



WOODBURY COUNTY BOARD OF ADJUSTMENT

Monday, June 6, 2022 at 6:00 PM

The Board of Adjustment will hold a public meeting on **Monday, June 6, 2022 at 6:00 PM** in the 1st Floor Board of Supervisor's Meeting Room, Woodbury County Courthouse, 620 Douglas Street, Sioux City, IA. Please use the 7th St. entrance. Public access to the conversation of the meeting will also be made available during the meeting by telephone. Persons wanting to participate in the public meeting may attend in person or call: **(712) 454-1133** and enter the **Conference ID: 285 965 578#** during the meeting to listen or comment.

AGENDA	
1	CALL TO ORDER
2	ROLL CALL
3	PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA
4	APPROVAL OF MINUTES: December 6, 2021
5	ITEM(S) OF BUSINESS
»	ELECTION OF CHAIR AND VICE-CHAIR FOR 2022
»	<p>PUBLIC HEARING: CONDITIONAL USE PERMIT: TEMPORARY BORROW PIT PROPOSAL (PARCEL #864430400005) A proposal for a temporary borrow site to remove earthen material from the property to transfer to Hornick for the completion of the Hornick Flood Protection Improvements Project. The request is to remove 63,000 cubic yards of material in a 4.7 acre cut area on Parcel #864430400005 which is a 25.8-acre parcel in Section 30, T86N R44W (Little Sioux Township) in the NE ¼ of the SE ¼. The property is located in the Agricultural Preservation (AP) Zoning District and is not located in the floodplain. The Land Use Summary Table in the Woodbury County Zoning Ordinance allows for a conditional use permit to be reviewed by the Zoning Commission and considered by the Board of Adjustment for this location. Property Owner(s): Brandon Burkhart and Samantha Burkhart.</p>
»	RULES OF PROCEDURE FOR BOARD OF ADJUSTMENT ADOPTION
»	DISCUSSION / INFORMATION: SOLAR ENERGY RESIDENTIAL AND COMMERCIAL
6	PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA
7	BOARD MEMBER COMMENT OR INQUIRY
8	STAFF UPDATE
9	ADJOURN

Minutes - Woodbury County Board of Adjustment Meeting – December 6, 2021

The Board of Adjustment meeting convened on the 6th of December 2021 at 6:00 PM in the first-floor boardroom in the Woodbury County Courthouse. The meeting was also made available for public access via teleconference.

BA Members Present : Bob Brouillette, Ashley Christensen, Pam Clark, Daniel Hair
County Staff Present: Dan Priestley, David Gleiser, Dawn Norton
Public Present: Matthew Wulf, Melissa Wulf

Call to Order

Vice-Chair Ashley Christensen formally called the meeting to order at 6:00 PM.

Public Comment on Matters Not on the Agenda

No public comment for non-agenda items.

Approval of Minutes

The November 1, 2021 minutes were approved. Motion by Brouillette to approve; second by Clark. Motion passed 4-0.

Conditional Use Permit (Residential Solar Panels) – (Dean Kruse)

Priestley read the staff report into the record. Dean A. Kruse has filed a conditional use permit application to request for the installation and use of solar panels on the roof of his single-family dwelling on the property located on Parcel #894602200001 in T89N R46W (Concord Township), Section 2, NW ¼ of the NE ¼. The property is located in the Agricultural Preservation (AP) Zoning District and is not located in the floodplain. The property address is 1862 100th St., Sioux City, IA 51108. This proposal was published in the Sioux City Journal Legals Section on November 20, 2021 for the Board of Adjustment public hearing on December 6, 2021. The neighbors within 500 FT have been duly notified via a November 17, 2021 letter about the November 22, 2021 Zoning Commission review meeting and the December 6, 2021 Board of Adjustment public hearing and have been requested to comment. As of November 30, 2021, no comments have been received in opposition. Appropriate stakeholders including government agencies, utilities, and organizations have been notified and have been requested to comment. No major concerns were reported. Based on the information received and the requirements set forth in the Zoning Ordinance, this proposal meets appropriate criteria for approval. It is the recommendation of staff to approve this proposal. On Monday, November 22, 2022, the Woodbury County Zoning Commission reviewed this proposal and voted 3-0 to recommend approval to the Board of Adjustment. Brouillette asked about the life expectancy of the solar panels; Priestley stated 20 years. A motion was made by Brouillette to close the public hearing; seconded by Christensen. Motion passed 4-0. A motion was made by Brouillette to recommend approval of the conditional use request for the installation of solar panels on the roof of Mr. Kruse's home; second by Clark. Motion passed 4-0.

Variance Setback Reduction Request – (Matthew & Melissa Wulf)

Priestley read the staff report into record. Matthew and Melissa Wulf have filed a variance application to request for an addition to their legal nonconforming home for a handicapped accessible living space and garage within the 100 FT front yard setback on the property identified as Parcel #884511400004 in T88N R45W (Moville Township), Section 11, SE ¼. The property is located in the Agricultural Preservation (AP) Zoning District and is not located in the floodplain. The property address is 1779 Hancock Ave., Moville IA 51039. The addition is proposed to be built 47 FT from the front right-of-way line. The hardship is a result of not having an ideal location to expand the house to accommodate for their son's diagnosis within the zoning setbacks. This proposal has been properly noticed in the Sioux City Journal Legals Section on November 20, 2021. The neighbors within 500 FT have been duly notified via a November 22, 2021 letter about the December 6, 2021 Board of Adjustment public hearing and have been requested to comment. As of November 30, no comments have been received in opposition. Appropriate stakeholders including government agencies, utilities, and organizations have been notified and have been requested to comment. The Woodbury County Engineer is working with the property owner on constructing a new driveway and removing the old driveway. He has no concerns with the variance request as long as the face of the addition is no closer to the road than the current house. No other major concerns were reported. Matthew Wulf explained they are implementing an ADA specification to the house; elevation of existing garage is not feasible for the use. Based on the information received and the requirements set forth in the Zoning Ordinance, this proposal meets appropriate criteria for approval. It is the recommendation of staff to approve this proposal. A motion was made by Christensen to close the public hearing; seconded by Brouillette. Motion passed 4-0. A motion was made by Hair to recommend approval of the variance setback reduction request by the Wulf's; second by Christensen. Motion passed 4-0.

Discussion/Action: Proposed Rules of Procedure for the Woodbury County Board of Adjustment

Gleiser discussed the proposed bylaws or rules of procedure modeled from the Board of Supervisors meetings and other counties. The Board of Adjustment has not previously adopted bylaws. This proposal would solidify the rules of procedure for the Board's operations. The Board of Supervisors would need to approve. Christensen asked if this would allow electronic communication, Gleiser stated yes, for situations like illness or travel, but there would still need to be three members physically present at the meeting for a quorum. Members would need to attend 50% of the scheduled meetings. This proposed Board of Adjustment Rules of Procedure will be presented to the Board of Supervisors for review on December 21, 2021 and returned to the Board of Adjustment for adoption on January 3, 2022.

Discussion/Action: Proposed Zoning Ordinance Amendment

Gleiser stated this amendment is to get up to speed with the Iowa Code with issues such as attendance and term limits. Brouillette asked if diversity is still included, Gleiser stated yes. Effort needs to be made to meet the diversity standards. Term limits are clarified, members with previous experience prior to January 2023, regardless of years of served will be eligible for two additional terms of 5 years each. The proposed Zoning Ordinance Amendment will go to the Zoning Commission for a public hearing on January 24, 2022 for the first reading. Readings by the Board of Supervisors will be: February 8, 2022 – 1st Reading; February 15, 2022 – 2nd & possibly 3rd Reading, February 22, 2022 – possibly 3rd Reading.



Proposed Rules of Procedure.pdf

See attachments.

Discussion: Solar Energy

Gleiser is working on a draft for amendment to Zoning Ordinance to include topics such as site placement and decommissioning of units. Solar permits could be done under a conditional use permit or an allowed use using a building permit. Commercial and residential may be permitted differently. Brouillette mentioned lease protection conditions. Gleiser also suggested the amendment could include natural buffers such as grass or other natural buffers. A work group consisting of the Dan, David, county engineer, assistant county attorney, conservation, finance, assessor, emergency management/services, fire department, MidAmerican, will be working together on the amendment.

Public Comment on Matters Not on the Agenda

None

Board Member Comment or Inquiry

None.

Adjourn

Brouillette made a motion to adjourn the meeting; second by Clark. Motion passed 4-0. The meeting concluded at 6:47 pm.

