of hard feelings and as a result of it would go through and be it approved. And that's unfortunate because overall, I think there's been a good build back of community and trust not only between the village and town because we've had our issues between each other, but it also um starts to drive that wedge of anti-solar so I don't know if we'll see others in other properties. I, you know, for what I saw on my excursion recently, there could be more, because there is a fair amount of farmland to the west of Freistadt Road, where these types facilities could be placed. This is the first one I wanted to make sure it was done correctly and had all the information presented. So that those that were even against it, at least understood it and understood what the requirements of this body is and what the restriction of what we can and can't approve. if you know, am I somewhat angry at the state for putting us in this position? I am. Because it's along the same lines of the cell tower issue, which where you got somebody coming in with a cell tower in somebody's backyard, and they don't wanna see it because they've looked out their on their window for 30 years and seen this pristine surrounding farmland and forest area to see this big 40 foot, hundred foot whatever cell tower out there. It's gonna be it's gonna be a change. So this is gonna be similar in fashion and I'm just I'm just torn at about how to go forward with it in the way that works, obviously it won't work for everybody because there's a large faction that just don't plain want it. So I it puts it in in a bad position you know, it is I understand positive impact, I I understand your

business and and you know how it works and and why has has certain value, but in this instance, it doesn't work for Germantown. and that's kind of how I gotta look at it and view it in regards to the position that I am. That's more of a comment than a question.

Baum: With that being said, how do you deal with the state statutes that say we have no choice but to approve it? How do we we reject it and we let the applicant file a law against us. or do we ...?

Wolter: They still need the past the DNR. There's a there's a pretty viable water source to the back of that property. they need to prove that they're not gonna impact. Oh you know, sometimes things like that need to be tested. For whatever reason, , because to me it's a big government pushing down on little government and they're not having to deal directly with the impacts of it, we do. And that's what's more frustrating than anything. Because they made decisions for me already, and they have no regards for where it is or how it impacts anybody else. It's just as we wanna do it because it's it's power and it supports power, and we've decided that only these three conditions can allow you to to refuse it, and I can't stand it when a larger governmental body does that to a smaller one. They did it with the smoking ban as well, you can't smoke in any public places, but you guys figure out how you want to handle the cost. I mean, you know, just puts the cost on at us. it's it's a mess that's really more just a vent for my own personal. satisfaction.

Baum: has your company and or is your company involved in any lawsuits right now where you sued a municipality for saying no to something like this in a community?

Murphy: The process for appealing a disapproved or denied conditional use permit involves legal action. So technically the answer to your question is yes.

Baum: how many?

Murphy: One.

Baum: Mequon?

Murphy: What? What was that? I apologize, what did you say?

Baum: Mequon? City of Mequon?

Murphy: No. No.

Baum: They're involved in an appeal process.

Wolter: further discussion, Mr. Ewert.

Ewert: Just to clarify the school schedule [unintelligible] 25 school year will start September 2, but would have staff occupying in the buildings with early as August 18. and would end this current school year so 2025, roughly the second week of June I don't know the day off the top of my head, but the second week of June to realistically August 15th is the 16th and 17th scheduled here. That weekend, if we're trying to fit it in that window, which sounds kind of schedule warm, and then just to lend credence to President Wolter's point, , potential further, proposals coming into the community, I could tell you as president of the school board. I received numerous solicitations for either rooftop or land. Proposals or you get a discussion that email result of energy, a is the way of use causes of the district, what might have cause of the financial, the screen potential unit of the district, nothing entertained at our end at this point, but I want to note that we are being [unintelligible] thirty acres and also to your point of additional developments, Lomira a nine hundred acre , solar farm[unintelligible] was a rather contentious to pay for that [unintelligible] .

Wolter: If you were proposing rooftops with any of the business here? I mean it would be a zero impact telling you're not taking free fields and making solar farms.. Trustee Baum?

Baum: Mr. Ewert, several years ago that you put an addition onto Rockfield school.

Ewert: We did, yeah.

Baum: Trucks went up and down Rockfield lane?

Ewert: I wasn't involved on the board [unintelligible]

Baum: They brought trucks with bricks and you know everything we're talking about here. The safety of children was brought into question, but they managed to do it with no one getting injured on the job. I'm sure there's a way to manage that process and it's done by the contractors, not [unintelligible].

Wolter: Further discussion, and a motion to approve, we're voting on the certified survey map, which combines a parcels and the site plan review for a 30 acre solar energy facility. No further discussion? All those in favor say Aye?

Baum: Aye

Wolter: Opposed? Raise your hands. Motion fails.

Murphy: What is the reason for the denial?

Wolter: Well, I don't if you would ask me and call me, my issue is the safety of the residents and the the kids within that area of the trucks going up and down. So the initial contracting of the and starting of the construction within that site. That's what my answer would be

Murphy: Even though the haul route goes away from the school?

Audience: all the buses go that way.

Wolter: Even if. Yes. I appreciate your time, I appreciate your presentation.

APPENDIX B

CERTIFIED SURVEY MAP (CSM) & SITE PLAN REVIEW

12/16/24 Village Board Meeting

OneEnergy Development, LLC / Wayne Lutynski

Village Staff Report & Recommendation

Germantown, Wisconsin

SUMMARY

OneEnergy Development, LLC, agent for Wayne Lutynski, property owner, is seeking approval of a Certified Survey Map (CSM) and site development plan to allow for an approximate 30-acre solar energy facility (i.e. "solar farm"). The site is zoned Agricultural (A-1) and is located at approximately N132 W18100 Rockfield Road in the Rural Preservation District.

Location: N132 W18100 Rockfield Road (Approximate Address)

Applicant/

Owner: OneEnergy Development, LLC
10 N Livingston Street, Suite 201
Madison, WI 53703

Wayne Lutynski
W167 N11183 Queens Court
Germantown, WI 53022

Zoning: A-1: Agricultural

Adjacent Land Uses		Zoning
North	Agricultural	A-1/A-2
South	Residential (Village & Town of Germ.)	RS-3/RS-4
East	Agricultural	A-1
West	Agricultural (Equestrian Center)	A-1



Background/Proposal

OneEnergy Development, LLC, agent for Wayne Lutynski, property owner, is seeking approval of a Certified Survey Map (CSM) and site development plan to allow for an approximate 30-acre solar energy project. The site is zoned Agricultural (A-1) and is located at approximately N132 W18100 Rockfield Road in the Rural Preservation District. As designated in the Comprehensive Plan institutional type uses are allowable in the Rural Preservation District, and the proposed use is a permitted use within the A-1 District requiring site plan review and approval.

As presented in the application, the proposed solar energy facility will consist of solar modules and associated collection equipment that delivers power to the electric grid serving local We Energies customers. The solar facility will have a capacity of six (6) megawatts (MW) capable of serving 1,400 average Wisconsin households. The on-site equipment will consist primarily of solar modules mounted on single-axis tracking racking. These panels generate direct current (DC) electricity. Approximately 24 inverters, situated throughout the array area, convert the DC electricity to alternating current (AC) electricity to allow it to be delivered to the existing electric distribution system. Two (2) transformers increase the AC voltage produced by the inverters to the grid voltage of the existing 3-phase distribution line to which the project connects.

The facility will be an unmanned plant that will operate through local and remote control and monitoring. The solar photovoltaic (PV) system will be monitored remotely through the Utility Energy Management System and the integrated Data Acquisition System (DAS), which signals alerts for any irregular operating condition. Scheduled maintenance will occur once annually to inspect all elements of the project to ensure optimal performance. After construction is complete (typically 4-6 months from start date and targeted for late 2025), there will be limited access to the site for periodic inspections (monthly), maintenance and vegetation management. Per submittal documents, the following are additional details associated with the proposal:

- Hours of Operation: The solar facility will operate during daylight hours. This facility will not be continuously staffed and will not be open to the public. It is anticipated that once construction is complete, operations and maintenance personnel (one or two people) will access the site once or twice per month for inspection or minor maintenance.
- Number of Employees: There will be no employees stationed at the facility. As noted in Item No. 1 above, one or two people will visit the site a once or twice each month for inspection and minor maintenance, as needed.
- Anticipated Customers: No customers will be served at the facility, and there will be no traffic associated with such customers. The renewable electricity generated from the facility will be used to serve the needs of local utility customers.
- Outside Storage: None proposed.
- Outdoor Activities: Inspection of the solar electric system and periodic maintenance as described above.
- Outdoor Lighting: No permanent outdoor lighting is proposed.
- Outside Loudspeakers: None.

