



# **Energy Efficiency Project 2010**

## **Columbia County Board of Adjustment Variance Application**

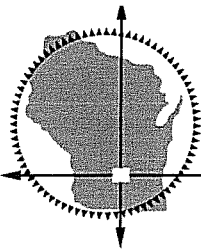
Submitted: **February 8, 2010**

For further information contact:  
Tonya Umbarger  
Program and Public Relations Manager  
Didion Milling, Inc.  
920.699.3633 x30



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# COLUMBIA COUNTY

## Planning & Zoning Department GENERAL APPLICATION

400 DeWitt Street - Portage, WI 53901  
Phone: 608-742-9660 Fax: 608-742-9817  
www.co.columbia.wi.us

The applicant hereby authorizes access to the property described herein, by authorized representatives of the Planning & Zoning Department, for the purpose of gathering or verifying information relating to the application, and for verifying compliance with any approval or permit that may be granted.

The undersigned hereby applies for a permit to do work herein described. The undersigned agrees that all work will be done in accordance with the Columbia County Zoning, Floodplain and Shoreland-Wetland Protection Ordinances, and with all laws of the State of Wisconsin, applicable to said premises.

Owner Signature [Signature]

Date 2/8/2010

**Please Print Below**

- Owner Didion Ethanol, LLC  
c/o Dale Drachenberg
- Mailing Address PO Box 495
- City, State, Zip Cambria, WI 53923
- Address of affected Property \_\_\_\_\_  
N7088 South State Highway 146  
also referred to as W2015 Cabbage Road
- Phone No. (920) 348-5868 Work \_\_\_\_\_
- Town of Courtland  
NW SW
- NE 1/4 of SW 1/4 Acreage 11.4
- Section 5 Town 12 N, Range 12 E
- Subdivision Lot 1 of CSM #4700
- Parcel# 108.01 Lot# \_\_\_\_\_ Block# \_\_\_\_\_

Mail Permit to Contractor  or Owner

Contractor \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
City, State Zip \_\_\_\_\_  
Phone No. \_\_\_\_\_

I am applying for the following applications:

- Please check the appropriate boxes:
- NO REFUNDS!** File#
- Zoning (building) Permit-----  \_\_\_\_\_  
**\$500, \$150, \$50**
  - Emergency Response Number-----  \_\_\_\_\_  
**\$75**
  - Variance-----  \_\_\_\_\_  
**\$400**
  - Conditional Use-----  \_\_\_\_\_  
**\$400**
  - Rezoning-----  \_\_\_\_\_  
**\$400**
  - Home Occupation-----  \_\_\_\_\_  
**\$400**

\*\*\*\*\*For Office Use Only\*\*\*\*\*

Existing Zoning \_\_\_\_\_  
Wetland Status \_\_\_\_\_  
Flood Plain Status \_\_\_\_\_  
Septic Permit# \_\_\_\_\_ Eval. Yes or No \_\_\_\_\_  
Driveway Permit# \_\_\_\_\_  
Town Permit \_\_\_\_\_

Make check payable to  
"Columbia County Treasurer"

\*\*\*\*\*  
Dept. Signature: \_\_\_\_\_  
Application Fees: \_\_\_\_\_ Totals\$ \_\_\_\_\_  
Date: \_\_\_\_\_  
Notes: \_\_\_\_\_



**COLUMBIA COUNTY PLANNING & ZONING COMMITTEE  
APPLICATION FOR CONDITIONAL USE**

Owner/Applicant Didion Ethanol, LLC Date 2/8/2010

1. Present improvements on land See Attachments  
\_\_\_\_\_  
\_\_\_\_\_

2. Explain your proposed plans and why you are requesting a Conditional Use permit. Submit attachments where necessary See Attachments  
\_\_\_\_\_  
\_\_\_\_\_

3. Describe how the Conditional Use would not have adverse affects on surrounding properties. See Attachments  
\_\_\_\_\_  
\_\_\_\_\_