**RULES OF PROCEDURE
FOR THE
WOODBURY COUNTY BOARD OF ADJUSTMENT**

ARTICLE I: PURPOSE

The Woodbury County Board of Adjustment created the foregoing rules with the intent of making its procedures clear, clean, and easy to follow, both for the Board members and for members of the public.

The following rules of procedure have been approved by the Board of Supervisors on MONTH/DATE/YEAR and are hereby adopted by the Woodbury County Board of Adjustment.

ARTICLE II: MEMBERS

There are 5 members of the Woodbury County Board of Adjustment. They shall be residents of unincorporated Woodbury County, Iowa and are appointed by the Woodbury County Board of Supervisors.

ARTICLE III: OFFICERS

Section 1. Officers

The Board shall select from its membership a Chair and a Vice-Chair who will perform the usual duties pertaining to such office. Per Section 2.01: B of the County Zoning Ordinance, the Zoning Director or his/her appointee, will serve as Secretary.

Section 2. Selection

At the first regular meeting of the calendar year the Board will pick its officers from its membership. All officers are eligible for re-election.

Section 3. Tenure

The Chair shall take office immediately following their selection and shall hold office for a term of 1 year or until their successor is selected and assumes office.

The Vice-Chair shall take office immediately following their selection and shall hold office for a term of 1 year or until their successor is selected and assumes office.

Section 4. Duties

The Chair will preside at all regular meetings and hearings, appoint committees, and perform such other duties as may be ordered by the Board. The Vice-Chair shall act in the capacity of the Chair in their absence. If the Chair and Vice-Chair are both absent from a meeting and there is a quorum, the most-senior Board member shall serve as Chair of that meeting. The Secretary will record and maintain minutes of the meetings, maintain all records, and perform such other duties as the Board of Adjustment may determine.

Section 5. Vacancy

If office of the Chair becomes vacant, the Vice-Chair shall succeed to this office for the unexpired term and the Board shall select a successor to the office of Vice-Chair for the unexpired term. If only the office of the Vice-Chair becomes vacant, the Board shall select a successor to the office of Vice-Chair for the unexpired term.

ARTICLE IV. MEETINGS

Section 1. Compliance with the Open Meetings Law

All meetings of the Board shall be conducted in compliance with Chapter 21 of the Code of Iowa and other applicable law.

Section 2. Regular Meetings

The Board of Adjustment is on-call for its regular meeting scheduled on the first Monday of every month beginning at 6pm in the 1st Floor Board Room at the Woodbury County Courthouse, subject to formal business to be considered. Notice of the regular meeting shall typically be sent by the Secretary to the members at least 2-days prior to such meeting and shall state the purpose and time of the meeting.

Section 3. Special Meetings

Special meetings may be called at the request of the Chair from time to time as required to conduct the business of the County, provided that at least 24-hours notice of such meeting is given to each member.

Section 4. Quorum and Consensus

The presence of three members shall constitute a quorum. Without a quorum, no business will be transacted and no official action on any matter will take place.

Section 5. Majority Required

A majority of the quorum present is required for the adoption of any matter to come before the Board.

Section 6. Manner of Acting

Any question to come before the Board shall be in the form of a motion by a Board member and shall require a second for consideration. Remarks made by a Board member shall be limited to 10-minutes unless an extension is granted by a majority of the Board. Board members shall address the Chairperson and confine their remarks to the question before the Board and shall be respectful of other Board members and avoid referencing or questioning the motives of another Board member.

Section 7. Roll Call Votes

The Chair shall order a roll call vote when requested by a member. The roll shall be called alphabetically, except the Chair shall be called last.

Section 8. Effects of Abstention

When a Board member abstains due to a conflict of interest, the vote of the Board shall be computed on the basis of the number of Board members not disqualified by reason of conflict of interest. However, at least 3 Board members eligible to vote are required for a quorum on any matter. Abstentions that are not due to a conflict of interest shall be counted as a "no" vote.

Section 9. Electronic Participation

Members of the Board may participate in a meeting by electronic means only in circumstances where participation in person is impossible or impractical. Any member participating electronically shall be connected by a speaker phone, video conference, or other device or software, so that the public can hear any discussion by that member. The vote of any member participating electronically must be made public at the meeting and the minutes of the meeting shall include sufficient information to indicate the vote of each member participating.

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ARTICLE V: ADMINISTRATION

Section 1.

Board meetings are administered by the Chair. The Chair has the right to:

1. Call the meeting to order
2. Recognize speakers
3. Call for motions on agenda items, and facilitate debate
4. Preserve order and decorum
5. Determine points of order

ARTICLE VI. ORDER OF BUSINESS

Section 2.

The Secretary will prepare an agenda for each meeting and send it to each member typically at least 2-days before the meeting. The order of business shall typically be as follows:

1. Call to order and opening statement by Chair
2. Roll call
3. Public comments on matters not on the established agenda (3-minute limit)
4. Approval of minutes
5. Item of business
6. Public comments on matters not on the established agenda (3-minute limit)
7. Board member comments
8. Adjournment

Section 3.

As to an item of business, the order shall typically be as follows:

1. Staff report
2. Petitioner comments
3. Board member comments and questions for staff/petitioner
4. Staff/petitioner rebuttal opportunity
4. Public comments
5. Staff/petitioner rebuttal opportunity
6. Vote

ARTICLE VII. MOTIONS AND VOTING

Section 1.

Motions may be made by anyone on the Board. The Chair will restate the motion before a vote is taken. The Board typically recognizes three kinds of motions:

- A. Main Motion – request for action on an item; can be made by any member, including the Chair.
- B. Motion to Amend a Motion – which the Board must vote on first, then the Board votes on the underlying motion.
- C. Motion to Postpone discussion of a matter until a future meeting.

Section 2.

Another Board member may then second a motion. The motion dies if no member seconds it.

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Section 3.

The Board may then debate the motion further.

1. Members should keep their discussion concise and limited to the motion on the table.
2. A member may withdraw his/her own motion at any time during debate.

Section 4.

The Chair may then conclude debate by calling for a vote. Each member must respond:

1. Yes ("aye")
2. No ("nay")
3. Abstain

Section 5.

The Chair shall then state whether the motion passes or fails, and the final vote tally.

ARTICLE VIII. PUBLIC PARTICIPATION

Section 1.

Any member of the public wishing to address the Board may do so during the appropriate "public comments" section of the Order of Business.

Section 2.

Comments by any one member of the public shall be limited to 3 minutes.

Section 3.

Any person so addressing the Board shall step up to the microphone and give their name and address for the record.

Section 4.

Should a person engage in slanderous remarks, personal attacks, or boisterous behavior, the Chair may refuse to recognize the speaker, may ask the speaker to leave, or may have the speaker removed.

ARTICLE IX. AMENDMENTS

Section 1.

The Board may suspend or amend these rules at any regular or special meeting by a majority vote of the members present.

DATE ADOPTED

CHAIRPERSON

ATTESTOR

- A. Establishment. Pursuant to Chapter 335 of the Code of Iowa, a County Zoning Commission, consisting of five members, as previously established, is hereby continued.
- B. Appointment and Membership.
- (1) The members of the Zoning Commission shall be appointed by the Board of Supervisors for terms of five years. Members may serve up to 2 terms on the Commission, whether the terms are successive or not. Terms of the Commissioners shall be staggered so that no more than two memberships expire on December 31 of any year. Vacancies shall be filled in the same manner for the remainder of an unexpired term.
 - (2) Members of the Zoning Commission shall consist of eligible electors, as defined by Iowa Code section 39.3, who reside within the area regulated by the County Zoning Ordinance and shall not be officers or employees of any agency or department of the County. Iowa law requires all appointive boards, commissions, committees, and councils of a political subdivision to be gender balanced by using a fair and unbiased method of selecting the best qualified applicants. The Board of Supervisors may appoint any qualified applicant, regardless of gender, after making a three-month good faith effort to appoint a gender balanced Commission.
 - (3) Members of the Zoning Commission shall serve without compensation but may be reimbursed for the actual expenses incurred while performing their official duties, which shall be subject to the approval of the Board of Supervisors.
 - (4) Any member of the Zoning Commission may be removed for cause by the Board of Supervisors following a public hearing on written charges. Cause for removal may be found by the Board of Supervisors in any action or condition which it determines to be detrimental to the proper functioning of the Commission, including conflicts of interest, violations of laws or regulations pertaining to the role of the Commission, failing to carry out the duties of a member of the Commission, including failure to attend 50% or more regular meetings in any twelve month period, or other conduct which casts doubt upon the integrity or effectiveness of the member.
- C. Rules of Procedure. The Commission shall organize itself and shall adopt and maintain, subject to the approval of the Board of Supervisors, Rules of Procedure in conformance with the provisions of this ordinance and the Iowa Code to govern the conduct of its business.
- D. Powers and Duties. The Zoning Commission shall have the following powers and it shall be its duty:
- (1) To recommend the boundaries of the various districts and appropriate regulations and restrictions to be enforced in the districts within the area regulated by the County Zoning Ordinance.
 - (2) To, with due diligence, prepare a preliminary report and hold public hearings on the preliminary report before submitting the Commission's final report to the Board of Supervisors as provided in the County Zoning Ordinance and Subdivision Regulations.