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- Proposed Signs: The site will only include necessary safety signage with contact information for the Project Operations team and an entrance sign.
 - Trash Removal: There will not be trash generated at this site.

As it pertains to this proposal, the expected useful lifespan of the project is 30-50 years, meaning the project will be decommissioned and the site restored after there is no longer an economical reason for the solar facility to keep operating. Note that a Solar Generating Facility Decommissioning Plan was provided by the applicant and is attached. During the project's existence the property owner intends to continue farming the portion of land unaffiliated with the solar facility.

According to their website ([link](#)), "*OneEnergy is a Public Benefit Corporation with a mission to fight climate change by making clean energy the number one source of electricity for consumers and utilities.*" The company has five (5) listed office locations with a regional office in Madison, WI. OneEnergy has a portfolio that includes implementation of solar energy projects across the country, including 42 projects in the Midwest and 31 of those being in Wisconsin. More information on the company and their profile statistics are included in the attachments section.

Certified Survey Map (CSM)

The development site is currently comprised of four (4) parcels totaling 54 acres. The applicant submitted a Certified Survey Map (CSM) to combine the parcels to create one (1) lot for development purposes (i.e. applicable setbacks and development standards). Below are the parcels that would be combined into an individual lot:

- GTNV_091986 (10.0 Acres) – Vacant
- GTNV_091987 (8.37 Acres) – Vacant
- GTNV_092979 (20.0 Acres) – Vacant
- GTNV_092994 (16.0 Acres) – Existing Barn Structure

Site Plan

As indicated in the application and site plan, the proposed solar energy facility is approximately 30 acres in size and will contain the primary components of bifacial solar panels, inverters and transformers, access drive (16' width), perimeter 8' fencing, and vegetative screening. These components and additional details are spelled out further in this section.

Site & Land Use Summary

Total property acreage:	54.25
Solar facility acreage:	27.69
Access road acreage:	0.61
Module count:	11,960
Inverter count:	24
Solar Array Height:	8' (Average); 10' (Maximum)

Landscape and Buffering

The applicant submitted a landscape plan that includes vegetative screening along the southern boundary of the solar facility, running parallel to and on the outside of the perimeter fence/enclosed area. The screening is shown to run the entire width of the property with evergreen trees planted every 25'. It is understood the screening is proposed along the southern boundary of the facility as there are nearby homes, although several hundred feet away, to the south of the facility. The property to the west, which contains an equestrian center, is buffered by a natural tree line between the properties, while the properties to the north and east are large undeveloped plots of land. Finally, an 8' tall agricultural (i.e. deer-exclusion style) fence will enclose the site where the solar array panels are located.

Access and Traffic Circulation

Access to the site will be provided through a private driveway entrance (existing) from Rockfield Road. The drive will extend several hundred feet straight north from Rockfield Road until its terminus in the center of the solar panel area. The drive is proposed at 16' in width and made of aggregate material. Note that a separate property owner shares access to the driveway from Rockfield Road to gain entry into his/her private property where their home is located. The entry to this resident's property is roughly 80-100 feet north of Rockfield Road, meaning shared access is for that distance until the separate property owner's drive breaks off to the west.

Minimal traffic is anticipated in relation to the solar energy facility, as the applicant states the facility will not be continuously staffed and will not be open to the public. It is anticipated that once construction is complete, operations and maintenance personnel (one or two people) will access the site once or twice per month for inspection or minor maintenance. There will be no employees stationed at the facility and no customers will be served at the facility.

Vegetation Installation and Stormwater Management

The project proposal includes the installation of native prairie plants on site. A vegetation plan was submitted specifying that the site will be managed for native pollinator habitat after the construction of the solar arrays. According to the submitted vegetation plan, there are several benefits of pollinator habitats with native plantings on solar sites, including but not limited to the following:

- Restores soil by preventing erosion.
- Improves soil structure and fertility.
- Increases carbon storage.
- Diversifies microbial communities.
- Increase value of soil for future agricultural production.

In order to implement the pollinator habitat, the plan lays out site preparation tasks, temporary/permanent seeding timing, management and monitoring guidelines, which includes invasive species management. While native prairie plants are known to prevent stormwater runoff and improve surrounding water quality, the applicant is required to supplement the submitted vegetation plan with a stormwater management plan. The applicant will be required to submit a stormwater management plan subject to review

and approval by the Village Engineer prior to any construction activity or issuance of an Erosion Control Permit.

Utilities

As the purpose of this project is for the solar facility to produce and deliver power to the electric grid, there is a proposed point of connection with the electric grid at the site's entrance at Rockfield Road. Sanitary and water utilities are not needed/required to serve the proposed solar energy facility.

Signage Plan

Staff understands the only signage proposed is safety/wayfinding signage that includes contact information for the Project Operations team and an entrance sign.

Lighting

According to the application, no permanent outdoor lighting is proposed.

Recap/Update – 10/14/24 & 11/11/24 Plan Commission Meetings

This case was heard by the Plan Commission at its October 14 meeting, and the case was tabled/continued by the Plan Commission. During the meeting there was an abundance of questions from the Plan Commission, Town of Germantown, and the public, which the applicant responded to. For a summary of the discussion please refer to the meeting minutes from the 10/14 meeting, but for a list of the main questions brought up and the response provided by the applicant please see below:

- **Town of Germantown Road (Rockfield Road) and Potential Damages from Use**
“We often have a road agreement with jurisdictions in which we work, committing us to repair any damage caused by construction traffic. As part of this, we often have a haul route that all deliveries must follow, which usually minimizes traffic along subject Town roads... The haul route I drafted keeps trucks to the east of the project and uses about 0.5 miles of town road before turning onto county and state roads...”
- **Noise/Traffic During Construction and Consideration of the Nearby School**
“Project construction takes 4-6 months, and the majority of our work takes place over 2 months in the summer when school is not in session. We have natural limits to how many deliveries we can accept because of the number of staff on site. We can receive one or two trucks that are similar in size to a grain hauler delivering equipment per day. The greatest amount of traffic would be at the very beginning, with dump trucks hauling aggregate in to build the access drive, similar to constructing the access to a home that's set back a ways from the road. Long term, the project would have maybe one truck per month on the high side.”
- **Power Route and Ending Location**
“The electricity produced by the solar project would be used by the nearest load (i.e. the people who live and work near to the project). The electricity will connect to the existing distribution lines along Rockfield Road with minimal upgrades. The plan shows an underground medium voltage line connecting from the project to an existing pole just west of the existing driveway.”
- **Chemical Use to Clean Solar Panels and Potential Impact**

“The solar panels do not get cleaned because it rains frequently enough in this area that they do not experience significant soiling. Chemicals are not applied to the solar panels.”

- *Glare from Solar Panels*

“The Glare Analysis we submitted shows no glare. The solar panels track the sun, and any reflection would therefore be angled back at the sun and not at neighboring properties.”

- *Site Remediation Plan after Lease Contract*

“The project is required to be decommissioned at the end of its useful life or after any period of 12 months that it is not operational. This is guaranteed in the lease as well as our permit application materials. The Decommissioning Plan details the process for removal. These obligations are required of any future owner of the project, if for example OneEnergy went out of business or if the project was purchased by the utility company.”

After the public comment period and applicant responses to the questions asked, the Plan Commission tabled/continued the case and directed staff to engage with the Town of Germantown regarding a Road Use Agreement for Rockfield Road in consideration of the project implementation process. The direction provided by the Plan Commission was that all parties (Village, Town, and OneEnergy) shall be involved in formulating a Road Use Agreement, so Village staff and the applicant reached out to Town officials and provided a draft Road Use Agreement for their review.

The Plan Commission heard this case again at its November 11 meeting. Due to the fact no formal meeting had taken place between the aforementioned parties by that time, the Plan Commission tabled/continued the case again. Since then, Village and Town officials were able to meet and discuss the draft Road Use Agreement. At this time the Road Use Agreement remains under review but progress has been made in terms of the communication between the parties and concerns with the initial draft being conveyed to the applicant (OneEnergy) so they can be addressed.

Staff Comments

Community Development: Planning and Zoning

The project site is in the “Rural Preservation District” under the Village’s 2050 Comprehensive Plan and is zoned A-1 Agricultural. The Comprehensive Plan designation lists institutional type uses as allowable and the A-1 District is intended to provide for the continuation of general farming and related uses in those areas of the Village that are not committed to urban development. It is further the intent of the district to protect rural lands in the Village from urban development until their orderly transition into urban-oriented districts is required. Therefore, the proposed use of “solar energy conversion system” is a permitted use within the A-1 District.

