



Application for Variance **from Development Standards**

City of Madison
Office of Planning, Preservation, & Design
101 W Main St
Madison, IN 47250
(812) 265-8300

Application Fee \$ 35.00
Ad Fee (for Legal Notice) \$ 15.00
Recording Fee \$ 25.00
Total Due \$ 75.00

Purpose: Per the City of Madison Zoning Ordinance, the Board of Zoning Appeals shall approve or deny variance from development standards from the terms of the Zoning Ordinance. The Board may impose reasonable conditions as a part of its approval. A variance may be approved only upon a determination by the Board.

This application must be filed at least 15 days prior to scheduled meeting to be eligible for consideration at that meeting. Actual deadlines vary due to holidays, office business hours and operating schedule, media publishing deadlines, etc. Deadlines are published publicly and can also be provided by contacting the Planning Office.

APPLICANT INFORMATION

Name: Williams Power, LLC c/o Ice Miller LLP
Street: 1105 Navasota St. Austin, TX 78702
City: Austin State: TX Zip: 78702
Phone (Preferred): 512-921-8643
Phone (Alternate): _____
Email: Cyrus@openroadrenewables.com

OWNER INFORMATION (IF DIFFERENT*)

Name: Suggett Schmidt Farms, LLC
Street: 1230 Nor Rose Way
City: Madison State: IN Zip: 47250
Phone (Preferred): _____
Phone (Alternate): _____
Email: _____

** If Applicant is not Owner, MUST submit documentation from owner authorizing applicant on their behalf.*

PROPERTY FOR WHICH A VARIANCE IS REQUESTED

Address and/or Legal Description of Property: _____
See Exhibit B attached

Zoning Classification: AG

Description of Existing Use: Vacant farmland

Description of Proposed Use: Battery Energy Storage System

List sections of the Zoning Ordinance for which a variance is requested: Section 11.78 - Expiration of Conditional Use Permit: Specifically, the Provision that Provides that if there is a change in ownership the new owner does not have the benefit of the previously granted Conditional Use Permit

Describe why a variance is requested: See Exhibit C

For Variance from Setbacks, list below and indicate on site plan:

Current – North: _____ ft East: _____ ft South: _____ ft West: _____ ft

Requested – North: _____ ft East: _____ ft South: _____ ft West: _____ ft

Per the City of Madison Zoning Ordinance, a variance shall not be granted unless the Board makes specific findings of fact based directly on the particular evidence presented to it, which support conclusions that the standards and conditions has been met by the applicant.

Provide a detailed Narrative statement demonstrating that the requested variance conforms to the following standards. Respond to each question below with Yes/No and why. Use additional pages if necessary.

1. Will this variance be injurious to the public health, safety, morals, and general welfare of the community?
See Exhibit D attached

2. Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

3. Will the strict application of the terms of the zoning ordinance result in practical difficulties in the use of the property?

Include any other documents/information which you feel will aid the Board in making its determination.

Certified letters MUST be mailed to adjoining property owners (includes owners of real estate at corners, across streets, alleys or easements as well as others who may share a common boundary) at least ten (10) days prior to the meeting. The Planning Office can assist you in obtaining this information. Proof of Certified Mail receipts and corresponding returned green cards shall be given to the Planning Office at least one (1) working day prior to the scheduled meeting. The Board will not review the application unless proof of attempt(s) of contact are provided. USPS delays will not be held against you if proof indicates that letters were sent appropriately.

I certify that the information provided in this application is true and accurate to the best of my ability and I understand and agree to the Certified mail stipulations.

Date

Signature of Applicant

Documentation Review (Completed by Planning Office)

- ✓ Owner Authorization provided (if req'd)
- ✓ Narrative Statements completed
(Page 1 and #1 – 3 above)
- ✓ Application is complete
- ✓ GIS Information to applicant and attached
- ✓ Certified Mail Receipts received (attach)
- _____ Certified Mail Green Cards received (attach)

Staff Notes

SOME DOCUMENTATION PROVIDED AS PART OF CUP

COMPLETED BY PLANNING OFFICE

Application Accepted on: 6/17/2022

Application Accepted by: JOE PATRICK

Meeting Information: Board of Zoning Appeals

101 W Main St, Madison, IN 47250 – Council Chambers

Meeting Date: 7/11/2022 Time: 6:30PM

Exhibit A
Owner Consent Form

[See Attached]

Exhibit B
Legal Description of Property

[See Attached]



ing part of Section 2, Township 4 North, Range 10 East, Madison Township, Jefferson County, Indiana, described as follows:

[illegible]