- (3) To recommend to the Board of Supervisors amendments, supplements, changes or modifications to the text or Zoning District Map of the County Zoning Ordinance. The Commission's report and any recommendations may include a proposed ordinance or amendments to an ordinance.
- (4) To recommend to the Board of Supervisors, the adoption of a comprehensive plan pursuant to Iowa Code Section 335.5, or amendments thereto.
- (5) To contract with professional consultants, regional planning commissions, the economic development authority, or the federal government, for local planning assistance, with the approval of the Board of Supervisors.

- A. Establishment. Pursuant to Chapter 335 of the Code of Iowa, a County Board of Adjustment, consisting of five members, as previously established, is hereby continued.
- B. Appointment and Membership.
 - (1) The members of the Board of Adjustment shall be appointed by the Board of Supervisors for terms of five years. Members may serve up to 2 terms on the Board, whether the terms are successive or not. Terms of the Board shall be staggered so that no more than two memberships expire on December 31 of any year. Vacancies shall be filled in the same manner for the remainder of an unexpired term.
 - (2) Members of the Board of Adjustment shall consist of eligible electors, as defined by Iowa Code section 39.3, who reside within the area regulated by the County Zoning Ordinance and shall not be officers or employees of any agency or department of the County. Iowa law requires all appointive boards, commissions, committees, and councils of a political subdivision to be gender balanced by using a fair and unbiased method of selecting the best qualified applicants. The Board of Supervisors may appoint any qualified applicant, regardless of gender, after making a three-month good faith effort to appoint a gender balanced Board.
 - (3) Members of the Board of Adjustment shall serve without compensation but may be reimbursed for the actual expenses incurred while performing their official duties, which shall be subject to the approval of the Board of Supervisors.
 - (4) Any member of the Board of Adjustment may be removed for cause by the Board of Supervisors following a public hearing on written charges. Cause for removal may be found by the Board of Supervisors in any action or condition which it determines to be detrimental to the proper functioning of the Board, including conflicts of interest, violations of laws or regulations pertaining to the role of the Board, failing to carry out the duties of a member of the Board, including failure to attend 50% or more regular meetings in any twelve-month period, or other conduct which casts doubt upon the integrity or effectiveness of the member.
- C. Rules of Procedure. The Board of Adjustment shall organize itself and shall adopt and maintain, subject to the approval of the Board of Supervisors, rules of procedure in conformance with the provisions of this ordinance and the Iowa Code to govern the conduct of its business.
- D. Powers and Duties. The Board of Adjustment shall have the following powers and it shall be its duty:
 - (1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of Iowa Code Chapter 335, or of any ordinance adopted pursuant thereto.
 - (2) To hear and decide special exceptions to the terms of the ordinance upon which such Board is required to pass under such ordinance.
 - (3) To authorize upon appeal, in specific cases, such variance from the terms of the

ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed, and substantial justice done.

Tentative Timelines

Rules of Procedure Adoption Timeline:

- **November 22, 2021** – Zoning Commission Discussion/Action (ZC ROP)
- **December 6, 2021** – Board of Adjustment Discussion/Action (BOA ROP)
- **December 21, 2021** - Board of Supervisors Review/Approval
- **January 3, 2022** - Board of Adjustment Adoption
- **January 24, 2022** - Zoning Commission Adoption

Proposed Ordinance Amendments Adoption Timeline (Zoning Commission & Board of Adjustment):

**Set Times to be determined*

#Third reading could be waived by the Board of Supervisors.

- **January 24, 2021** - Zoning Commission Public Hearing
- **February 8, 2022*** - Board of Supervisors Public Hearing (1st Reading of Ordinance Amendment)
- **February 15, 2022*** - Board of Supervisors Public Hearing (2nd Reading of Ordinance Amendment)
- **February 22, 2022*#** - Board of Supervisors Public Hearing (3rd Reading of Ordinance Amendment)



**WOODBURY COUNTY
COMMUNITY & ECONOMIC DEVELOPMENT**

620 DOUGLAS STREET – SIOUX CITY, IA 51101

Dan Priestley · Zoning Coordinator · dpriestley@woodburycountyia.gov
Dawn Norton · Sr. Clerk · dnorton@woodburycountyia.gov
Telephone (712) 279-6609 Fax (712) 279-6530

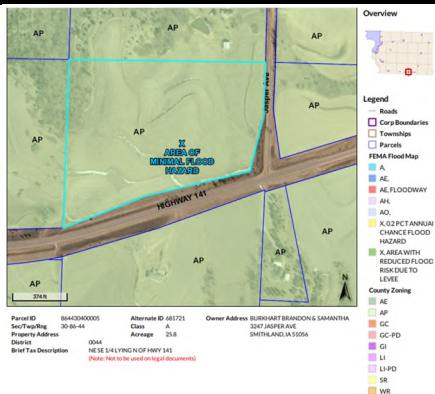
TEMPORARY BORROW PIT – CONDITIONAL USE PERMIT PROPOSAL FINAL REPORT – 6/2/22

APPLICATION DETAILS	PROPERTY DETAILS	TABLE OF CONTENTS
Owner/Applicant(s): Brandon Burkhart Application Type: Temporary Borrow Pit (Hornick Berm Project) Zoning District: Agricultural Preservation (AP) Total Acres: 25.8 Acres Current Use: Farmland Proposed Use: Borrow Pit / Resource Extraction Pre-application Meeting: March 24, 2022 Application Date: April 7, 2023 (Formally Received: May 3, 2022) Legal Notice Date: May 19, 2022 Stakeholders' (500') Letter Date: May 19, 2022 Zoning Commission Review Date: May 23, 2022 Board of Adjustment Public Hearing Date: June 6, 2022	Parcel(s): 864430400005 Township: T86N R44W (Little Sioux) Section: 30; Quarter: NE ¼ SE 1/4 Zoning District: Agricultural Preservation (AP) Floodplain District: Zone X (Not in SFHA)	<input type="checkbox"/> Summary, Recommendation, Aerial & Proposed Area <input type="checkbox"/> Staff Recommendation <input type="checkbox"/> Legal Notification & Adjacent Owners' Notification <input type="checkbox"/> Stakeholder Comments <input type="checkbox"/> Review Criteria <input type="checkbox"/> CUP Application <input type="checkbox"/> Supporting Documentation

SUMMARY

Brandon Burkhart has filed a conditional use permit application for a temporary borrow pit for resource extraction from his property as referenced above. The borrow is to be taken to Hornick for the completion of the Hornick Flood Protection Improvements Project as a flood protection mechanism. The request is to remove 63,000 cubic yards in a 4.7 acre cut area.

AERIAL VIEW



PROPOSED BORROW AREA



ZONING COMMISSION AND STAFF RECOMMENDATION

The Woodbury County Zoning Commission voted 5-0 at their May 23, 2022 review meeting to recommend approval of this temporary borrow pit proposal offering the following recommended conditions:

- 1) Any potential soil erosion and damaging water runoff must be mitigated, and all parameters of the Storm Water Pollution Prevention Plan (SWPPP) must be actively implemented.
- 2) All federal, state, and local regulations must be followed not limited to those of the Iowa Department of Natural Resources (IDNR), Iowa Department of Transportation (IDOT), Natural Resources and Conservation Services (NRCS), Iowa Office of the State Archaeologist.

STAFF RECOMMENDATION

Land Use Goal 1.6 of the Woodbury County General Plan (2005) states “establish standards and practices for land development to minimize soil erosion and damaging water runoff, particularly in the fragile soils of the Loess Hills area of the County.” With this goal in mind, as well as the consideration of the six criteria and two considerations as presented in this report, and subject to public testimony at the Board of Adjustment public hearing that might raise any outstanding issues with the criteria, staff recommends approval of this proposal with the following conditions:

- 1) Any potential soil erosion and damaging water runoff must be mitigated, and all parameters of the Storm Water Pollution Prevention Plan (SWPPP) must be actively implemented.
- 2) All federal, state, and local regulations must be followed not limited to those of the Iowa Department of Natural Resources (IDNR), Iowa Department of Transportation (IDOT), Natural Resources and Conservation Services (NRCS), Iowa Office of the State Archaeologist.

