



Conditional Use Permit

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 Official Schedule of District Regulations identifies each land use according to whether it is a permitted use, a conditional use, or a prohibited use within each district. A conditional use permit is granted by the Board of Zoning Appeals to allow a use other than a principally permitted use to be established within the district to the property owner who makes the original application. This permit does not transfer to the new owner if the property changes ownership. The new owner must apply to the Board of Zoning Appeals for a new permit in order to continue the use that was conditionally allowed.

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: Open Road Renewables, LLC c/o Ice Miller LLP
Street: 1105 Navasota Street, 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 CONDITIONAL USE IS REQUESTED

| | | |
|--|--|---|
| Address and/or Legal Description of Property: _____ <u>See Exhibit B attached</u> | | Zoning Classification: <u>AG-M-1</u> <u>AG</u> |
| Description of Existing Use: <u>Vacant</u> | | |
| Proposed Schedule of Uses Category #: <u>486</u> | | |
| Description of Proposed Use: _____ <u>See Exhibit C Attached</u> | | |

Submit property site plan showing structures, setbacks, parking, adjoining streets and neighboring land uses.

Per the City of Madison Zoning Ordinance, the Board of Zoning Appeals shall review the particular facts and circumstances of each proposed use in terms of the established standards and shall find adequate evidence supporting such use at the proposed location.

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. Is this use in fact a conditional use as established under the provisions of Article V and appears on the Official Schedule of District Regulations adopted by Section 7.00 for the zoning district involved?

See Exhibit D for questions 1-9

2. Will this use be harmonious with and in accordance with the general objectives, or with any specific objective of the City's Comprehensive Plan and/or the Zoning Ordinance?
-
-

3. Will this use be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area?
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4. Will this use not be hazardous or disturbing to existing or future neighboring uses.
-
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5. Will this use be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
-
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6. Will this use not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community.
-
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7. Will this use not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.
-
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8. Will this use have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
-
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9. Will this use not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance.
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-

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 the Certified Mail receipts and the 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 these are received.

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)
- ☒ Site plan is adequate
- ☒ Narrative Statements completed
(Proposed Use & 1 – 9 above)
- ☒ Application is complete
- ____ GIS Information to applicant and attached
- ____ Certified Mail Receipts received (attach)
- ____ Certified Mail Green Cards received (attach)
- ____ Category # Requires Conditional Use

Staff Notes

- CERT. MAIL DISCUSS VIA PHONE
- PROJECT ADDRESS FOR CUP IS 4000 N
PAPERMILL RD

COMPLETED BY PLANNING OFFICE

Application Accepted on: 5/13/2022

Application Accepted by: JOE PATTERSON

Meeting Information: Board of Zoning Appeals

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

Meeting Date: 6/13/2022 **Time:** 6:30PM

Exhibit A
Owner Consent Form

[See Attached]

CITY OF MADISON
OFFICE OF PLANNING, PRESERVATION, & DESIGN
BOARD OF ZONING APPEALS

Owner CONSENT FORM

The undersigned, Susan Schmidt, as Vice President of Suggett Schmidt Farms, LLC, being the Owner of the approximately ten acres located in Jefferson County, Indiana, a portion of that parcel identified as Parcel No. 39-08-08-000-012.000-006, hereby authorizes Ice Miller LLP and Williams Power, LLC to file conditional use permit petitions necessary for the aforementioned property.

This consent shall (check one):

☒ remain in effect until revoked by a written statement filed with the Planning Division of the Department of Metropolitan Development.

☐ remain in effect until _____.

Suggett Smith Farms, LLC

By: Susan Schmidt, Vice President

Name: Susan Schmidt, its Vice President

Date: 4-1-2022

STATE OF Indiana

COUNTY OF Jefferson, SS:

Subscribed and sworn to before me this 1st day of April, 2022.

Phyllis Wilson
Notary Public - Signature

Phyllis Wilson
Printed Name of Notary Public

My Commission expires: 9-30-2023

My County of residence: Jefferson

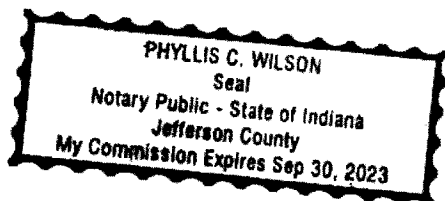
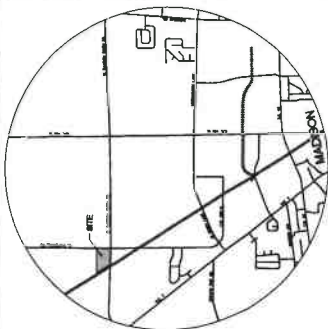