**APPLICANT (OR SOMEONE REPRESENTING APPLICANT) MUST BE PRESENT AT  
THE PUBLIC HEARING.**

\*\*\*\*\*  
CAUTION: The Planning & Zoning Committee review of this application is a quasi-judicial proceeding. You will have an opportunity to present to the Committee information in favor of your application. Do not speak to any member of the Committee about your application except at the public hearing. Do not direct any written communication about your application to a member of the Committee unless you also file a copy with the Planning and Zoning Office and direct additional copies to each person who has registered an interest in your application. Your failure to observe this rule will invalidate your application.  
\*\*\*\*\*

*For Office Use Only*

An Appeal to Section \_\_\_\_\_ of the  
Columbia County \_\_\_\_\_ Ordinance.  
Zoning Official \_\_\_\_\_

## CCBA Application for Variance Questions and Responses

### **1. Present Improvements on Land**

Didion Ethanol plant began construction in Fall 2006 and completed in Spring 2008. Didion Ethanol has been in operation since April 4, 2008. The current, approved site plan is listed as Attachment 1 on page 8.

Currently, Didion has a ~6' cement fence acting as the containment wall for the wet cake area exists ~20' inside the setback area.

### **2. Explain your proposed plans and why you are requesting a Variance. Submit attachments where necessary**

Didion is requesting approval to build a covering over the wet cake load out area. This wet cake area holds dried distillers grains with solubles (DDGS) (a.k.a., wet cake), which is a by-product of the ethanol production process. DDGS is a cake-like product that is a highly nutritious animal feed ingredient. It is sold to local farmers as a high-protein, high-energy animal feed supplement. It is a highly digestible product for animals, but is high in phosphorus. Being high in phosphorus is a positive thing for animals, but can have a negative effect on the environment.

Currently, DDGS in this area can be washed away into the ditch during inclement weather (i.e., wind, rain). Didion has an existing ~6' cement fence acting as a containment wall, but there is still the possibility of the phosphorus rich DDGS to end up in the ditch, which leads to the storm water system and local waterways. Phosphorus is positive for soil, but has a negative effect on waterways, leading to excessive algae growth. With this proposed covering, the adverse effect that DDGS has on waterways could be avoided.

Didion's proposed site plan that was submitted to the Columbia County Planning and Zoning Committee on February 5, 2010 is listed as Attachment 2 on page 10. The proposed additions are in green. This will show you the location of the proposed covering, boundaries and the dimensions of lot and the location of all existing buildings in relation to the proposed covering. Detailed views of the wet cake load out area may be found as Attachment 3 on page 12. This will show you the layout of the proposed covering and the lot boundaries. This will also show the location of the wells in comparison with the proposed wet cake covering addition. These two wells may be found along the South side of the property and the proposed wet cake covering addition is on the North side of the property along Cabbage Road.

### **3. Describe the exceptional or extraordinary circumstances or conditions that apply to your lot or structure that do not apply to surrounding lots or structures.**

Didion's wet cake building is outside the setback area. The covering for this wet back is proposed to be within the setback area due to the environmental concerns as discussed in the response to question two. This would allow a truck to load DDGS underneath the proposed covering and be less likely to have DDGS washed away into the ditch. This covering will also improve the site aesthetically from Cabbage Road.

### **4. Describe how the Variance would not have adverse affects on surrounding properties.**

The proposed covering would prevent any DDGS debris from going into the ditch area along Cabbage Road. With the covering in place, it would be less likely that the phosphorus-rich DDGS debris end up in the ditch, resulting in a positive effect on surrounding properties and waterways.

## Legal Standards for Variances

As an potential applicant for a variance, you need to be aware of the legal standards under which variance applications are to be evaluated by the Board of Adjustment. Wisconsin courts have stated that variances are not to be granted routinely. To do so would defeat the purpose of having a zoning ordinance. The courts have also stated that it is the burden of the applicant to show that their application meets the required standards.