Suggested Motion

A motion to approve the temporary borrow pit including the conditions as proposed.

Minutes - Woodbury County Zoning Commission Meeting – May 23, 2022

The Zoning Commission (ZC) meeting convened on the 23rd of April at 6:00 PM in the first-floor boardroom in the Woodbury County Courthouse. The meeting was also made available via teleconference.

ZC Members Present: Barb Parker, Jeff O'Tool, Corey Meister, Chris Zellmer Zant, Tom Bride
County Staff Present: Daniel Priestley, Dawn Norton
Public Present: Dan Kriener, Brett Johnston, Forrest Johnston

Call to Order

Chair Chris Zellmer Zant formally called the meeting to order at 6:00 PM.

Public Comment on Matters Not on the Agenda

None.

Approval of Minutes

The April 25, 2022 minutes were approved. Motion to approve: Bride; Second: O'Tool. Motion approved -5-0.

PUBLIC HEARING: WILLIAM'S THIRD STRIKE, SECOND ADDITION MINOR SUBDIVISION PROPOSAL

Due to an oversight in the certified abstract listing, and after discussion with the Woodbury County Attorney's office, the public hearing for this agenda item was postponed. This item has been rescheduled for a special meeting of the Zoning Commission on June 1, 2022 at 6:00 pm in the 1st Floor Board of Supervisor's Meeting Room, Woodbury County Courthouse, 620 Douglas Street, Sioux City, IA. Notice will be published, and adjacent landowners will be notified by mail of the new date for the public hearing.

CONDITIONAL USE PERMIT REVIEW: TEMPORARY BORROW PIT PROPOSAL (PARCEL #864430400005)

Priestley read the proposal and staff recommendation into the record. Brandon Burkhart has filed a conditional use permit application for a temporary borrow pit for resource extraction from his property. The borrow is to be taken to Hornick for the completion of the Hornick Flood Protection Improvements Project as a flood protection mechanism. The request is to remove 63,000 cubic yards in a 4.7 acre cut area, which is a 25.8-acre parcel in Section 30, T86N R44W (Little Sioux Township) in the NE ¼ of the SE ¼. It is in the Agricultural Preservation (AP) Zoning District and is not located in the floodplain. A borrow permit is an allowed conditional use in this Zoning District according to the Land Use Summary Table. A public hearing is scheduled for June 6, 2022 for the Board of Adjustment to review the intended borrow pit and has been noticed in the Sioux City Journal, adjacent landowners notified by mail, and stakeholders notified. The Zoning Coordinator has received communications from an adjacent landowner, and the Loess Hills National Scenic Byway voicing concern and disagreement of the project. Access would be from Hwy 141. IDOT would implement traffic control if necessary. Contractor and landowner have applied for necessary local and state permits such as Grading, Storm Water Pollution Prevention Plan (SWPPP), and National Pollutant Discharge Elimination System (NPDES). Contractor Brett Johnston stated this area was previously used as a borrow pit during the construction of Hwy 141. The land is currently being used for farming crops and will be returned to previous usage when project is complete. During removal, a silt fence will be installed, a berm will be constructed to contain top soil. Granular material will be used to minimize tracking and water truck will be used for dust control. After the borrow is complete, the topsoil will be replaced and cover crop planted until the next planting season. The area will be monitored for possible burial grounds. The project would begin when all necessary permits are secured. The borrow pit would operate from 6:00pm to 7:00pm, Monday – Saturday and is expected to be complete by December 2022. The area will have improved drainage and less runoff than current layout. Motion by O'Tool to recommend approval of the proposal to Board of Adjustment with the following conditions: Any potential soil erosion and damaging water runoff must be mitigated, and all parameters of the Storm Water Pollution Prevention Plan (SWPPP) must be actively implemented; and, all federal, state and local regulations must be followed not limited to those of the Iowa Department of Natural Resources (IDNR), Iowa Department of Transportation (IDOT), Natural Resources and Conservation Services (NRCS), Iowa Office of the State Archaeologist. Second: O'Tool. Motion approved 5-0.

Discussion of Solar Ordinance Provisions

Priestley opened discussion regarding residential solar systems and utility scale solar systems. He researched Louisa and Clinton County's ordinances. Louisa County separates residential and commercial. The City of Sioux City administratively issues building permits for residential solar systems as accessory structures/uses to the properties. Discussion of conditional use permitting or general building permit for residential users. With no requirement of building codes in rural Woodbury County, homeowners would need to revert to the State of Iowa's electrical standards. Items such as structural analysis, type of material (panel array or solar shingles), placement (roof or standalone), would need to be considered. The current Woodbury County Zoning Ordinance requires a conditional use permit for all solar projects regardless of type. General Industrial (GI) would currently be the only zoning district a large-scale solar project could be located. An ordinance would also need to address Ag Exempt and non-exempt landowners. Woodbury County's ordinance may need to be updated to address future needs depending on the intensity of the projects from residential to utility scale. Several considerations include road use agreements, decommissioning plans, setback requirements, etc. Research into other jurisdictions and their policies on residential and commercial solar operations will continue to be discussed at future meetings.

Public Comment on Matters Not on the Agenda

None.

Commissioner Comment or Inquiry

None.

Staff Update

Priestley informed the Commission that the City of Sioux City has officially annexed the area off Hwy 20 intended for the new DOT and SIMPCO office. Priestley confirmed, due to an error in reporting the listing of adjacent landowners, the public hearing for William's Third Strike, Second Addition Minor Subdivision Proposal will be held during a Special Meeting of the Zoning Commission at 8:00PM on June 1, 2022 (June 8, 2022 backup date), in the 1st Floor Board of Supervisor's Meeting Room, Woodbury County Courthouse, 620 Douglas Street, Sioux City, IA.

Adjourn

The meeting adjourned at 7:55 PM.

LEGAL NOTIFICATION

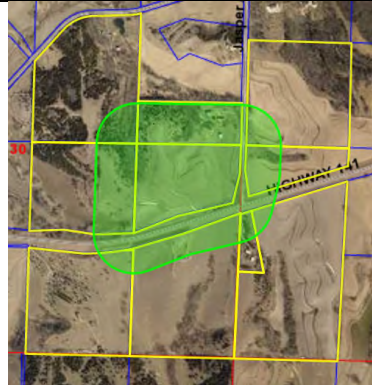
Woodbury County Board of Adjustment Public Hearing published in the Sioux City Journal's Legals Section on **May 19, 2022**.

NOTICE OF PUBLIC HEARING REGARDING CONDITIONAL USE PERMIT REQUEST FOR A BORROW PIT BEFORE THE BOARD OF ADJUSTMENT

The Woodbury County Board of Adjustment will hold a public hearing on the following item hereafter described in detail on June 6, 2022 at 8:00 PM or as soon thereafter as the matter may be considered. Said hearing will be held at the County Board of Adjustment Room, Number 104, County Courthouse, 609 Douglas Street, Sioux City, Iowa. Copies of said items may now be examined at the office of the Woodbury County Community and Economic Development, on the 6th Floor of said courthouse by any interested persons. All persons who wish to be heard in respect to this matter should appear at the aforesaid hearing in person or call 712-454-1133 and enter the Conference ID: 265-985-578# during the meeting to listen or comment.

Pursuant to Section 309 of the Code of Iowa, the Woodbury County Board of Adjustment will hold a public hearing to consider the Conditional Use Permit application by Brandon Burkhart. The Conditional Use Permit request is for the establishment of a temporary borrow pit to remove earthen material/resources extraction on a portion of the property located on Parcel #89-4130-0005 in the NE ¼ of the SE ¼ of Section 39 in T86N R44W (Little Sioux Township). The property is located about 4.5 miles west of Homick and about 3 miles west of Saylor and is located in the Agricultural Preservation (AP) Zoning District. Applicant: Brandon Burkhart, 3247 Jasper Ave., Smithland, IA 51056.