(1) PLAY OF SURVEY
FOR FRANCISCO ESTABE
BY JEWELL, PETTIT, BRIDGES & ASSOCIATES, INC.
DATE: 9-21-1989
JOB #: 198-3334A

- LEGEND**
- | | | | |
|------|-----------------------|-----|-------------------------|
| D.R. | REED RECORD-BOOK/PAGE | 0/1 | OUTLET |
| ○ | TOUCH | ● | RAILROAD SPINE |
| □ | WALL | ■ | IRON ROD |
| △ | WALLS | ▲ | IRON DIAL |
| ◇ | PLASTER | ◆ | IRON |
| ◇ | MEASURES | ◇ | MONUMENT |
| ◇ | STREET | ◇ | EXISTING TRACE |
| ◇ | MAJOR CHANCE | ◇ | DEMOLITION NOT TO SCALE |
| ◇ | MINOR CHANCE | | |

[illegible][illegible][illegible]

THIS IS TO CERTIFY THAT THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM ETHICAL REQUIREMENTS FOR ALIEN/ASIAN LANG TALE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALIA AND NEPS, AND INCLUDES ITEMS 1-4, 13-16, AND 18 OF TABLE A THIRTY. THE FILE NUMBER WAS COMPLETED ON 1/14/23

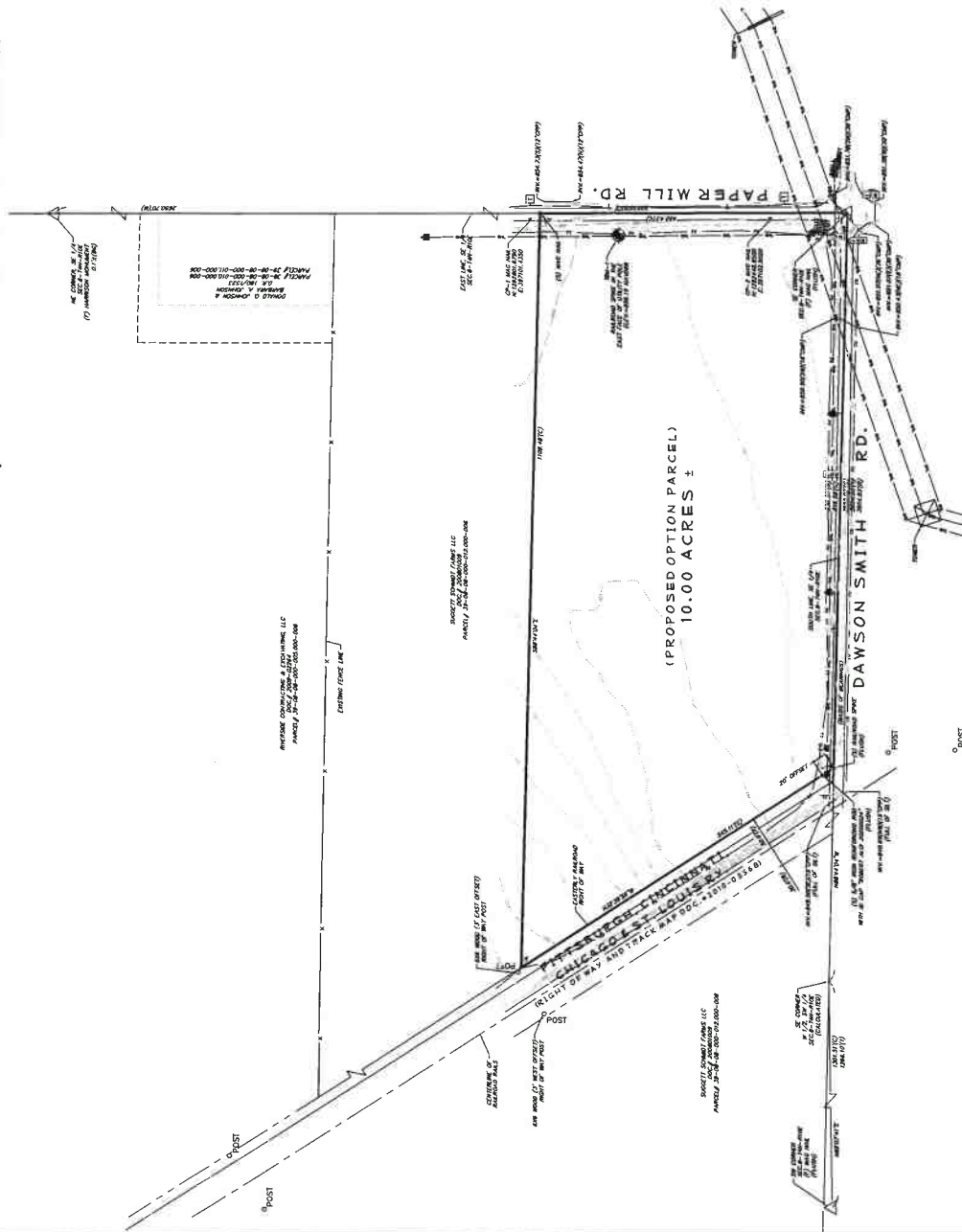
I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.