The Planning and Zoning Department staff have been directed to submit to the Board of Adjustment an evaluation of all variance requests under the legal standards established by the courts. In order to justify the granting of a variance, the applicant must show that *an unnecessary hardship* exists, that there is a *unique property limitation*, and that *the variance would not be contrary to the public interest*.

The following points are all drawn from Wisconsin case law, and are the standards under which a variance action would be reviewed by the courts:

**Unnecessary Hardship.** What constitutes a hardship is to be determined from the facts and circumstances of each individual case. The Board must consider the following court-established principles:

1. Unnecessary hardship is a situation where, in the absence of a variance, an owner can make no feasible use of a property, or strict conformity is unnecessarily burdensome. In most cases, if a property already is developed and has an established use, a hardship will not exist.
2. The hardship must be peculiar to the zoning parcel in question and different from other parcels, not one which affects all parcels similarly.
3. Loss of profit or financial hardship is not in and of itself grounds for a variance. The fact that developing in compliance with ordinance requirements may cost considerably more does not constitute a hardship.
4. Self-imposed hardship is not grounds for a variance. When conditions giving rise to the need for a variance were created by the property owner or a former owner, the hardship is self-imposed.

**Unique Property Limitation.** Unique physical characteristics of the property, not the desires of, or conditions personal to the applicant, must prevent the applicant from developing in compliance with the zoning ordinance. Such limitations may arise due to steep slopes, wetlands, or parcel shape that limits the reasonable use of the property.

**Protection of the Public Interest.** Granting of a variance must neither harm the public interest nor undermine the purposes of the ordinance. In granting a variance, the Board may attach special conditions to ensure that the public welfare will not be damaged. Such conditions must relate reasonably to the purpose and intent of the ordinance. Also, any variance granted should include only the *minimum relief* necessary to allow reasonable use of property.

Several recent Wisconsin cases (neither of which originated in Columbia County) clearly illustrate

some of the above principles. They are described in brief here only because they have similarities to many of the variance requests that a county might typically receive, and to illustrate the extent to which the courts intended variances to be the exception, not the rule:

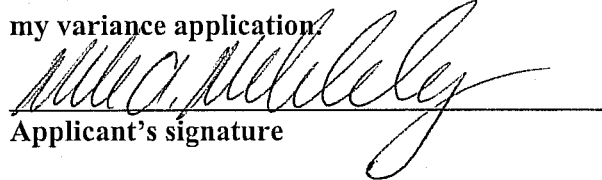
1. In one case, a property owner sought to add a deck to a lake home. The house met the 75 foot setback requirement; the proposed deck would have resulted in a setback of 64 feet from the ordinary high water mark. The house had been on the property for 60 years, and there was a slope extending from the house to the water's edge. The Board of Adjustment approved the variance, finding that, among other things, the request was "modest", that there were many other properties closer to the lake than the applicant, and due to the slope the deck provided greater safety. The Wisconsin Supreme Court overturned the decision, finding that because reasonable use had been made of the property for 60 years without the deck, no hardship could be said to exist.
2. In another, a property owner was granted a variance to build a house that was larger than the available building envelope on the property. The Wisconsin Supreme Court overturned the variance, stating that the owner had failed to demonstrate that no other house plan could be accommodated on the property within the setback limitations.

It is essential for you to understand these legal standards and that it is your obligation to demonstrate that your application meets these standards. A variance is not to be granted as a convenience to the property owner. If an evaluation of your application by the Planning & Zoning staff finds that the legal standards are not met, the staff report may include a recommendation for denial of the variance. While the Board of Adjustment is not bound by the information and recommendations in the staff report, it still has an obligation to follow the standards listed here in reaching its decisions.