Wisconsin has enacted statutes that protect solar development and limit municipal oversight. Wisconsin Statute § 66.0401 explicitly limits the authority of municipalities to regulate solar energy systems. Under Wis. Stat. § 66.0401(1m), municipalities may not place any restriction on the installation or use of solar energy systems unless the restriction satisfies one of the following conditions:

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- Serves to preserve or protect the public health or safety;
 - Does not significantly increase system cost or decrease efficiency; or
 - Allows for an alternative system of comparable costs and efficiency.

The above-mentioned statute is not superseded by municipal zoning powers. As proposed, however, the project complies with the A-1 District zoning standards. The solar array structures comply with setbacks, building height, and the proposed agricultural fence complies with code. While there is no applicable lot coverage standard in the A-1 District, there is little change to the amount of impervious surface quantity through implementation of the project.

OneEnergy has committed through its lease agreement with the landowner to remove the system at the end of the project life, including provisions to ensure that there is adequate financial security set aside to perform such decommissioning. When the project is decommissioned, all infrastructure will be removed, and the site will be restored to predevelopment conditions for continued agricultural use with rested and restored soils. Please see attached Decommissioning Plan.

Additionally, the applicant submitted a Glare Analysis performed by ForgeSolar. According to the analysis there was no glare found for all photovoltaic (PV) solar arrays.

Community Development: Inspection Services

State agency (DSPS) approved plans and a \$20,000 bond are required by Inspection Services. The Village of Germantown is an authorized delegated agent of DSPS to provide all commercial plan review and inspection services through SAFEBuilt of Wisconsin and the Village of Germantown.

Public Works/Village Engineer/Village Surveyor

The Village Engineer and Village Surveyor have identified technical issues and plan revisions that need to be resolved or otherwise addressed by the applicant prior to commencing construction activities. The applicant will be required to submit a stormwater management plan subject to review and approval by the Village Engineer prior to any construction activity or issuance of an Erosion Control Permit. Staff is recommending a condition requiring all outstanding items and issues identified in the following review memos be resolved and reflected in additional information and/or revised plans submitted to staff for further review, comment, and approval prior to commencing any site construction:

- September 14, 2024 – Review Memo from Village Surveyor
- September 25, 2024 – Review Memo from Village Engineer

Village Forester

After review of the landscape screening and vegetation plan, the Village Forester had one comment for the applicant to address as follows: “Include evergreen tree species selection, nursery stock selection, and caliper sizes. Additionally, include planting/tree installation specifications.” The applicant acknowledged this review comment and has submitted a response and revised plan for staff review.

Fire and Police Departments

The Fire Department is requiring an additional ingress/egress point to the solar facility on the northeast side. The additional access point can be provided by installing a gate per the Fire Department, which the applicant since has acknowledged and agreed to. No comments were made by the Police Department.

Legal

The Village received two (2) petitions in opposition of this project. The petitions have been signed and notarized and were submitted to the Plan Commission and Village Board. Both petitions are attached to this memo.

Staff has requested the Village Attorney to review each petition and advise if they have any legal impact or standing as it applies to the subject zoning applications. The attorney review is pending.

VILLAGE STAFF RECOMMENDATIONS

APPROVE the proposed 1-lot Certified Survey Map (CSM) for OneEnergy Renewables solar project located at approximately N132 W18100 Rockfield Road, subject to the following conditions:

1. All technical issues and corrections identified by the Village Surveyor (see September 14, 2024, memo from Bob Beilfuss, PLS) shall be addressed and reflected in a revised CSM reviewed and approved by Village staff prior to recording.
2. The CSM be revised to denote a front setback of 60' in accordance with the A-1 District. Any pre-existing structures found to be within this setback shall be noted as "nonconforming" on the CSM.

APPROVE the site development plan submitted by OneEnergy Development, LLC for a solar energy facility approximately 30 acres in size containing bifacial solar panels, inverters and transformers, access drive (16' width), perimeter 8' fencing, and vegetative screening for property located at approximately N132 W18100 Rockfield Road, subject to the following conditions:

1. This approval is for the plan sheets that comprise the site plan set as noted below and is subject to compliance with all the conditions and requirements set forth herein and subsequently adopted and/or revised by the Plan Commission. Approval is granted for the following unless superseded by subsequent plan sheets approved by Village Staff pursuant to revisions required herein and/or by the Plan Commission:
 - a. *Site Development Plan dated October 2, 2024.*
 - b. *Vegetative Screening Plan dated August 26, 2024.*

If revised plan sheets are necessary, each revised sheet shall contain the date of said revision clearly stamped in the lower right corner.

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2. The Vegetative Screening Plan shall be subject to final acceptance by the Village Forester and Community Development staff prior to commencement of construction.
 3. The technical issues and plan revisions identified in the September 25, 2024, memo from the Village Engineer shall be addressed in revised plan sheets and/or supplemental documents as necessary prior to commencing construction activities or issuance of an Erosion Control Permit.
 4. Site operations are limited to the proposed activity by the applicant per the submitted/attached "Solar Generating Facility Operations Plan".
 5. State agency (DSPS) approved plans and a \$20,000 bond are required by Inspection Services. The Village of Germantown is an authorized delegated agent of DSPS and may be used as an alternative to provide all commercial plan review and inspection services through SAFEBuilt of WI and the Village of Germantown.
 6. A gate shall be installed providing another ingress/egress point into the solar array facility on the northeast side of the development site. The gate installation and specifications shall be approved and inspected by the Fire Department prior to commencement of facility operations.
 7. Applicant shall install the agricultural/wildlife perimeter fence with openings at the bottom (i.e. at-grade) to allow greater wildlife movement.
 8. The maximum height of the solar array panels (i.e. structures) shall be 10' from established grade.
 9. All temporary and permanent exterior signs require a permit and shall comply with all current Village sign regulations and requires a permit if/when allowed.
 10. Applicant shall provide a commitment to the Village including provisions to ensure that there is adequate financial security set aside to perform the specified decommissioning of the project and any restoration needed to be performed to the shared access drive after construction of the project or its decommissioning. Said commitment shall be reviewed and approved/accepted by the Village Attorney.
 11. Applicant/company shall enter into (i.e. sign) a road use/maintenance agreement with/between the Town of Germantown and Village of Germantown specifying terms of use of Rockfield Road during the construction and implementation process for the project. Such agreement shall stipulate terms for any use of Class A weight vehicles on Rockfield Road and shall be approved/accepted by the Village Attorney prior to commencement of construction or issuance of any permits, including an Erosion Control Permit.
 12. Pursuant to Section 17.47 of the Zoning Code, if the Village observes and/or receives complaints regarding negative impacts associated with and/or created by construction activities or the facility's day-to-day operation on the property, including but not limited to glare, noise, or dust, among other things, the Property Owner/Operator shall work with the Village to identify the source of such impact(s), evaluate alternative mitigation measures, and implement a mutually-agreeable solution to mitigating the impact(s).

APPENDIX C



MEMORANDUM

TO: Plan Commission
FROM: Brian C, Sajdak, Village Attorney
DATE: December 6, 2024
RE: OneEnergy Development LLC Solar Farm Proposal

I have been asked to provide some input on two issues related to the OneEnergy solar farm proposal.

First, in the packet you will note that there is a petition included. The language of the petition suggests that there is some desire to have this considered as a protest petition under § 17.51(7) of the Municipal Code. However, in this case, the use of a protest petition is inapplicable. Under the code, a protest petition can be utilized when there is a change in a zoning district, or the regulations associated with a district. In this case, there is no change to the zoning district, nor is there any change to the regulations of a district. This proposal involves only the consideration of a permitted use within the A-1 District.¹ Because this does not qualify as a protest petition, there is no impact to the petition on the voting requirements, and a standard simple majority vote is all that is required.

The second issue centers on the impact of the Legislature's adoption of Wis. Stat. § 66.0401(1m). That provision provides:

No political subdivision may place any restriction, either directly or in effect, on the installation or use of a solar energy system, as defined in s. 13.48 (2) (h) 1. g., or a wind energy system, unless the restriction satisfies one of the following conditions:

- (a) Serves to preserve or protect the public health or safety.
- (b) Does not significantly increase the cost of the system or significantly decrease its efficiency.
- (c) Allows for an alternative system of comparable cost and efficiency.