[illegible]

RESOLUTION, IN 10374
(374)-206-3148

PRO-FORMA

ALTA/NSPS LAND TITLE SURVEY



LEGEND

RECEIVING	FROM BUS (UTILITY MARCH)
•	WIND MFL
•	CONTROL POINT
•	WIND POST SIGN
•	WIND MFL
•	OUT MARCH
•	UTILITY SIGN
•	TELEPHONE PIVOTAL
•	WIND OPTIC MARKER
•	TRUCK LINE
•	FOLD DESIGN LINE
•	TELEPHONE LINE
•	WIND OPTIC LINE
•	STORM LINE
•	OVERHEAD UTILITY LINE

NOTES

- [illegible]

PRO-FORMA

TO: SUZETTE SCHMIDT FARMER, LLC, OR DESCENDANT
TITLE COMMITMENT/POLICY No.: CH20210009
EFFECTIVE DATE: JULY 22, 2021
INSURER: CHICAGO TITLE INSURANCE COMPANY

THIS IS TO CERTIFY THAT THIS MAP OR PLAN AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD SURVEY REQUIREMENTS FOR ALTA SURVEYS AND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND HORS, AND INCLUDES FIGS. 1-6, 13-18, AND 18 OF TABLE A THIRTEEN. THE FIELD WORK WAS COMPLETED ON 11/4/21.

SUBURBAN CLASSIFICATION SURVEY PER TITLE 36S INC. ARTICLE 1, RULE 12.

SUBURBAN CLASSIFICATION SURVEY PER TITLE INS INC, ARTICLE 1, RULE 12.

SECURE ACCOUNT NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.

ROBERT S. ALON, IRS 20200024

ALTA/NSPS LAND TITLE SURVEY
FOR
SUGGETT SCHMIDT FARMS, LLC.

SECTION 8, TOWNSHIP 4N, RANGE 10E
MADISON TOWNSHIP, JEFFERSON COUNTY, INDIANA

TE TERRITORIAL ENGINEERING, LLC

DATE:	JOB NUMBER:	FILE:	DRANN/CHECKED:	SHEET
11/12/201	21192	SECTION	REZ / RSA	2 of 2

202
SHEET 2 OF 2

ROBERT S. ALON, PS 2020002
7808 N. STATE HIGHWAY 23
WALKERTON, IN 46574
(574)-386-3448

SCALE=1"=80'

2 of 2

Exhibit C

Why Variance is Requested

This variance is being requested because the nature of the Battery Energy Storage System project (the "Project") is such that if the ownership transfer provision found in Section 11.78 were to apply to the Project, then the Project would be an impossibility. The Project, by its nature, is capital intensive. In fact, it will cost approximately 150 million dollars to complete. To do that, a couple of things are necessary. First, the viability of the project has to be sufficient for lenders to issue debt in order to finance the project. No lender would finance such an expensive project with the risk created by the problematic provision in Section 11.78. To illustrate that issue, suppose that the current owner of the Project fails to pay the debt owed to the lender. A lender's ultimate remedy is foreclosure. However, if the use of the Project is not guaranteed to transfer to the lender when the lender takes ownership, the lender will look at the Project as far too risky and not issue the financing in the first place. Second, this sort of Project requires that ownership will eventually be transferred to either a public utility or a private utility operator. For the same reasons that it would be too risky for a lender to finance a project when the use permit does not transfer, so to would it be too risky for a utility or private operator to purchase such a contingent asset.

Exhibit D
Narrative Statement

- 1. Will this variance be injurious to the public health, safety, morals, and general welfare of the community?**

No, the variance will not be injurious. The Project will not change depending on the owner of the Project. This is a highly regulated Project. The construction and operation of the Project must conform to those regulation regardless of who the owner happens to be.

- 2. Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?**

No, the variance will not be injurious to the value of the area or the adjacent property. The Project will not change depending on the owner of the Project. This is a highly regulated Project. The construction and operation of the Project must conform to those regulation regardless of who the owner happens to be

- 3. Will the strict application of the terms of the zoning ordinance result in practical difficulties in the use of the property?**

Yes, if the transfer of ownership provision found in Section 11.78 is applied to this Project the Project will be an impossibility. As explained in Exhibit C above, this provision creates far too much risk for lenders as well as future purchasers. Without those two pieces the Project is not economically viable.



MadisonZoning

Zoning Code:

- AG
- M-1
- M-2
- R-4
- RA

- Regional Counties
- County Boundary
- Townships
- Corporate Boundaries
- Water
- Parcels
- Points of Interest
- Drives, Alleys, etc.

• **Addresses**

- Regional Counties
- Regional Roads
- Regional Highways
- Water
- Railroad
- Drives, Alleys, etc.
- Roads
- Highways

4000 N Paper Mill Rd