Exhibit B
Legal Description of Property

[See Attached]

NE CORNER, SEE 1/4
SEC. 8-74W-RIDE
HARRISON ADJACENT
0.142 (AC)



LEGAL DESCRIPTION
(PARENT PARCEL Doc. # 200801009)
FOR REFERENCE PURPOSES ONLY

[illegible]

REFERENCED SURVEYS

PLAN OF SURVEY
FOR PROPOSED LOT 11
IN TRACT, NINTH ADDITION & ASSOCIATED AC.
DATE 8-23-1988
JOB # 1088-1784

LEGEND

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| TR | TRACED | □ | WOLF PUP |
| CR | CRIMINAL | ○ | WOLF |
| PL | PLATED | ○ | IRON BOLT |
| MA | MAILED | △ | MONUMENT |
| W | WITNESSED | △ | EXISTING FOUND |
| GR | GRANTED | — | DISAPPEAR NOT TO SCALE |
| AP | APPROVED | | |
| NO | NOTED | | |

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PRO-FORMA

[illegible][illegible][illegible]

PRO-FORMA

TO: SUGGETT SCHWARTZ FARRIS, LLC, OR DESIGNEE.
TITLE COMMITMENT/POLICY No.: CTR2108009
EFFECTIVE DATE: JULY 23, 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 DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES FIGS. 1-8, 13-16, AND 18 OF TABLE A-THEPEC. THE FIELD WORK WAS COMPLETED ON 11/4/21.

I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT. JAMES E. H. McWHEEN, JR. LAM.

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

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

TERRITORIAL ENGINEERING, LLC
WALKERSON — WALKERSON — WALKERSON

| | | | |
|-------------|-------|--------------------|--------|
| JOB NUMBER: | FILE: | DRAWING IN CHARGE: | SHEET: |
|-------------|-------|--------------------|--------|

2017

ROBERT S. ALON, JR. 20200024
7908 N. STATE HIGHWAY 23
WALKERTON, IN 46374

Exhibit C

Description of Proposed Use

Open Road Renewables, LLC (the “Applicant”) requests a Conditional Use Permit to establish a battery energy storage system (“BESS”) facility (“the Facility”) that is charged with electricity from, and discharges that electricity back to, the portion of Indiana’s electric grid serving the City of Madison and the surrounding region. As shown on the Site Plan attached here as Exhibit D, the Facility will be located on an approximately 10-acre portion of a larger parcel, identified as a Parcel ID No. 39-08-08-000-012.000-006, subject to a split to create the new 10-acre parcel (the “Parcel”). The Parcel is situated on the northeast corner of the intersection of West Dawson Smith Rd. and North Papermill Rd. in Jefferson County, Indiana just northeast of the municipal boundaries of the City of Madison but subject to the Madison Zoning Ordinance. The Parcel is directly adjacent to Duke Energy Indiana’s Madison electric substation (the “Substation”).

The Parcel will be owned by Williams Power, LLC which is the Applicant’s project development entity for development of the Facility. The Parcel is currently zoned to the Agricultural District under the Madison Zoning Ordinance and would be permitted as a “Major Utilities, Stations & Plants” use category subject to a Conditional Use Permit.

The construction of the Facility will upgrade and improve the efficiency and resiliency of the electric grid in the City of Madison and the surrounding region, becoming a long-term improvement to the region’s shared transmission infrastructure. The Facility’s energy storage capability will not only improve the reliability of the grid, but may enable Duke, and therefore the public, to avoid or defer obtrusive and more costly upgrades to the grid over time. These avoided or deferred upgrades could include new or larger high-voltage transmission lines, as well as new power plants. Ultimately, the Facility is expected to be owned and operated by, or otherwise contractually committed to, Duke as a part of its electric power infrastructure.

The Facility will consist of a group of metal containers mounted on concrete foundations, each of which houses batteries of the same type used in cell phones, laptops and electric cars. These batteries will store Direct Current (“DC”). Because the grid mostly uses Alternating Current (“AC”), the Facility will include a series of devices known as inverters, which convert DC to AC, and vice versa. The Facility will also feature an energy management system, an HVAC and thermal management system, and a fire detection and control system. The Facility will connect to the Substation by means of a switchyard that will change the voltage of the power as it travels between the Facility and the Substation.