It is strongly recommended that you provide your plans to the Planning & Zoning Department well in advance of filing an application for a variance to allow for a preliminary review and determination as to whether the legal standards are met. If, after reviewing this information, you believe that you can meet these standards and wish to pursue an application for a variance, contact the Planning & Zoning Department for application materials.

### Acknowledgment

**I have read and understand the above information relating to the legal standards applicable to my variance application**

  
Applicant's signature

2/8/2010  
Date

**It is required that this sheet be signed, dated and attached to a variance application before the application will be deemed complete and placed on the agenda for a public hearing. Please note that these standards are applicable only to variances, not to conditional uses or appeals of administrative actions.**

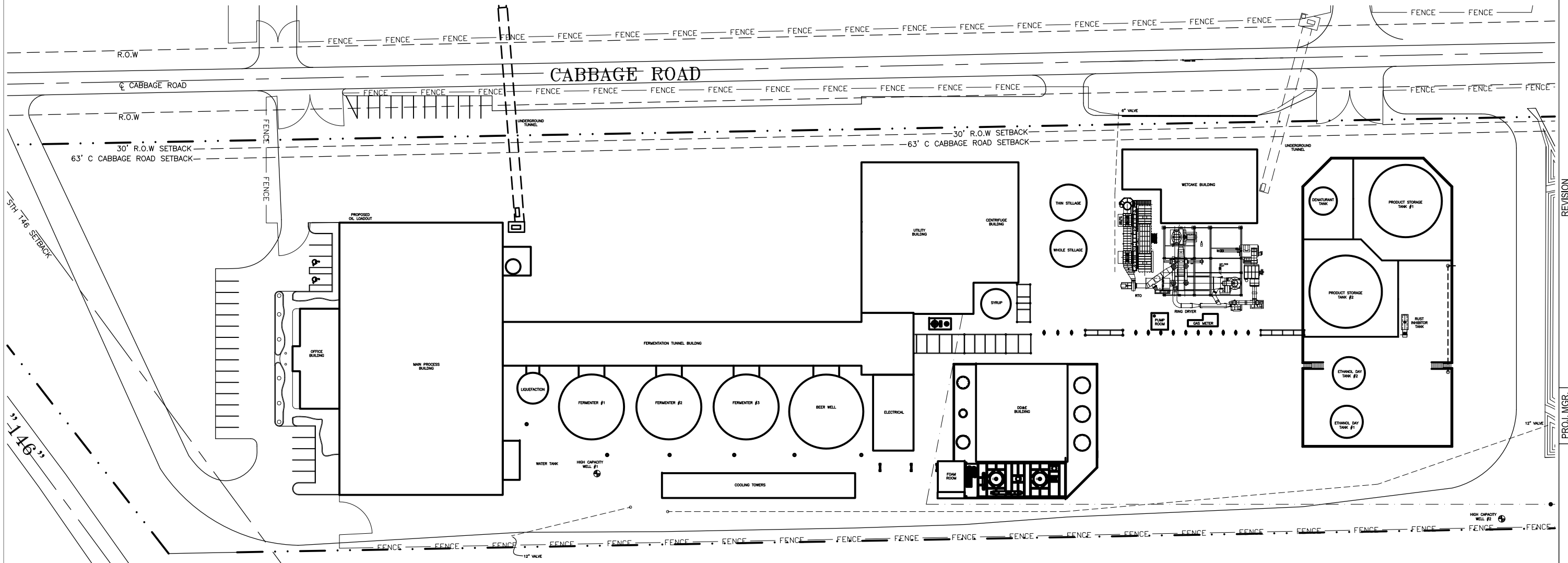


# **Attachment 1: Current Site Plan**





501 S. WILLIAMS ST.  
 P.O. BOX 495  
 CAMBRIA, WI 53923  
 PHONE: (920) 348-5868  
 FAX: (920) 348-6203



514' T46 SETBACK

146'

NO.	DATE	BY	REVISION	DESCRIPTION
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SITE PLAN