PROPERTY OWNER(S) NOTIFICATION – 500'



The **six (6)** property owners within 500 FT; and listed within the certified abstractor's affidavit; were notified by a **May 19, 2022** letter about the public hearing before the Woodbury County Board of Adjustment on **June 6, 2022** in accordance with Woodbury County Zoning Ordinance Section 2.02.B(1) Public Notification. "In addition to Iowa Code Chapter 21 requirements for notice to new media and posting notice of public meetings at least 24 hours prior to a public meeting, notice to the public and due notice to parties in interest of the date, time and location of a public hearing on a zoning issue shall be given not less than four nor more than twenty days prior to the date of the hearing in the manner described herein." The letter also referenced the Zoning Commission's review meeting to be held on **May 23, 2022**.

As of **the printing of this packet**, the Community and Development office has received:

- 2 Phone Inquiries
- 0 Written Comments

The names of the property owners are listed below.

When more comments are received after the printing of this packet, they will be provided at the meeting.

Property Owner(s)	Mailing Address	Comments
Judith L. Bromander	3116 325th St. Smithland IA 51056	No comments.
Adelene L. Bromander	3102 Hwy 141 Smithland IA 51056-8003	No comments.
Brandon & Samantha Burkhart	3247 Jasper Ave. Smithland IA 51056	No comments.
Jeffrey Eugene & Deanna J. Shupe	202 S. 4th St. Mapleton IA 51034	Two phone inquiries (Jeffrey) on 5/18/22 offering concerns about the permitting process timeframe including the public notification timeframe process as well as the selection of the location. Concerns about the impact on the natural landscape and the impact of drainage/runoff on the adjacent property.
Dennis K. & Mardell D. Torgerson	PO Box 205 Homick IA 51026-0205	No comments.
Stan & Brenda Hinrickson	3090 Hwy 141 Smithland IA 51056-8061	No comments.

STAKEHOLDER COMMENTS

911 COMMUNICATIONS CENTER:	No issues here. – Glenn Sedivy, 5/9/22.
FIBERCOMM:	No comments.
IOWA DEPARTMENT OF NATURAL RESOURCES (IDNR):	No comments.
IOWA DEPARTMENT OF TRANSPORTATION (IDOT):	SEE EMAIL BELOW. – Kelly Mulvihill, 5/5/22.
LOESS HILLS NATIONAL SCENIC BYWAY:	SEE LETTER BELOW. – Rebecca Castle, 5/13/22.
LONGLINES:	No comments.
LUMEN:	No comments.
MAGELLAN PIPELINE:	No comments.
MIDAMERICAN ENERGY COMPANY (Electrical Division):	I have reviewed the attached proposed borrow pit for MEC electric we have- No conflicts. – Casey Meinen, 5/6/22.
MIDAMERICAN ENERGY COMPANY (Gas Division):	No conflict for MEC "Gas" either. – Tyler Ahlquist, 5/6/22.
NATURAL RESOURCES CONSERVATION SERVICES (NRCS):	Hi Daniel- The only comment I have on the proposed borrow pit is that the terrace in the NE part of the borrow area is still under a maintenance agreement for another 5 years with us. I called Brandon Burkhart today and informed him of it, and he is going to write a request to our commissioners to repay the cost share funds to remove it. Other than that, I have no issue with the proposal. – Randi Prichard, 5/10/22.
NORTHERN NATURAL GAS:	No comments.
NORTHWEST IOWA POWER COOPERATIVE (NIPCO):	We have reviewed this zoning request for the Temporary Borrow Pit Conditional Use Proposal T86N R44W Section 30. NIPCO has no facilities at or adjacent to this location. NIPCO has no issues with this request. – Jeff Zettel, 5/9/22.
SIouxLAND DISTRICT HEALTH DEPARTMENT:	No comments.
WIATEL:	No comments.
WOODBURY COUNTY CONSERVATION:	No comments.
WOODBURY COUNTY EMERGENCY MANAGEMENT:	I have no questions or concerns. – Rebecca Socknat, 5/9/22.
WOODBURY COUNTY EMERGENCY SERVICES:	No comments.
WOODBURY COUNTY ENGINEER:	I have no issues with this proposal. My only concern would be if they choose to request a driveway onto the county road Jasper Avenue. We would have to review any such entrance for adequate sight distance. The landowner would be required to get a permit for the driveway from our department. – Mark Nahra, PE, 5/6/22.
WOODBURY COUNTY RURAL ELECTRIC COOPERATIVE (REC):	No comments.
WOODBURY COUNTY SOIL AND WATER CONSERVATION DISTRICT:	The WCSWCD has no comment regarding this borrow pit proposal. – Neil Stockfleth, 5/9/22.

IOWA DEPARTMENT OF TRANSPORTATION STATEMENT – Kelly Mulvihill, 5/5/22

From: Mulvihill, Kelly <Kelly.Mulvihill@iowadot.us>
 Sent: Thursday, May 5, 2022 11:36 AM
 To: Daniel Priestley
 Cc: Tymkowicz, Shane; Seward, Roxanne
 Subject: IA141 Borrow Site Signing
 Attachments: tc273.pdf

Follow Up Flag: Follow up
 Flag Status: Flagged

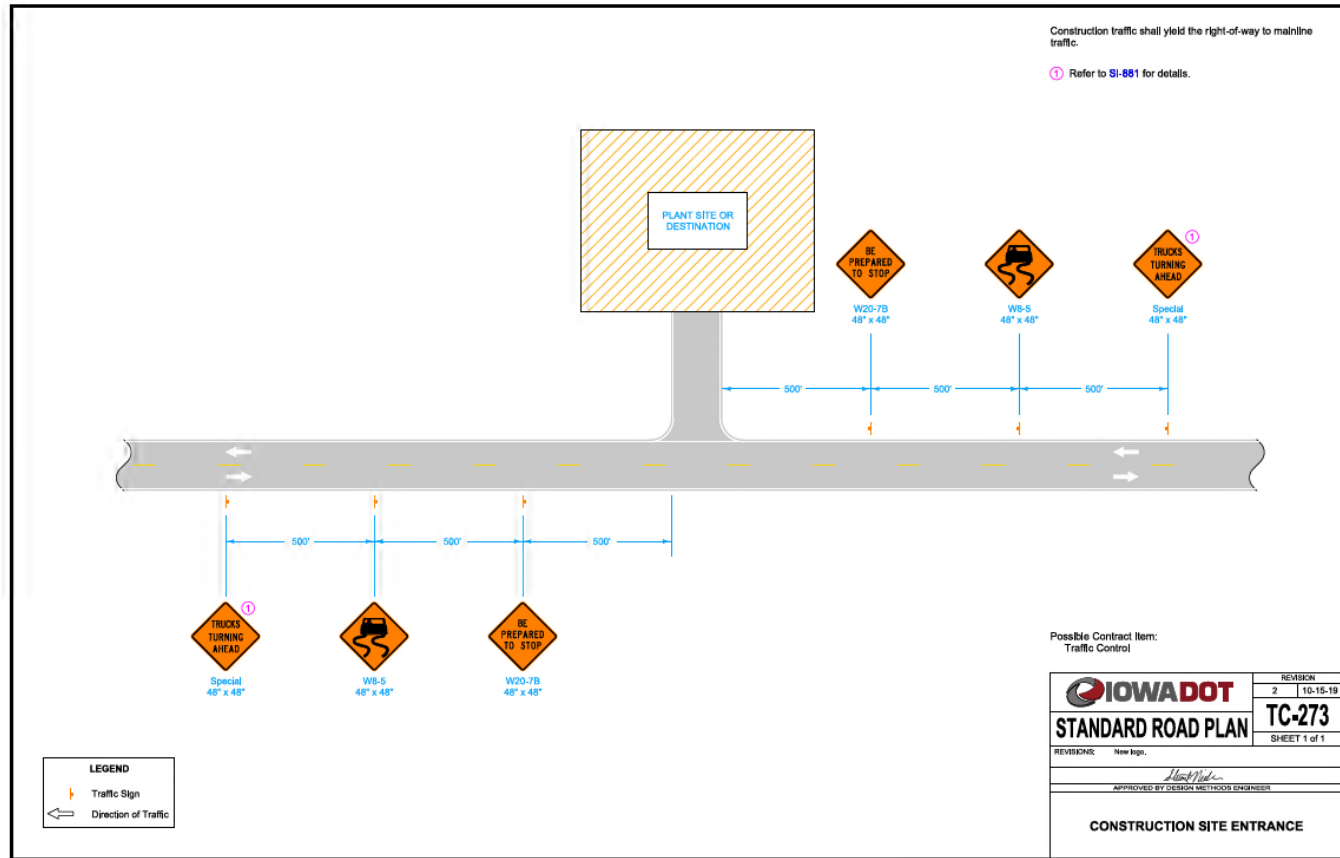
CAUTION: This email originated from **OUTSIDE** of the organization. Please verify the sender and use caution if the message contains any attachments, links, or requests for information as this person may NOT be who they claim. If you are asked for your username and password, please call WCICC and DO NOT ENTER any data.
 Good Morning Dam,

Brett Johnston reached out regarding required signing for the borrow site on the Burkhart property. The consensus after discussions with district staff is, with the proposed number of trucks hauling and the length of the haul, it is not expected to be an issue. Monitoring of the borrow site traffic will be conducted and if deemed necessary, traffic control standard TC-273 will be mandated.