Under this statute, the Legislature has significantly limited the ability of local governments to regulate solar energy projects. Indeed, the Courts have expressly held that even where a solar energy system is a conditional use that a plan commission is "duty bound to confine its consideration of the conditional use applications *in light of the restrictions placed on local*

¹ Note: In addition to the general inapplicability of protest petitions discussed above, the Legislature in 2023 Wis. Act 16 amended section 66.10015(3) of the Statutes to effectively prohibit protest petitions except in very rare circumstances (none of which are applicable here). This change goes into effect on January 1.

regulations pursuant to § [66.0401].” Numrich v. City of Mequon Board of Zoning Appeals, 2001 WI App 88, ¶23, 242 Wis. 2d 677, 626 N.W.2d 366 (emphasis in original). As such, even under a more strict conditional use review, any conditions placed on a solar energy proposal must meet those requirements. Here, however, the review is not even a conditional use review.

This is merely the consideration of an application for a permitted use. Under this standard, there are virtually no instances where denial of a permitted use would comply with the statute. Safety would be the only possible area where a denial might meet the statute (e.g., deny the application because of public safety concerns), however if the use was deemed unsafe why would it be permitted? Accordingly, the only regulations that appear to be acceptable under the statute and the zoning code would be those standard considerations when reviewing a site plan — setbacks, density, height, etc.

APPENDIX D



December 16, 2024

**NOTIFICATION OF ACTION
BY THE PLAN COMMISSION**

Meeting Date December 9, 2024
Applicant: OneEnergy Development – CSM & Site Plan
Address of Property: Approximately N132W18100 Rockfield Road

ACTION TAKEN:

Associate Planner Yanke went over the updates on this project, including information on the road use maintenance agreement for Rockfield Road. He stated there was a meeting between the Town and Village of Germantown where they presented concerns and comments about the agreement. Those concerns have been discussed with the Village Attorney and are currently under review. There were also 2 petitions included in the packet along with a memo from the Village Attorney addressing the petitions and discussing state law pertaining to the solar proposal. Trustee Baum read the Village Attorney's letter out loud.

Motion: Approve as presented

Motioned By: David Baum

Seconded By: William Shadid

Discussion Followed. Commission members asked questions regarding decommissioning, land condition after decommissioning, financial security clarification, drain tile damage, potential drainage issues including an increase in wetlands and how property tax is paid. Peter Murphy representing OneEnergy answered the questions. He also stated that they currently have 42 solar projects in Wisconsin, and they have maintained ownership of none, all were sold to utilities. This project is only 30 acres and is minimal compared to many others. They use local contractors for installation and grading and have their own personnel on site weekly. They have a pool of approved vendors that are used regularly. If there were an accident involving a contractor's vehicle, then their insurance would cover that. He stated that construction takes 4-6 mos, the majority of which occurs when school is not in session. Construction would start as early as May, or they would be amenable to a condition delaying the start of the project until school is out for the summer. He has reached out to landowners next door to their projects, and they have not been affected negatively. In fact, there is more wildlife, natural habitat, and they are pleased they are not getting a housing development, shipping facility or other noisy business moving in next door. President Wolter stated that everyone who had reached out to him was against this project, he had not received one in favor. This is similar to cell phone towers in that respect. Baum asked how we deal with state statutes that say we have no choice but to approve? We reject it and let the applicant file a lawsuit against us? President Wolter stated that the DNR still has to approve this and there is a waterway through that area, and he feels it might not get approved by them. Peter stated the process if denied does include legal action.

Staff recommends to APPROVE the proposed 1-lot Certified Survey Map (CSM) for OneEnergy Renewables solar project located at approximately N132 W18100 Rockfield Road, subject to the following conditions:

1. All technical issues and corrections identified by the Village Surveyor (see September 14, 2024, memo from Bob Beilfuss, PLS) shall be addressed and reflected in a revised CSM reviewed and approved by Village staff prior to recording.
2. The CSM be revised to denote a front setback of 60' in accordance with the A-1 District. Any pre-existing structures found to be within this setback shall be noted as "nonconforming" on the CSM.

Staff recommends to APPROVE the site development plan submitted by OneEnergy Development, LLC for a solar energy facility approximately 30 acres in size containing bifacial solar panels, inverters and transformers, access drive (16' width), perimeter 8' fencing, and vegetative screening for property located at approximately N132 W18100 Rockfield Road, subject to the following conditions:

1. This approval is for the plan sheets that comprise the site plan set as noted below and is subject to compliance with all the conditions and requirements set forth herein and subsequently adopted and/or revised by the Plan Commission. Approval is granted for the following unless superseded by subsequent plan sheets approved by Village Staff pursuant to revisions required herein and/or by the Plan Commission:

a. Site Development Plan dated October 2, 2024.

b. Vegetative Screening Plan dated August 26, 2024.

If revised plan sheets are necessary, each revised sheet shall contain the date of said revision clearly stamped in the lower right corner.

2. The Vegetative Screening Plan shall be subject to final acceptance by the Village Forester and Community Development staff prior to commencement of construction.

3. The technical issues and plan revisions identified in the September 25, 2024, memo from the Village Engineer shall be addressed in revised plan sheets and/or supplemental documents as necessary prior to commencing construction activities or issuance of an Erosion Control Permit.

4. Site operations are limited to the proposed activity by the applicant per the submitted/attached "Solar Generating Facility Operations Plan".

5. State agency (DSPS) approved plans and a \$20,000 bond are required by Inspection Services. The Village of Germantown is an authorized delegated agent of DSPS and may be used as an alternative to provide all commercial plan review and inspection services through SAFEBuilt of WI and the Village of Germantown.

6. A gate shall be installed providing another ingress/egress point into the solar array facility on the northeast side of the development site. The gate installation and specifications shall be approved and inspected by the Fire Department prior to commencement of facility operations.

7. Applicant shall install the agricultural/wildlife perimeter fence with openings at the bottom (i.e. at-grade) to allow greater wildlife movement.

8. The maximum height of the solar array panels (i.e. structures) shall be 10' from established grade.

9. All temporary and permanent exterior signs require a permit and shall comply with all current Village sign regulations and requires a permit if/when allowed.

10. Applicant shall provide a commitment to the Village including provisions to ensure that there is adequate financial security set aside to perform the specified decommissioning of the project and any restoration needed to be performed to the shared access drive after construction of the project or its decommissioning. Said commitment shall be reviewed and approved/accepted by the Village Attorney.

11. Applicant/company shall enter into (i.e. sign) a road use/maintenance agreement with/between the Town of Germantown and Village of Germantown specifying terms of use of Rockfield Road during the construction and implementation process for the project. Such agreement shall stipulate terms for any use of Class A weight vehicles on Rockfield Road and shall be approved/accepted by the Village Attorney prior to commencement of construction or issuance of any permits, including an Erosion Control Permit.

12. Pursuant to Section 17.47 of the Zoning Code, if the Village observes and/or receives complaints regarding negative impacts associated with and/or created by construction activities or the facility's day-to-day operation on the property, including but not limited to glare, noise, or dust, among other things, the Property Owner/Operator shall work with the Village to identify the source of such impact(s), evaluate alternative mitigation measures, and implement a mutually-agreeable solution to mitigating the impact(s).

Result of Motion:

Yes: David Baum

No: Dean Wolter, Josh Tarantino, Robert Williams, William Shadid, Bridget Henk

Abstain: None

Motion Failed (Yes 1, No 5, Abstained 0)

The above actions and conditions are excerpts from the Plan Commission meeting minutes which will be formally approved at the next regularly scheduled meeting.