PROJ. MGR:

DATE

REVISION

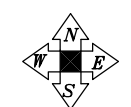
DESCRIPTION

CHKD

DIDION ETHANOL, LLC - COURTLAND, COLUMBIA COUNTY

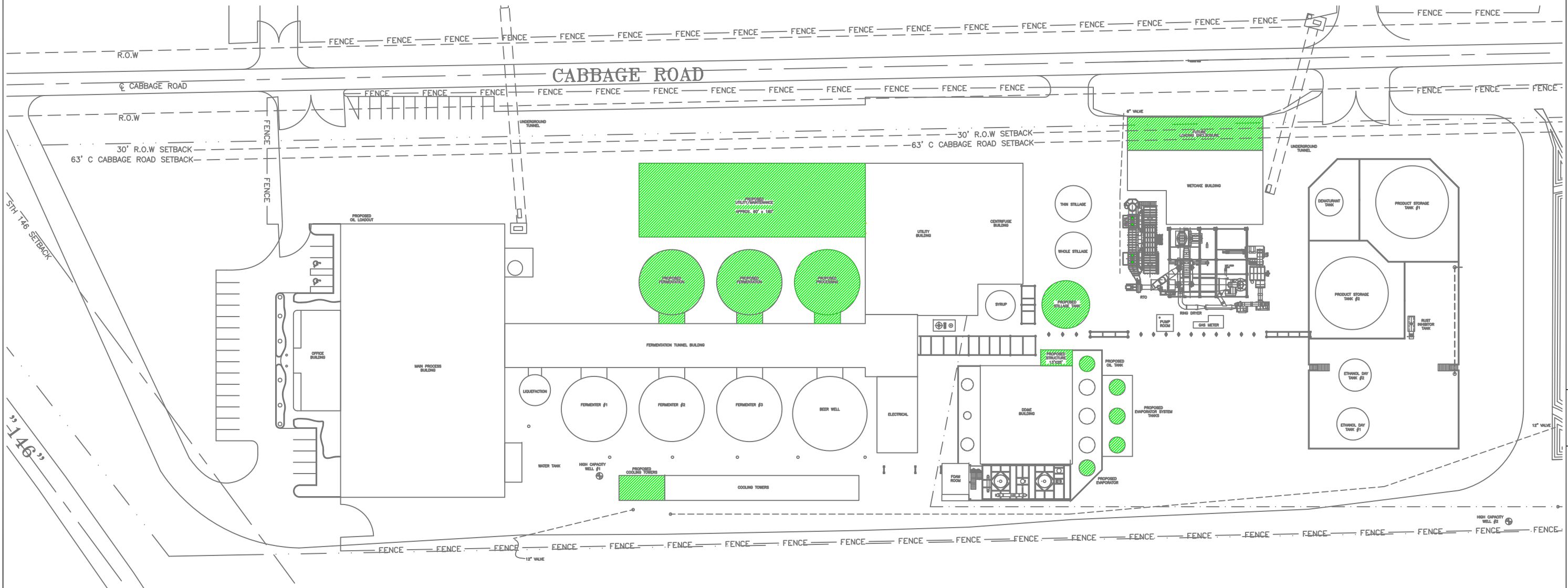
DATE:  
12/21/09

DWG. #:  
090038



SCALE: 1" = 40'

# **Attachment 2: Proposed Site Plan with Additions and Setbacks**



NO.	DATE	BY	REVISION DESCRIPTION	CHK'D
1				
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3				
4				

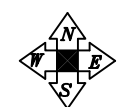
PROJ. MGR.	DRAWN	CHECKED

SITE PLAN	CONDITIONAL USE PERMIT
DIDION ETHANOL, LLC - COURTLAND, COLUMBIA COUNTY	

DATE:	12/21/09
DWG. #:	090037



SCALE: 1" = 40'

# **Attachment 3: Wet Cake Load Out Area with Proposed Covering**

R.O.W (EDGE OF PAVEMENT)

C CABBAGE ROAD



108'-0"

DRIVEWAY

PROPERTY BOUNDARY

PROPERTY BOUNDARY/CABBAGE ROAD R.O.W.