Regards,

 **KELLY MULVIHILL**
 UTILITY COORDINATOR
 DISTRICT 3 OFFICE

iowadot.gov  Iowa Department of Transportation
 Office: 712-274-5828  @iowadot  @iowadot
 Cell: 712-539-1268
 Please use 712-539-1268 due to working from home





Loess Hills National Scenic Byway
PO Box 189
Oakland, IA 51560

712-482-3029

www.visitloesshills.org

May 13, 2022

Dan Priestley, Zoning Coordinator
Community & Economic Development
Woodbury County Courthouse
620 Douglas Street, 6th Floor
Sioux City, IA 51101

To Whom It May Concern:

I am writing on behalf of the Loess Hills National Scenic Byway™ about the application by Brandon Burkhart for a Temporary Borrow Pit for the Hornick Flood Protection Improvements Project on parcel #864430400005 in Woodbury County.

As you may know, the Loess Hills are a very unique and important landform. When the potential impact of excavation and soil mining practices such as borrow pits are not considered in making land use decisions in the Loess Hills there is a risk that resources in the Scenic Byway Corridor will be destroyed and lost forever. Consistent with the Corridor Management Plan for the byway, we would not be in favor of approving a permit for a borrow pit within the Loess Hills landform – and especially within the viewshed of the Loess Hills National Scenic Byway. We are curious as to whether other locations have been considered as sources for the soil needed for this project.

We appreciate you seeking input from the Loess Hills National Scenic Byway. Please let me know if you have any questions about our concerns or would like us to refer you to local experts about the significance of the Loess Hills.

Sincerely,



Rebecca Castle, Loess Hills National Scenic Byway Coordinator

ZONING ORDINANCE CRITERIA FOR BOARD APPROVAL

Conditional Use Permits are determined by a review of the following criteria by the Zoning Commission (ZC) and Board of Adjustment (BOA). The ZC makes a recommendation to the BOA which will decide following a public hearing before the Board.

APPLICANT'S DESCRIPTION OF THE PROPOSED CONDITIONAL USE:

The proposed Conditional Use Permit is to establish a temporary borrow pit to remove earthen material to be taken to Hornick for the completion of the Hornick Flood Protection Improvements Project. This project is to help with protecting the town from unwanted waters. The borrow site is now in farmland use. When completed, the borrow site will be shaped and resourced back to farmland with the topsoil being placed back on top of area. We will seed the area down with a cover crop when finished until the row crop can be planted.

1. Estimate of quantities of earthen material to be moved
 Borrow Area: Cut area: 4.7 acres, Fill area: 0 acres, Work area: 4.7 acres
 Total excavation for export: 63,000 cyds.
2. The Swppp plan is being drawn at this time. Braun Intertec is in the process of securing an Iowa DNR's NPDES General Permit. It will include stockpiling the top soil around the borrow area to create additional erosion control. The top soil will be seeded and mulched to help with stabilization. Silt fence will surround the area outside of the top soil. Total footage of silt fence to be used is approximately 1900' LF. At completion of the project the area will have a cover crop seeded until the row crop can be planted. *Please See attached Swppp and NPDES permit.
3. Proposed method of minimizing fugitive dust during the operations. We will be using a combination of applying water and sweeping anywhere tracking is happening to help control the dust and help minimize sediments from leaving the site. We will have a granular material at the entrance of the borrow area to help clean the tires before leaving. This should improve the safety for the employees at the borrow and the public passing by.
4. Haul route: The haul route will be from the borrow area to Hornick Flood Protection Improvement Project. Haul route will follow Highway 141. After talking with Kelly Mulvihill, with the IDOT, he expressed no issue with the haul route as long as we had granular material to help with tracking and that no additional signage would be required. See attached Haul route.
5. Traffic entrance to the borrow pit will be monitored for sediment leaving the site and be diligent in an efforts to keep the roadway safe for vehicles passing by.
6. Hours of operation: The borrow pit will operate between 6:00am to 7:00pm. The borrow will operate Monday-Saturday. We will make efforts to operate during the hours of sunrise to sunset to increase safety for employees and the public.
7. Duration of operation: December 2022

CRITERIA 1:

The conditional use requested is authorized as a conditional use in the zoning district within which the property is located and that any specific conditions or standards described as part of that authorization have been or will be satisfied (Woodbury County Zoning Ordinance, Sec. 2.02-9).

Applicant Response:

The current zoning is Agricultural Preservation. Borrow pits are allowed on land that is zoned Agricultural Preservation. The purpose of the borrow pit is to extract material and use it on the Hornick Flood Protection Improvements Project. The borrow area will be returned back to its former use as farmland with all the top soil put back in place. A cover crop will be planted until row crop can be planted. The parcel is currently being used as farmland.

Staff Analysis:

The Land Use Summary Table (Section 3.03.4) of the Woodbury County Zoning Ordinance includes the Agricultural Preservation (AP) Zoning District as a location authorized for a conditional use pending review by the Zoning Commission and approval by the Board of Adjustment.

CRITERIA 2:

The proposed use and development will be in harmony with the general purpose and intent of this ordinance and the goals, objectives and standards of the general plan (Woodbury County Zoning Ordinance, Sec. 2.02-9).

Applicant Response:

The parcel is zoned agricultural preservation and is currently being used as farmland. The purpose of the project is to dig a temporary borrow pit. The borrow pit [will] be returned to farmland with the topsoil back on it. A cover crop will be planted until the row crops can be planted. By doing this we will decrease the steepness of the ground and help with future erosion control We will plan to shape it similar to the existing landscape at a lower elevation.

Staff Analysis:

The zoning ordinance allows for this location to be considered for a conditional use by the Zoning Commission and Board of Adjustment. The county policy for grading and borrow permits is to have a valid National Pollutant Discharge Elimination System (NPDES) Permit #2 and a Storm Water Pollution Prevention Plan (SWPPP) along with a site plan and grading permit. It is the expectation of the Woodbury County General plan (Land Use Goal 1.6) to ensure that “standards and practices for land development to minimize soil erosion and damaging water runoff, particularly in the fragile soils of the Loess Hills area of the county” are met. The SWPPP (see enclosed) offers a criterion to address potential erosion and runoff issues.

CRITERIA 3:

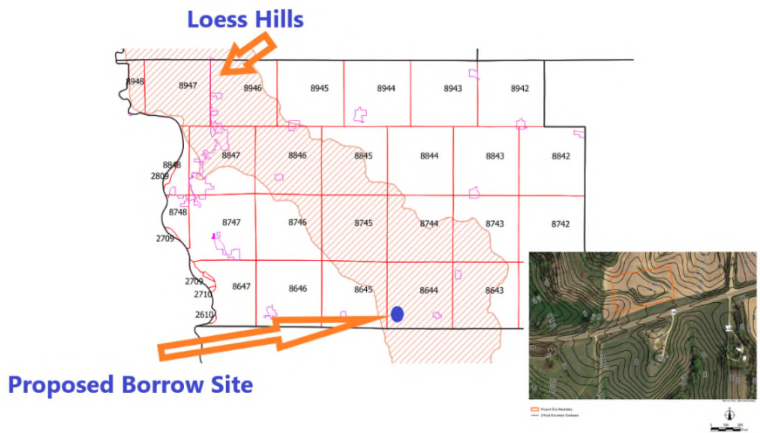
The proposed use and development will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other factors affecting the public health, safety and general welfare (Woodbury County Zoning Ordinance, Sec. 2.02-9).