Sincerely,

Deb Remich
Administrative Coordinator

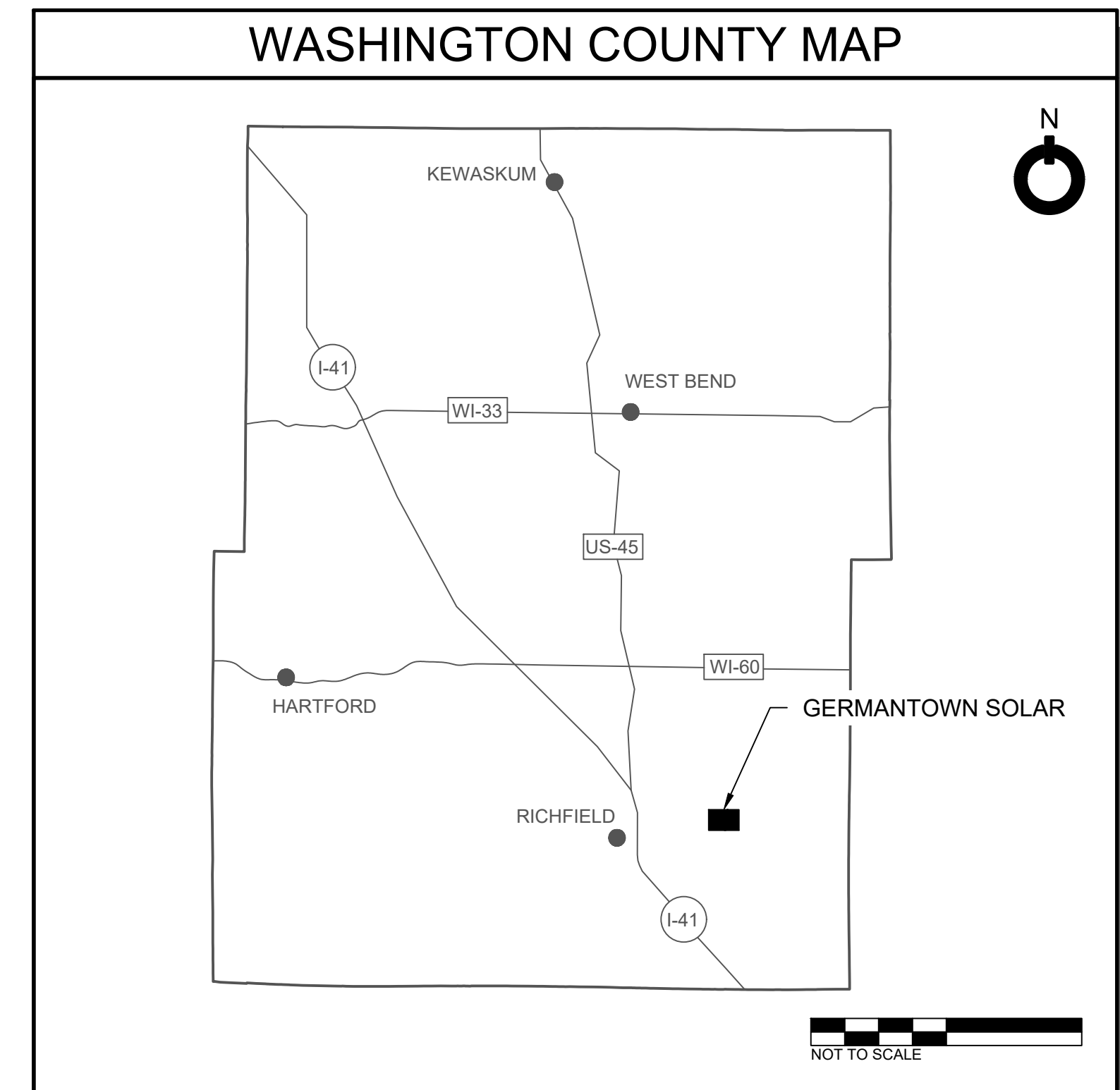
APPENDIX E

GERMANTOWN SOLAR

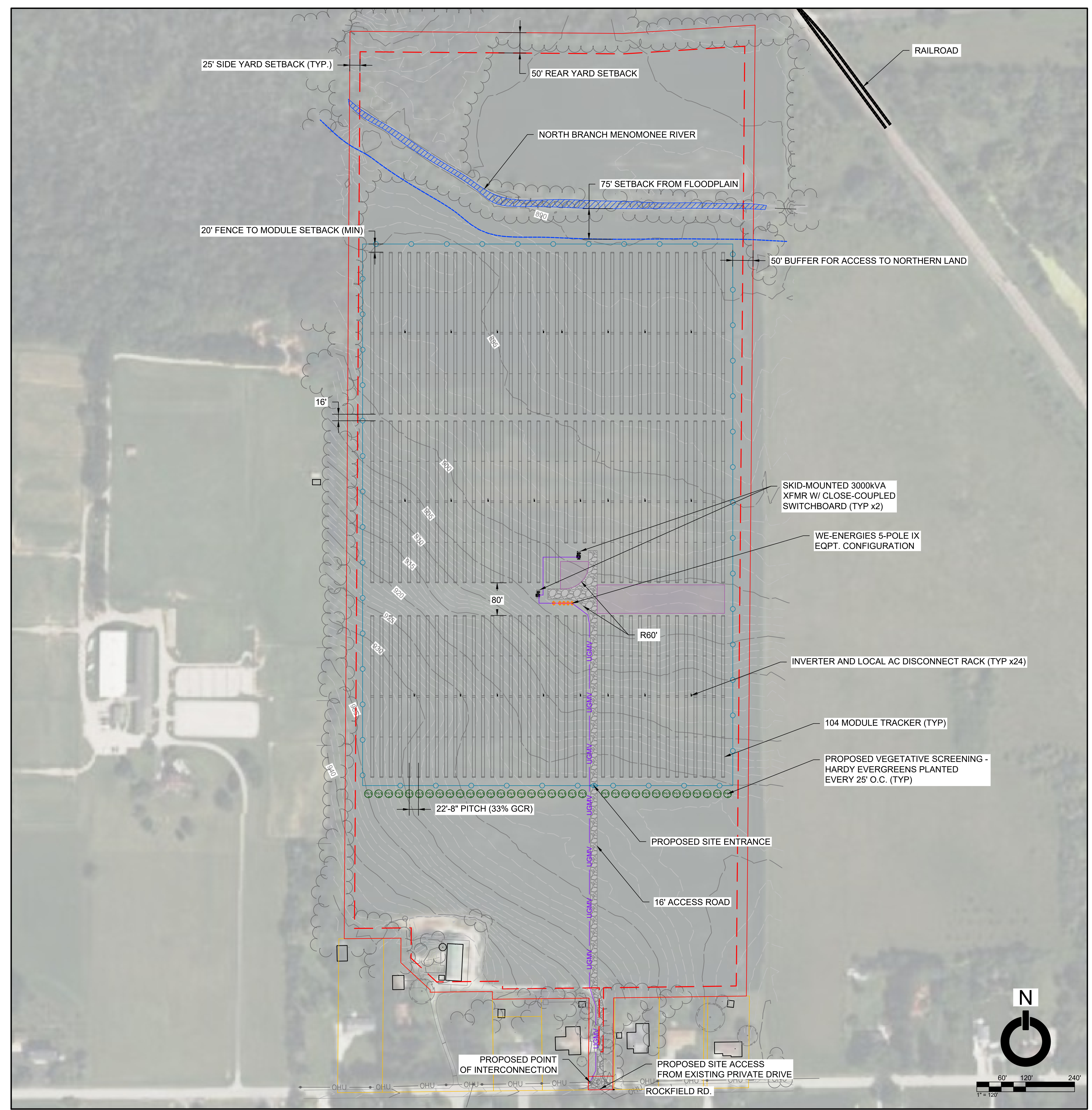
WASHINGTON COUNTY, WISCONSIN

SOLAR PV PROJECT
6.877 MWDC / 6.000 MWAC

LEGEND	
	PROJECT AREA PARCEL BOUNDARY
	ZONING SETBACK
	RIGHT-OF-WAY
	NEIGHBORING PARCEL
	TREELINE (E)
	FEMA FLOODPLAIN
	FLOODPLAIN SETBACK
	PERIMETER FENCE (P)
	GRAVEL ACCESS ROAD
	STAGING AREA
	UG MV
	OH ELECTRICAL (P)
	OH ELECTRICAL (E)
	UTILITY POLE (E)
	UTILITY POLE (P)



PROJECT DETAILS			
THIS PROJECT CONSISTS OF THE DESIGN AND INSTALLATION OF 6.000 MWAC SOLAR PHOTOVOLTAIC SYSTEM. MODULES ARE TO BE MOUNTED IN A SINGLE AXIS TRACKERS, WHICH FOLLOW THE SUN FROM EAST TO WEST THROUGHOUT THE DAY.			
SITE DETAILS:		DESIGN SUMMARY:	
PARCEL ID	092994, 092979, 091987, 091986	MODULE POWER:	575 W
OWNER:	WAYNE LUTYNSKI	MODULE COUNT:	11960
ACREAGE:	54.25	ARRAY DC VOLTAGE:	1500 V
EXISTING ZONE:	A-1	INVERTER SIZE:	250 kW / 250 KVA
		INVERTER COUNT:	24
		DC SIZE:	6.877 MWdc
		AC SIZE:	6.000 MWac
		DC/AC RATIO:	1.146
		GROUND COVERAGE RATIO:	33.0 %
		ASCE 7-16 GSL:	30 PSF
		ASCE 7-16 WIND SPEED:	100 MPH
LAND USE SUMMARY:			
TOTAL PARCEL AREA (ACRES):	54.25		
TOTAL LEASED AREA (ACRES):	TBD		
TOTAL FENCED AREA (ACRES):	27.69		
GRAVEL ACCESS ROAD (ACRES):	0.61		
LAYDOWN AREA (ACRES):	0.59		
ADDITIONAL NOTES:			
<ul style="list-style-type: none"> BASEMAP DEVELOPED FROM ALTA FIELD SURVEY PARCEL DATA TAKEN FROM ALTA FIELD SURVEY FEMA FLOOD HAZARD ZONE FROM GIS DATA 			