69'-10 3/4"

4'-6 7/8"

25'-5 1/8"

20'-3 3/8"

PROPOSED WET CAKE LOADOUT BUILDING ADDITION  
2,934 SQ. FT.

26'-4 3/4"

18'-0 3/4"

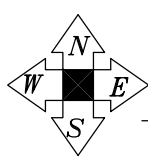
23'-2 1/8"

27'-2"

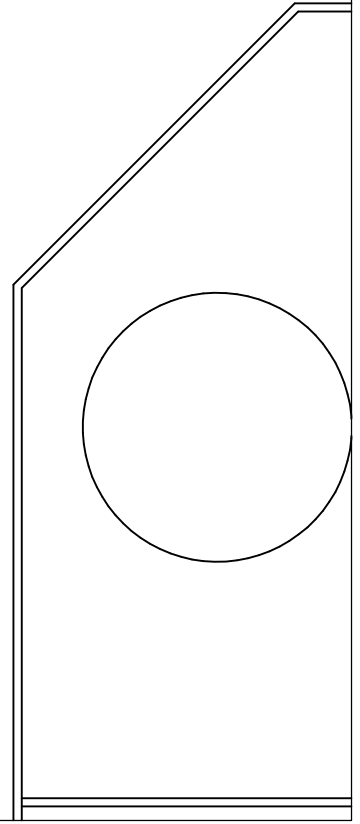
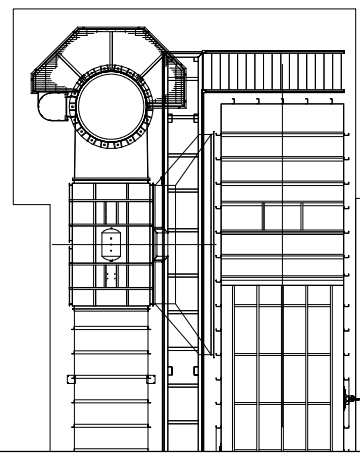
63' C CABBAGE ROAD SETBACK