Applicant Response:

The proposed use – a temporary borrow pit to extract earthen material to use for the Hornick Flood Protection Improvements Project and will not have a substantial or undue adverse effect upon adjacent properties. The proposed use will have a temporary effect on some conditions due to the increased traffic during construction hours. We plan on using eight to ten semis and trailers to haul the earthen material to the project. Increase in traffic to the roadway. After talking to Kelly Mulvihill of the IDOT he saw no issue with the borrow site area as long as we had the granular material to help with tracking. He said no additional signage would be required. We will be diligent in regards to keeping the dust down and cleaning up any tracking that happens. We will be doing this by water control and sweeping anywhere there is tracking occurring. The entrance to the borrow and project site will have a granular material to help clean off sediment before entering the roadway. The proposed work will have no affects on the character of the neighborhood, parking, utility facilities, public health, safety or general welfare.

Staff Analysis:

The location of this borrow pit is within the area designated as the Loess Hills which are a unique landform found in the United States and China. The removal of earthen material from the site could be construed as changing aspects of the land including the topography. In terms of adjacent properties and the character of the neighborhood, the borrow pit could pose both temporary and long-term impacts to the neighborhood, most notably the changing of topography. There does not appear to be any significant impact to parking, utility facilities, or other factors affecting public health. Under the zoning ordinance, private property owners have the right to petition for a borrow area and present a plan with the valid permitting to mitigate any potential impacts to the area. The property owner must meet all federal, state, and local regulations to run a seamless operation that ultimately returns the land to a quality state. The property owner must ensure that there are minimal erosion and water runoff issues during and after the project. The owner must also ensure that compliance is met with the Iowa Department of Transportation (IDOT) thereby, not adversely impacting traffic. Therefore, the Storm Water Pollution Prevention Plan (SWPPP) must be followed as well as any IDOT regulations. As per Kelly Mulvihill, Utility Coordinator for the IDOT, “The consensus after discussions with district staff is, with the proposed number of trucks hauling and the length of the haul, it is not expected to be an issue. Monitoring of the borrow site traffic will be conducted and if deemed necessary, traffic control standard TC-273 will be mandated” (Email communication, 5/5/22).



The property owner must meet all federal, state, and local regulations to run a seamless operation that ultimately returns the land to a quality state. The property owner must ensure that there are minimal erosion and water runoff issues during and after the project. The owner must also ensure that compliance is met with the Iowa Department of Transportation (IDOT) thereby, not adversely impacting traffic. Therefore, the Storm Water Pollution Prevention Plan (SWPPP) must be followed as well as any IDOT regulations. As per Kelly Mulvihill, Utility Coordinator for the IDOT, “The consensus after discussions with district staff is, with the proposed number of trucks hauling and the length of the haul, it is not expected to be an issue. Monitoring of the borrow site traffic will be conducted and if deemed necessary, traffic control standard TC-273 will be mandated” (Email communication, 5/5/22).

CRITERIA 4:

The proposed use and development will be located, designed, constructed and operated in such a manner that it will be compatible with the immediate neighborhood and will not interfere with the orderly use, development and improvement of surrounding property (Woodbury County Zoning Ordinance, Sec. 2.02-9).

Applicant Response:

The borrow pit is a temporary use necessary to create the material that is needed for the Hornick Flood Protection Improvements Project. The borrow will have the top soil put back on it. A cover crop will be planted until the row crop can

be planted. We will be lowering a hill which will cause no drainage or runoff increases. This should help with erosion control as the hill will not be as steep.

Staff Analysis:

As noted in the Criteria 3 analysis, it will be imperative for the property owner to follow the Storm Water Pollution Prevention Plan (SWPPP) and mitigate any potential adverse impacts to the neighborhood including the abutting properties.

CRITERIA 5:

Essential public facilities and services will adequately serve the proposed use or development (Woodbury County Zoning Ordinance, Sec. 2.02-9).

Applicant Response:

Not applicable to the proposed use.

Staff Analysis:

Not applicable to the proposed use.

CRITERIA 6:

The proposed use or development will not result in unnecessary adverse effects upon any significant natural, scenic or historic features of the subject property or adjacent properties (Woodbury County Zoning Ordinance, Sec. 2.02-9).

Applicant Response:

The property owner is not aware of any significant natural, scenic, or historical features of the subject property or adjacent properties. If any of the significant natural, scenic, or historical features should arise, the property owner and proper officials will be notified and the appropriate protocol will be followed.

Staff Analysis:

As noted in the Criteria 3 analysis, the location of this borrow pit is within the area designated as the Loess Hills. The removal of earthen material from the site does transform aspects of the land including the current topography which could be construed as an impact on the natural, scenic, and historic features of the subject property. The borrow pit could pose both temporary and long-term impacts to the neighborhood, most notably the changing of topography. As noted, under the zoning ordinance, private property owners have the right to petition for a borrow area and present a plan with the valid permitting to mitigate any potential impacts to the area. While recognizing the significant natural, scenic, and historic features of the Loess Hills region, there remains a balance of protecting the area while at the same time authorizing a use that is eligible to be considered under the parameters of the zoning ordinance for a private property owner. In order to proceed forward, the property owner must ensure that there are minimal erosion and water runoff issues during and after the project. Therefore, the developer must work within the guidelines of the NPDES #2 and Storm Water Pollution Prevention Plan (SWPPP) to prevent any unnecessary adverse effects to the property and return the property to a quality state. Also, the property owner must keep in mind any and all federal, state and local regulations not limited to those of the Iowa Office of the State Archaeologist, through the University of Iowa, which referenced the requirements under Iowa burial law for the protection of burials.

OTHER CONSIDERATION 1:

The proposed use or development, at the particular location is necessary or desirable to provide a service or facility that is in the public interest or will contribute to the general welfare of the neighborhood or community (Woodbury County Zoning Ordinance, Sec. 2.02-9).

Staff Analysis:

This temporary borrow pit is being requested to support the Hornick Flood Protection Improvements Project. The borrow extraction from this location can be construed as a service in the public interest as a mechanism that offers the City of Hornick an added layer of protection from possible flooding. While the removal of earthen material from this site may benefit another site, it is imperative that this property be returned to an acceptable state.

OTHER CONSIDERATION 2:

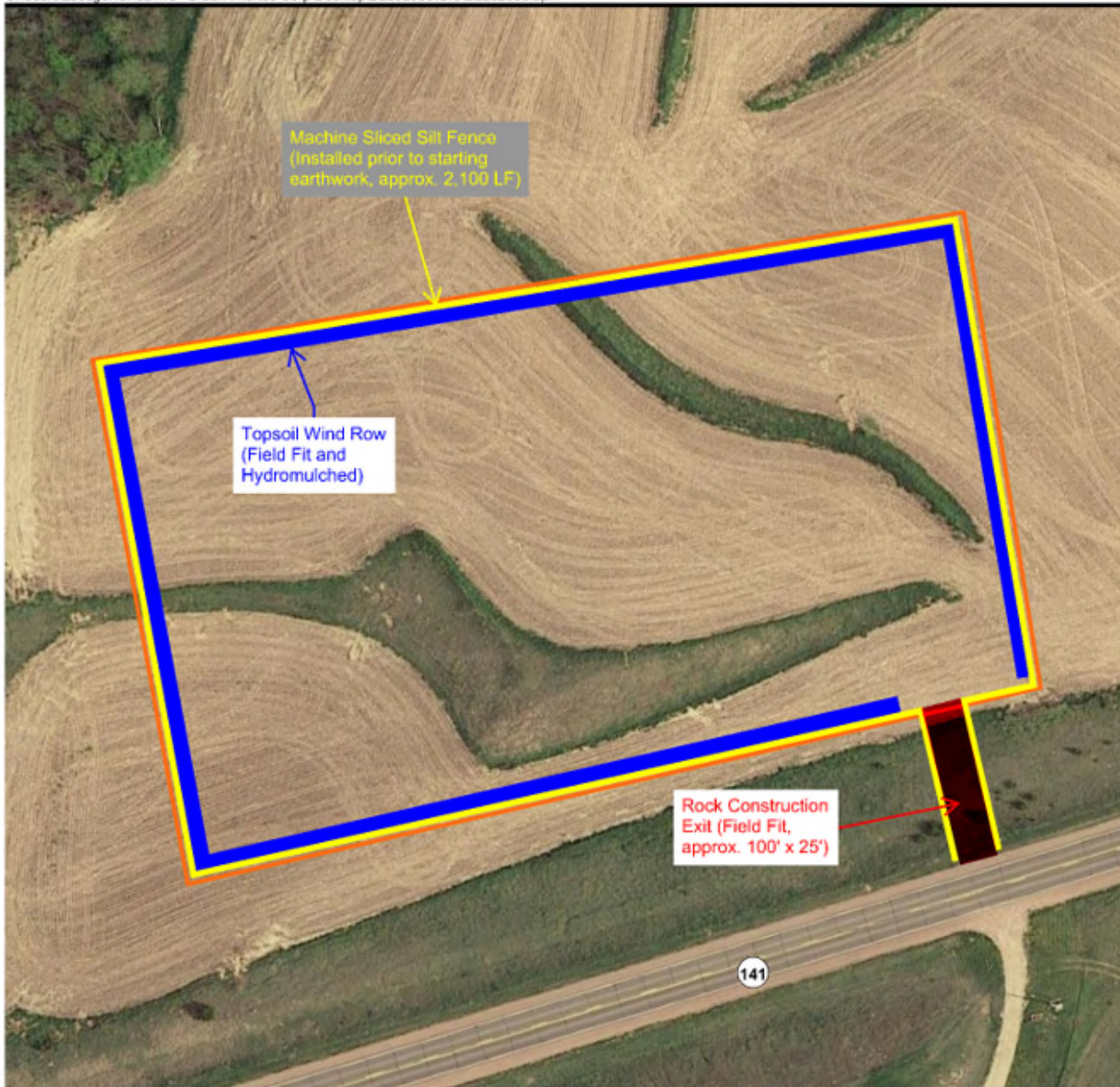
All possible efforts, including building and site design, landscaping and screening have been undertaken to minimize any adverse effects of the proposed use or development (Woodbury County Zoning Ordinance, Sec. 2.02-9).