2003 Western Ave, Suite 225
Seattle, WA 98121
oneenergyrenewables.com
206 922 7072

WRITTEN DIMENSIONS ON THIS PLAN SHALL SUPERCEDE SCALED DIMENSIONS. CONTRACTORS ARE RESPONSIBLE FOR FIELD VERIFYING ALL DIMENSIONS. THIS DRAWING, DESIGN, CONCEPT AND ARRANGEMENT REMAIN THE PROPERTY OF ONEENERGY RENEWABLES AND SHALL NOT BE COPIED, DISCLOSED OR REPRODUCED WITHOUT CONSENT.

REVISION LOG					
REV	DESCRIPTION	DATE	BY	CK'D	SME
00	EPC BID SUBMITTAL	07/26/2024	JL	AC	
01	DEVELOPMENT LAYOUT	08/23/2024	AMB	AK	

PRELIMINARY
NOT FOR CONSTRUCTION

GERMANTOWN SOLAR
ONEENERGY RENEWABLES
43.257821° -88.131597°
WASHINGTON COUNTY, WISCONSIN

SHEET TITLE:
DEVELOPMENT LAYOUT

SHEET NO:
D-100

APPENDIX F

ALTA/NSPS LAND TITLE SURVEY

The East 1/2 of the Northeast 1/4 of the Northwest 1/4 of Section 9, Township 9 North, Range 20 East, in the Village of Germantown, Washington County, Wisconsin.
 The East 1/2 of the Southeast 1/4 of the Northwest 1/4 of Section 9, Township 9 North, Range 20 East, in the Village of Germantown, Washington County, Wisconsin, EXCEPTING THEREFROM the following:
 1. That portion thereof heretofore conveyed to Elmer J. Marks and Eileen Marks, his wife as described by deed recorded in the Washington County Registry in Volume 194 of Deeds, on Page 319, as Document No. 219938.
 2. That portion thereof heretofore conveyed to William Kuhn and Alma Kuhn, his wife, as described by deed recorded in the Washington County Registry in Volume 205 of Deeds, on Page 282, as Document No. 228556.
 3. That portion thereof heretofore conveyed to George J. Schmidt and Eileen Schmidt, his wife as described by deed recorded in the Washington County Registry in Volume 212 of Deeds, on Page 486, as Document No. 234717.
 4. That portion thereof heretofore conveyed to Robert J. Kunert and Eleanor B. Kunert, his wife as described by deed recorded in the Washington County Registry in Volume 320 of Records, on Page 565, as Document No. 243864.
 5. That portion heretofore conveyed to Wm. F. Altenbach et al, as described by deed recorded in the Washington County Registry in Volume 306 of Records, on Page 165, as Document No. 237557.

The West 1/4 of the Northwest 1/4 of the Northeast 1/4 of Section 9, Township 9 North, Range 20 East, in the Village of Germantown, Washington County, Wisconsin.
 The West 1/4 of the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 9 North, Range 20 East, in the Village of Germantown, Washington County, Wisconsin, EXCEPTING THEREFROM the following:
 1. That portion thereof heretofore conveyed to Martin E. Hoelz and Mae Hoelz, his wife as described by deed recorded in Washington County Registry in Volume 335 of Records, on Page 46, as Document No. 249958.
 2. That portion thereof heretofore conveyed to Wm. F. Altenbach et al, as described by deed recorded in the Washington County Registry in Volume 306 of Records, on Page 165, as Document No. 237557.
 3. That portion thereof heretofore conveyed to Martin E. Hoelz and Mae Hoelz, his wife as described by deed recorded in the Washington County Registry in Volume 406 of Records, on Page 465, as Document No. 281739.
 4. That portion thereof heretofore conveyed to George A. Moersfelder and Anita S. Moersfelder, his wife, as described by deed recorded in the Washington County Registry in Volume 406 of Records, on Page 576, as Document No. 281814.

Property Address: Rockfield Road, Germantown, WI 53022
 Tax Key Number: GTNV-092-994, GTNV-092-979, GTNV-091-987 and GTNV-091-986

Prepared for: Dheinsville Solar WI, LLC
 Survey No. 169429-RMK

A. Basis of Bearings
 Bearings are based on the East line of the Northwest 1/4 of Section 9-9-20, which bears South 00°29'34" West, Wisconsin County Coordinate System, Washington County.

B. Title Commitment
 This survey was prepared based on Knight Barry Title Advantage LLC, underwritten by First American Title Insurance Company title commitment number 2278055, commitment date June 20, 2024, which lists the following easements and/or restrictions from schedule B-II:

- 1-6-8. Visible evidence shown, if any.
- 2-5, 9-10, 15-16. Not survey related.
11. Public or private rights, if any, in such portion of the Land as may be presently used, laid out, or dedicated in any manner whatsoever, for street, highway and/or alley purposes. Lies within or crosses the surveyed property - its location is shown.
12. Rights of the public in any portion of the Land lying below the ordinary high water mark of creek, and rights of the government to regulate the use of the shore and riparian rights. This Commitment and/or Policy does not insure the exact location of any portion of the Land created by gradual buildup of the shore (accretion) or the lowering of the water level (reliction), or the title to land cut off by a change in the course of the water body (avulsion), or to artificially filled land. Lies within or crosses the surveyed property - ordinary high water mark of creek not surveyed, North Branch Menomonee River is shown.
13. Pole Line Rights and other matters contained in the instrument recorded June 11, 1926 in Volume 101, Page 209 as Document No. 136125. Lies within or crosses the surveyed property - it is a blanket easement - its location is not shown.
14. Roadway Easement and other matters contained in the instrument recorded June 28, 1957 in Volume 306, Page 149 as Document No. 237556. Lies within or crosses the surveyed property - its location is shown.

C. Flood Note
 According to flood insurance rate map of Washington County, community panel number 55131C0269E, effective date of 2/25/2022, this site falls in zone X (areas determined to be outside the 0.2% annual chance floodplain) an AE (special flood hazard areas with BFE or Depth).

D. Elevations
 Elevations refer to NAVD88 Datum.

E. Municipal Zoning
 The zoning information listed is taken from the Village of Germantown website - site is zoned A-1 - Agricultural District

Front setback - 60'
 Side yard setback - 25', except 50 feet for bee hives and buildings used for keeping livestock and poultry, and all new buildings constructed after the effective date of the zoning code.
 Rear yard setback - 50'
 Maximum height - 45', except barns, elevators, grain dryers and silos

F. Notes
 As to Table A Item 11
 Surveyor's responsibility to coordinate markings shall be limited to one marking request to 811 (national "call before you dig" number) based on the property address, as provided by the client.
 Note to the client, insurer, and lender - With regard to Table A, item 11, information from the sources checked within will be combined with observed evidence of utilities pursuant to Section 5.E.iv. to develop a view of the underground utilities. However, lacking excavation, the exact location of underground features cannot be accurately, completely, and reliably depicted. In addition, in some jurisdictions, 811 or other similar utility locate requests from surveyors may be ignored or result in an incomplete response.
 As of the field date indicated below in certificate (most recent site visit/inspection), it appears some underground utilities were not marked. This affected the surveyor's assessment of the location of the utilities resulting in partial illustration and/or mapping per plan. Where additional or more detailed information is required, the client is advised that excavation may be necessary.

There is no visible evidence of recent earth moving work, building construction or building additions observed in the process of conducting the fieldwork.

There are no proposed changes in street right of way lines, if such information is made available to the surveyor by the controlling jurisdiction or observed in the process of conducting the fieldwork.

There is no visible evidence of recent street or sidewalk construction or repairs observed in the process of conducting the fieldwork.