The Facility will be closed to the public, and all of its above-ground features will be fenced for safety and security. Most of the electric cabling connecting the equipment will be enclosed or below grade. The Facility may also include a small single-floor office and storage building for operations and maintenance purposes. The Parcel is located in a sparsely populated portion the County and is surrounded by empty land on the west, north and east. The closest dwelling is southeast of the Facility across the state road, and the Facility design will include substantial vegetative landscaping and other features to enhance its appearance and obscure it from view,

especially along the southern side. Once complete, the Facility will largely be obscured from adjoining properties and public roads. Construction of the Facility is expected to take 9 to 18 months.

The location and size of the Facility and its connecting line to the Substation has been studied and is expected to be approved as a new part of the grid by MISO Interconnection by Spring of 2023. MISO is the federally recognized “Regional Transmission Organization” tasked with coordinating and managing the movement of wholesale power over a multi-state area that includes Indiana. A key feature of the Facility’s location is that it would be adjacent to an existing substation, which avoids the need for long transmission lines between the BESS facility and the power grid.

The immediately adjacent Madison Substation has created an ambiance within the immediate vicinity that is consistent with a passive public utility use, and construction of the proposed electric energy battery facility would be analogous to this passive public utility ambiance. Locating the Facility immediately adjacent to an existing substation is appropriate given the desire to limit impacts to the City of Madison and Jefferson County beyond areas already impacted by such facilities.

The Property will be accessed via a singular site entrance along West Dawson Smith Rd. which is an undivided roadway adjacent to the Parcel on the south side. Due to the relatively passive use of the site during operations of the Facility, a de minimis number of trips are expected to be added to the regional intersections. Sufficient parking is being provided on site which will accommodate employees on site for periodic maintenance of the facility and others as needed.

The Facility will consist of the fence line, battery containers and associated equipment, access roads, collection lines, inverters, electrical equipment pads, and a Facility collection yard that will connect directly to the adjacent Substation.

As depicted on the Site Plan in Exhibit D the Applicant is proposing to install a landscape buffer around the entire perimeter of the Property. The buffer will consist of a 20-foot-wide planted vegetative buffer along the perimeter of the Facility. Once completed, the closest residential structure would be located over 300-feet away across an existing road, and separated by a setback, vegetative buffer, a fence, and internal project lane. Below is a visual rendering of the site from various vantage points with winter foliage.

Visual simulation with landscaping from N Papermill Rd. looking south



Visual simulation with landscaping from W Dawson Smith Rd. looking northeast



Visual simulation with landscaping from W Dawson Smith Rd. looking northwest



The combined result of the landscape buffer, setbacks, distance provided from existing residences, overall low profile of the Facility, and level nature of the site mean that the viewshed impacts from adjacent residential properties will be fully mitigated. The proposed facility will allow for a lot coverage percentage well below the maximum allowed in the Agricultural District. The proposed facility and modifications will not have an adverse impact on any environmental features on the Property or adjacent properties.

The Facility will not discharge water or waste into any stream or waterbodies, nor will the Facility require the use of water for cooling or other activities beyond landscape management. The Parcel has been historically fully disturbed by agricultural operations and has been extensively surveyed for environmentally sensitive elements. The Parcel has no wetland features and has received its jurisdictional wetland determination from the U.S. Army Corps of Engineers and is

clear of threatened or endangered species, sensitive habitat, or cultural resources. No forests will be cleared as part of construction of the Facility, and the added landscape buffer includes the addition of a significant number of new trees, shrubs, and pollinator-friendly habitat. While limited in scope by the relatively small size of the facility, the conversion of active crop land to a passive use also represents a reduction of chemical fertilizer, pesticides, herbicides, and fungicides on the Parcel for many decades. The Parcel is not within a flood plain.

Construction of the facility at its peak may involve an estimated 50 workers. Although employment related to the construction of the Facility will be substantial, it is relatively short-term and not expected to result in the permanent relocation of construction workers to the area; therefore, the Facility is not anticipated to generate population growth or a notable increase in traffic within the Project area. Once operational, the Facility will be primarily remotely monitored, and on-site personnel will be limited to landscape management, security, and periodic maintenance visits, similar in frequency to the adjacent Substation.

The facility would represent a capital investment in the local tax base in excess of \$150 million, representing a significant investment in the local economy and tax base. The facility is likely to be owned and operated by, or otherwise contracted to, Duke Energy Indiana or another public utility.

Exhibit D

Narrative Statement

1. Is this use in fact a conditional use as established under the provisions of Article V and appears on the Official Schedule of District Regulations adopted by Section 7.00 for the zoning district involved?