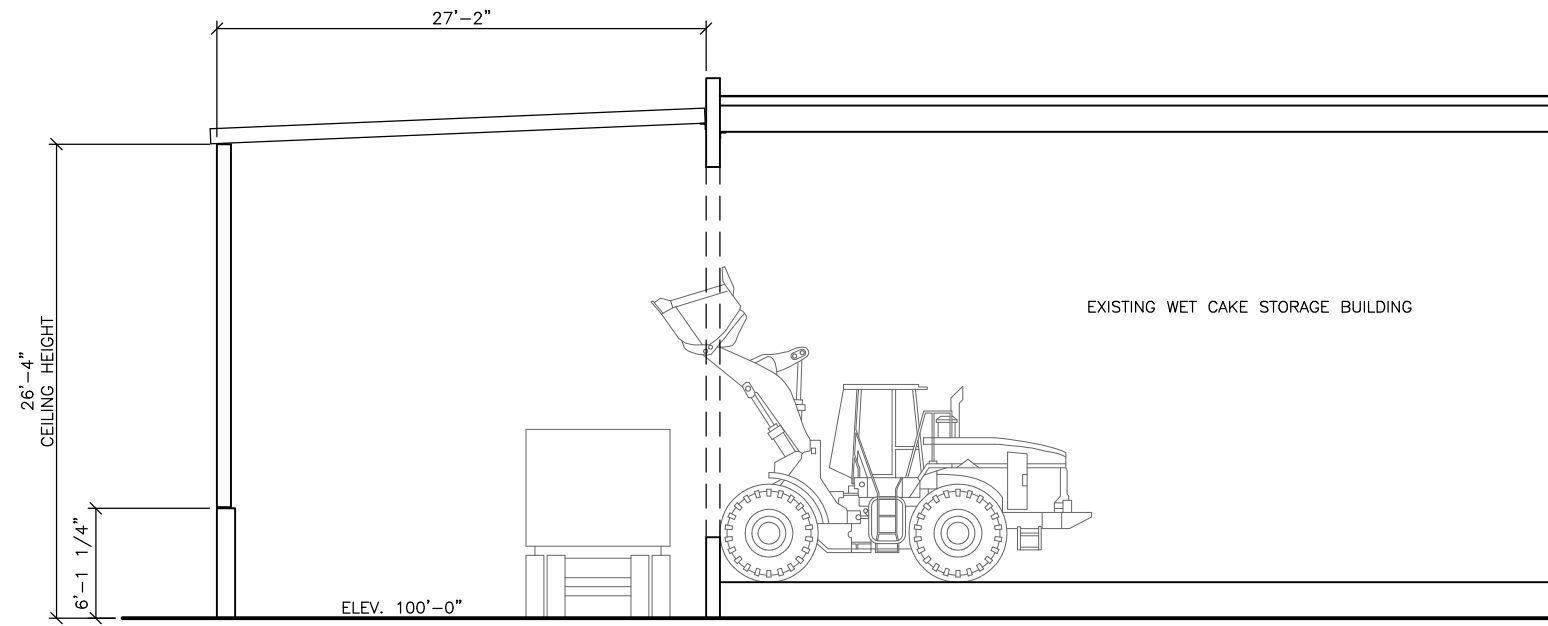
30' R.O.W SETBACK

EXISTING WET CAKE STORAGE BUILDING

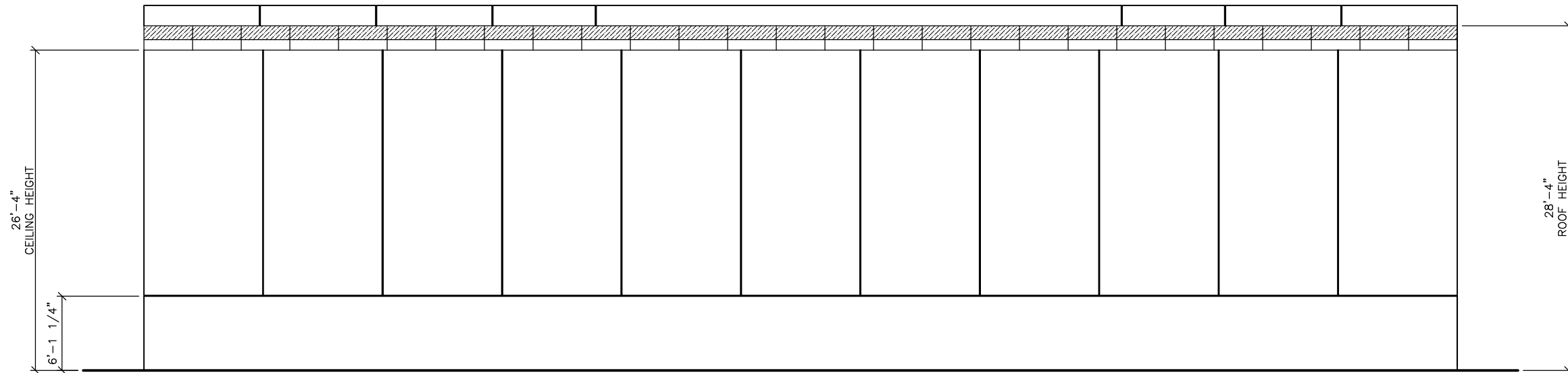


FLOOR PLAN  
1/16" = 1'-0"





SECTION VIEW  
3/32" = 1'-0"



ELEVATION VIEW  
3/32" = 1'-0"