There are no parking space on this property.

There are no offsite easements.

To: Dheinsville Solar WI, LLC; Wayne Lutynski; Knight Barry Title Advantage LLC; First American Title Insurance Company

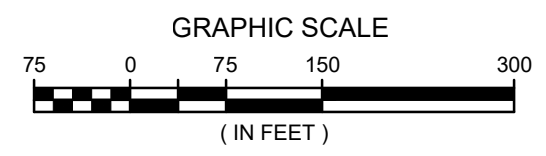
This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Delta Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS and includes items 1, 2, 3, 4, 5, 6(a), 6(b), 7(a), 8, 11(a), 11(b), 13, 14, 16, 17, 18, 19 and 20 of Table A thereof. The fieldwork was completed on July 31, 2024.

Date of Plat or Map: August 1, 2024

I CERTIFY, that this survey was prepared under my supervision and is correct to the best of my professional knowledge and belief and complies with Chapter A-E 7 of the Wisconsin Administrative Code.



Michael J. Ratzburg
 Michael J. Ratzburg
 Professional Land Surveyor
 Registration Number S-2236
 michael.ratzburg@rasmith.com



16745 W. Bluemound Road
 Brookfield, WI 53005-5938
 (262) 781-1000
 rasmith.com

LEGEND

- BOLLARD
- ⊕ SOIL BORING/MONITORING WELL
- ⚡ FLAGPOLE
- ✉ MAILBOX
- SIGN
- ⊠ AIR CONDITIONER
- ⊠ CONTROL BOX
- ⊠ TRAFFIC SIGNAL
- ⊠ CABLE PEDESTAL
- ⊠ POWER POLE
- ⊠ GUY POLE
- ⊠ GUY WIRE
- ⊠ LIGHT POLE
- ⊠ SPOT/YARD/PEDESTAL LIGHT
- ⊠ HANDICAPPED PARKING
- ⊠ PULL BOX
- ⊠ ELECTRIC MANHOLE
- ⊠ ELECTRIC PEDESTAL
- ⊠ ELECTRIC METER
- ⊠ ELECTRIC TRANSFORMER
- ⊠ TELEPHONE MANHOLE
- ⊠ TELEPHONE PEDESTAL
- ⊠ UTILITY VAULT
- ⊠ GAS VALVE
- ⊠ GAS METER
- ⊠ GAS WARNING SIGN
- ⊠ STORM MANHOLE
- ⊠ ROUND INLET
- ⊠ SQUARE INLET
- ⊠ STORM SEWER END SECTION
- ⊠ SANITARY MANHOLE
- ⊠ SANITARY CLEANOUT OR SEPTIC VENT
- ⊠ SANITARY INTERCEPTOR MANHOLE
- ⊠ MISCELLANEOUS MANHOLE
- ⊠ IRRIGATION CONTROL BOX
- ⊠ WATER VALVE
- ⊠ HYDRANT
- ⊠ WATER SERVICE CURB STOP
- ⊠ WATER MANHOLE
- ⊠ WELL
- ⊠ WATER SURFACE
- ⊠ WETLANDS FLAG
- ⊠ MARSH
- ⊠ CONIFEROUS TREE
- ⊠ DECIDUOUS TREE
- ⊠ SHRUB
- EDGE OF TREES
- SANITARY SEWER
- STORM SEWER
- WATERMAIN
- MARKED GAS MAIN
- MARKED ELECTRIC
- OVERHEAD WIRES
- BUREAU ELEC. SERV.
- MARKED TELEPHONE
- MARKED CABLE TV LINE
- MARKED FIBER OPTIC
- UTILITY PER PLAN
- INDICATES EXISTING CONTOUR ELEVATION
- INDICATES EXISTING SPOT ELEVATION

DIGGERS HOTLINE WAS NOT CALLED FOR THIS SITE.

THE UNDERGROUND UTILITY INFORMATION AS SHOWN HEREON IS BASED, IN PART, UPON INFORMATION FURNISHED BY UTILITY COMPANIES AND THE LOCAL MUNICIPALITY, WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, ITS ACCURACY AND COMPLETENESS CANNOT BE GUARANTEED NOR CERTIFIED TO.

(P) INDICATES PIPE SIZES PER RECORD PLANS. OTHER PIPE SIZES ARE ESTIMATED. NO PIPE SIZES SHOULD BE RELIED UPON WITHOUT FURTHER VERIFICATION.