Yes, the use is a conditional use as appears in Section 7.00 of the City of Madison Zoning Ordinance. The use is cataloged as Use Number 486, Major Utilities, Stations & Plants. More specifically, the use is a Battery Energy Storage System that will become an integrated part of electric grid serving the City of Madison and the surrounding region. This will allow the grid to store energy in high production, low demand, moments and then deploy that stored energy back into the grid in low production, high demand, situations.

2. Will this use be harmonious with and in accordance with the general objectives, or with any specific objective of the City's Comprehensive Plan and/or the Zoning Ordinance?

Yes, the Vision and Action Plan for Jefferson County, which contemplates plans and goals for the City of Madison, enumerates a series of goals for the City and the County. The Plan states a desire for "[a] community with strong and diverse employers, nurtured entrepreneurs, and increased economic opportunity for residents." By readying the region's electrical grid for a new phase of green energy production, the proposed project will simultaneously increase opportunities for high-skilled, high-paying, labor and position the City of Madison to be a forerunner in the green energy sector for decades to come.

The Plan also states that it desires to create "[a] community with committed stewardship of land[.]" There is no better way for the City of Madison to take a large step forward in that pursuit than by showing it is committed to leading the way toward a more sustainable future. The proposed project does just that.

3. Will this use be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area?

The use will be designed so as to create minimal aesthetic impact to those passing by on the two road frontages—Paper Mill Rd. and West Dawson Smith Rd. The site will consist of low-rise structures that are shorter than a typical single story home and will be screened on all sides with a 20-foot-wide planted vegetative buffer. This screening will consist of a mixture of evergreen and ornamental trees staged across a seeded buffer zone of no-mow grasses. The combined result of the landscape buffer, setbacks, distance provided from existing residences, overall low profile of the Facility, and level nature of the site mean that the viewshed impacts from adjacent residential properties will be fully mitigated.

The intended character of the general vicinity is best described by its current zoning characteristics, which are a mixture of zoning districts and uses. To the east, north, and west of the proposed project are other AG parcels, and across Dawson Smith Road to the south is an N-2

light industrial district that is currently used as the Madison Substation. The proposed project is consistent with a passive public utility use that already characterizes the immediate area.

4. Will this use not be hazardous or disturbing to existing or future neighboring uses.

No, this use will produce limited externalities for neighboring uses. Because this is an energy storage facility, and not an energy production facility, noise, dust, odor, vibrations, undesirable glare, and other types of emissions will be *de minimis* and create no new problems for the surrounding properties. This naturally low impact, coupled with the planned mitigation strategies—such as the landscape screening shown in the Preliminary Site Plan—will result in no hazardous or disturbing effect to future or existing uses in the vicinity.

5. Will this use be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

Yes, this use will be adequately served by all essential public facilities as it will create no extraordinary increases in demand for any of those services. The traffic impact will be minimal as the number of onsite employees necessary for this type of operation is very low.

6. Will this use not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community.

No, this use will not create any additional requirements at public expense or be determinantal to the welfare of the community. In fact, this use will result in an increase of economic welfare by adding a capital investment in the local tax base in excess of \$150 million, while creating no new significant draws on municipal services. In addition, this project promises to bring the City of Madison's electrical grid into a new phase of green energy that will in time create lower energy costs for the City's residents at a price point that will be far more stable than current fossil-fuel-focused energy markets.

7. Will this use not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.

No, this use will be low impact in nature. There are few on site employees, and so there will not be large increases in local traffic. Because this is an energy storage facility, rather than a production facility, there will be little to no smoke, fumes, dust, vibrations or odors. The increase in noise will also be minimal as there will be no production activities. And in terms of glare, there will be no large glass panels that would create such a problem and the low-slung nature of the facility, coupled with the landscape screening, will result in a fully mitigated viewshed impact.

8. Will this use have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.

No, the Property will be accessed via a singular site entrance along West Dawson Smith Rd. which is an undivided roadway adjacent to the Parcel on the south side. Due to the passive use of the site during operation, very few commuters will be added to the regional intersections. Sufficient parking is being provided on site which will accommodate employees for periodic maintenance of the facility and others as needed. The site will not create enough traffic to necessitate vehicle approaches. Typical daily traffic after installation is complete will be less than many single family homes.

9. Will this use not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance.

No, the facility will be located adjacent to the already existing Madison Substation on what is now a vacant plot of land surrounded by other farmland and light industrial uses. There is nothing in the surrounding area of natural, scenic, or historic importance. Moreover, the current Preliminary Site Plan includes adequate landscape screening that will increase the overall aesthetic value of the current area.