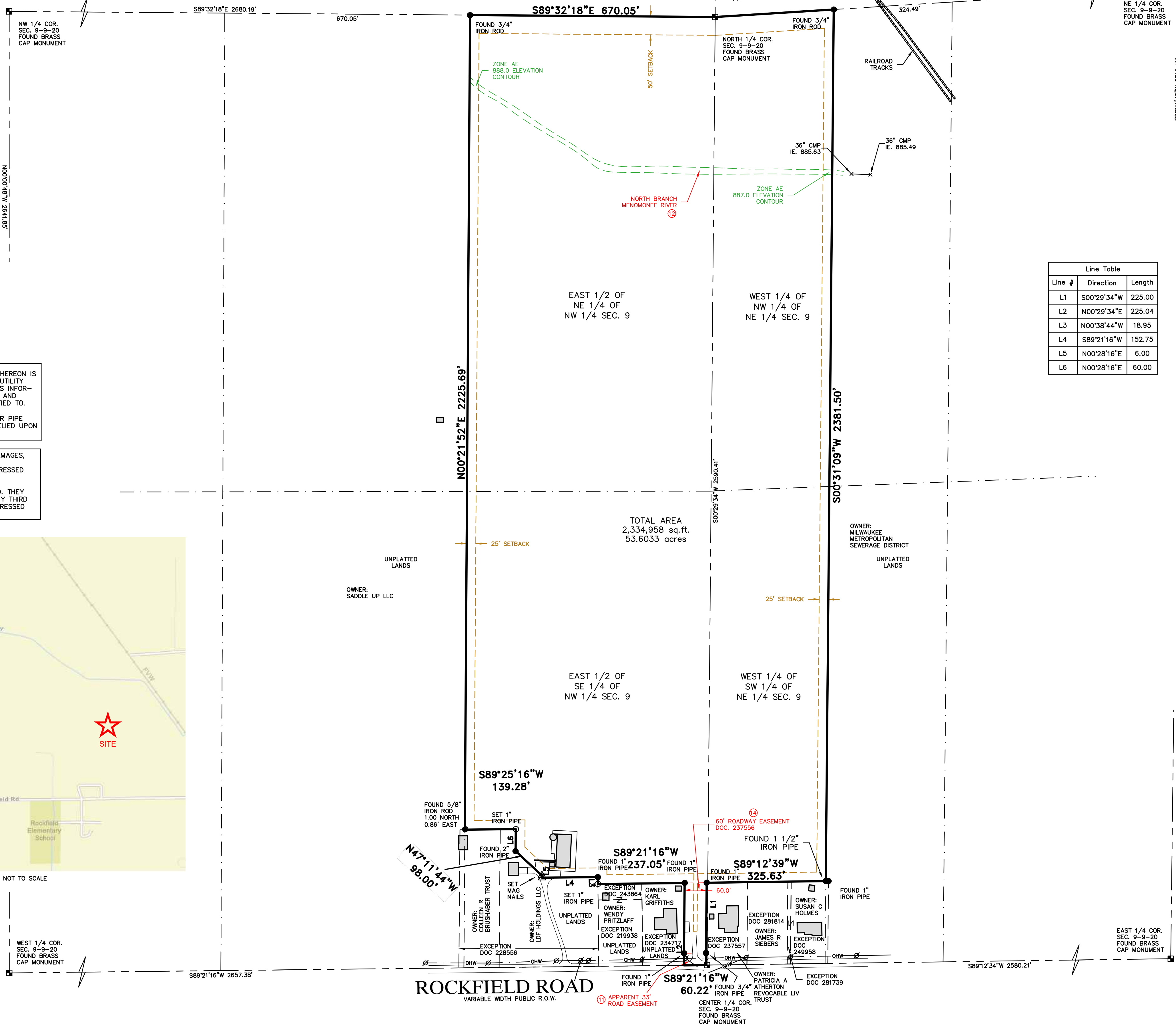
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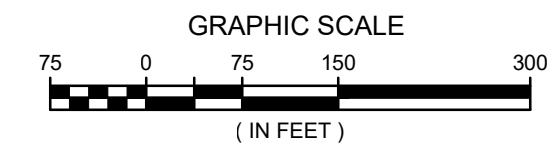
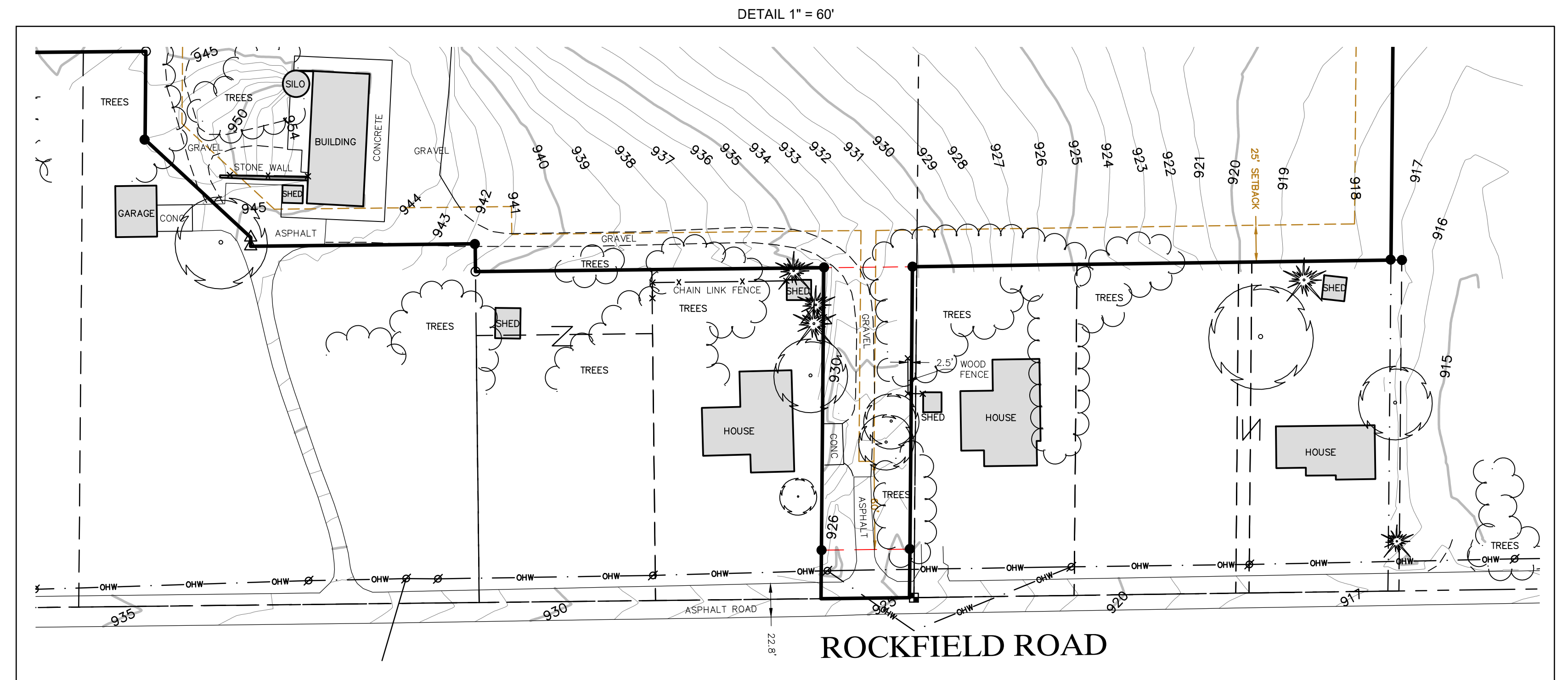
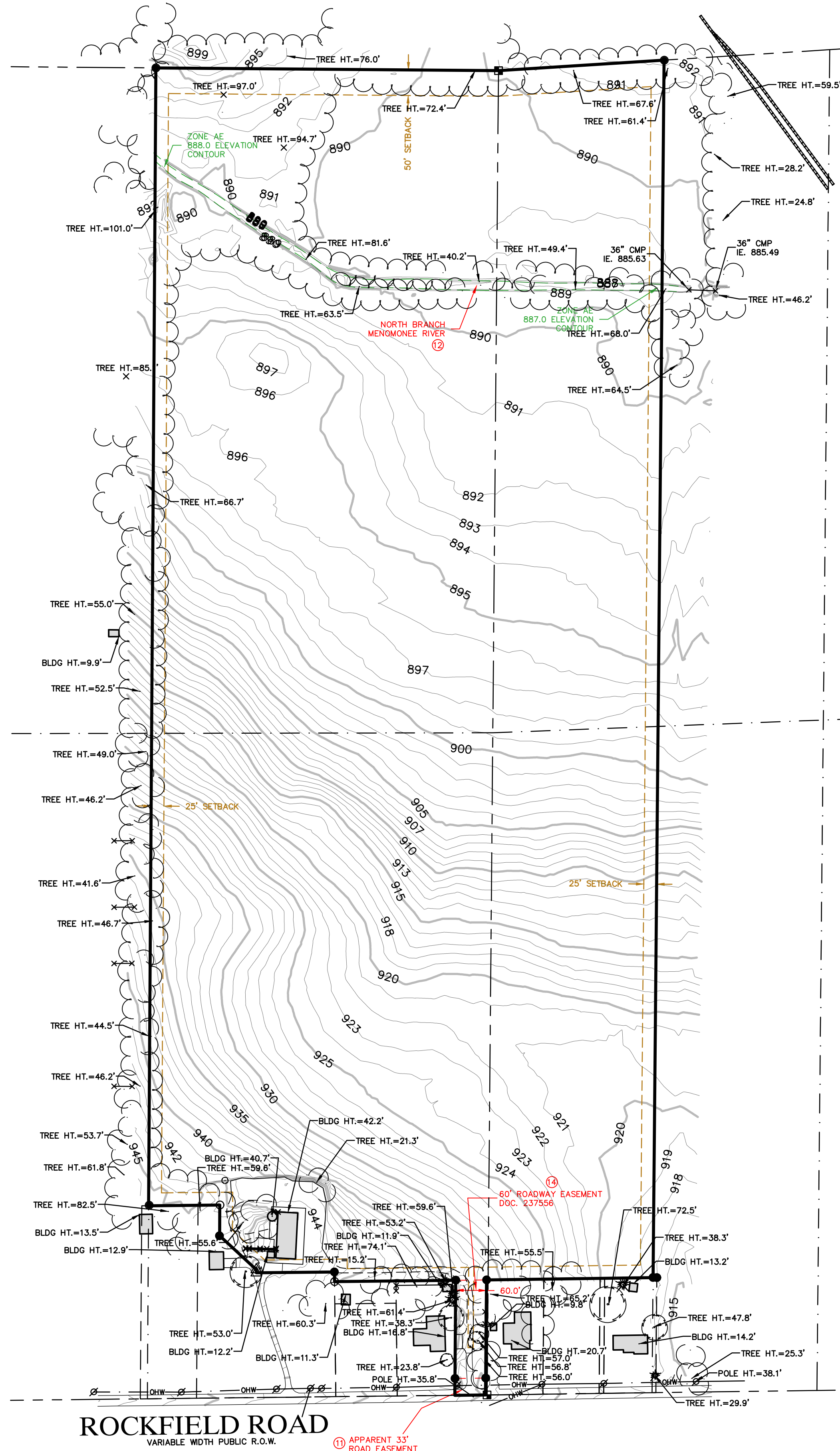
VICINITY MAP - NOT TO SCALE

WEST 1/4 COR.
 SEC. 9-9-20
 FOUND BRASS
 CAP MONUMENT



ROCKFIELD ROAD
 VARIABLE WIDTH PUBLIC R.O.W.

ALTA/NSPS LAND TITLE SURVEY



LEGEND

- BOLLARD
- ⊕ SOIL BORING/MONITORING WELL
- ⚡ FLAGPOLE
- ✉ MAILBOX
- SIGN
- ☒ AIR CONDITIONER
- ☒ CONTROL BOX
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- t — MARKED TELEPHONE
- tv — MARKED CABLE TV LINE
- fo — MARKED FIBER OPTIC
- (p) — UTILITY PER PLAN
- 780 — INDICATES EXISTING CONTOUR ELEVATION
- 780.55 — INDICATES EXISTING SPOT ELEVATION

DIGGERS HOTLINE WAS NOT CALLED FOR THIS SITE.

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16745 W. Bluemound Road
Brookfield, WI 53005-5938
(262) 781-1000
rasmith.com