Staff Analysis:


As referenced in the Storm Water Pollution Prevention Plan (SWPPP), pollution prevention must be implemented to counteract the effects from grading and material removal such as dust, erosion, runoff, and vehicle tracking. The project must be continually maintained and employ uses the mitigate adverse impacts to the abutting properties.

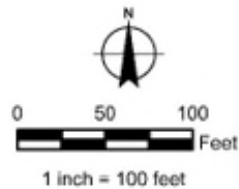
PROJECT LOCATION (SEE SWPPP BELOW)

C:\Users\zseeger\OneDrive - Braun Intertec Corp\Desktop\B2202933\GIS\B2202933.aprx

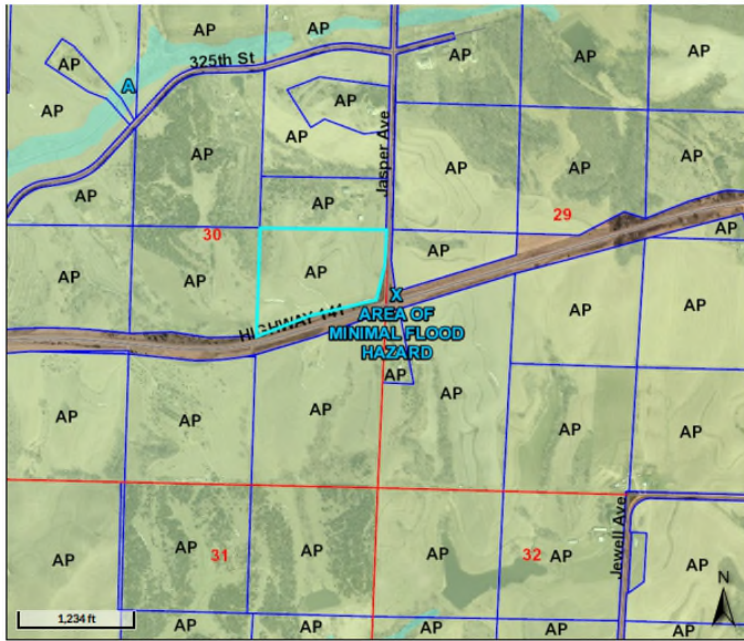


Source: MBS, Esri, OpenStreetsMap

 Project Site Boundary



ZONING MAP



- Legend**
- Roads
 - Corp Boundaries
 - Townships
 - Sections
 - Parcels
- FEMA Flood Map**
- A, AE, AE, FLOODWAY, AH, AO, X, 0.2 PCT ANNUAL CHANCE FLOOD HAZARD, X, AREA WITH REDUCED FLOOD RISK DUE TO LEVEE
- County Zoning**
- AE
 - AP
 - GC
 - GC-PD
 - GI
 - LI
 - LI-PD
 - SR
 - WR

Parcel ID 864430400005 Alternate ID 681721 Owner Address BURKHART BRANDON & SAMANTHA
 Sec/Twp/Rng 30-86-44 Class A 3247 JASPER AVE
 Property Address Acreage 25.8 SMITHLAND, IA 51056
 District 0044
 Brief Tax Description NE SE 1/4 LYING N OF HWY 141
 (Note: Not to be used on legal documents)

PARCEL REPORT

Summary

Parcel ID 864430400005
 Alternate ID 681721
 Property Address N/A
 Sec/Twp/Rng 30-86-44
 Brief Tax Description NE SE 1/4 LYING N OF HWY 141
 (Note: Not to be used on legal documents)
 741-5675 (6/9/2015)
 Deed Book/Page 741-5675 (6/9/2015)
 Gross Acres 25.80
 Net Acres 25.80
 Adjusted CSR Pts 566.68
 Zoning AP - AGRICULTURAL PRESERVATION
 District 0044 LITTLE SIOUX/WESTWOOD
 School District WESTWOOD COMM
 Neighborhood N/A

Owner

Deed Holder [Burkhart Brandon & Samantha](#)
 3247 Jasper Ave
 Smithland IA 51056

Contract Holder

Mailing Address
 Burkhart Brandon & Samantha
 3247 Jasper Ave
 Smithland IA 51056

Land

Lot Area 25.80 Acres; 1,123,848 SF

Sales

Date	Seller	Buyer	Recording	Sale Condition - NUTC	Type	Multi Parcel	Amount
6/9/2015	VOLK GALE H	BURKHART DANIEL E & BRANDON L	741/5675	NO LONGER USED (formerly Sale of two of more seperately assessed parcels)	Deed	Y	\$0.00
10/12/2004	WOJCIK JOHN S & MELISSA JO	VOLK GALE H & MARY	663/73	NO CONSIDERATION	Deed		\$0.00

Show There are other parcels involved in one or more of the above sales:

Valuation

Classification	2022	2021	2020	2019	2018
	Agriculture	Agriculture	Agriculture	Agriculture	Agriculture
+ Assessed Land Value	\$14,350	\$14,350	\$13,570	\$13,570	\$19,740
+ Assessed Building Value	\$0	\$0	\$0	\$0	\$0
+ Assessed Dwelling Value	\$0	\$0	\$0	\$0	\$0
= Gross Assessed Value	\$14,350	\$14,350	\$13,570	\$13,570	\$19,740
- Exempt Value	\$0	\$0	\$0	\$0	\$0
= Net Assessed Value	\$14,350	\$14,350	\$13,570	\$13,570	\$19,740

SOIL REPORT

Summary

Parcel ID	864430400005
Gross Acres	25.80
ROW Acres	0.00
Gross Taxable Acres	25.80
Exempt Acres	0.00
Net Taxable Acres	25.80
Average Unadjusted CSR2	22.15
	(Gross Taxable Acres - Exempt Land) / (571.46 CSR2 Points / 25.8 Gross Taxable Acres)

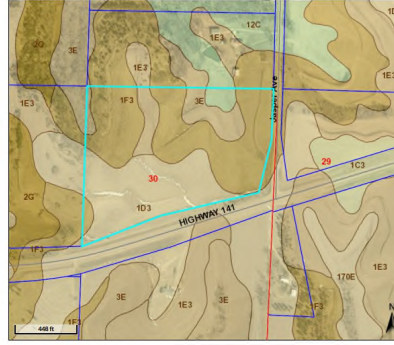
AgriLand Active Config 2017 CSR2

Sub Parcel Summary

Description	Acres	CSR2	Unadjusted CSR2 Points	Adjusted CSR2 Points
100% Value	22.25	23.17	515.52	515.52
Non-Crop	3.55	15.76	55.94	51.16
Total	25.80		571.46	566.68

Soil Summary

Description	SMS	Soil Name	CSR2	Adjusted Acres	Unadjusted CSR2 Points	Adjusted CSR2 Points
100% Value	12C	NAPIER SILT LOAM, 5 TO 9 PERCENT SLOPES	89.00	0.68	60.52	60.52
100% Value	3E	CASTANA SILT LOAM, 14 TO 20 PERCENT SLOPES	42.00	1.73	72.66	72.66
100% Value	1D3	IDA SILT LOAM, 9 TO 14 PERCENT SLOPES, SEVERELY ERODED	32.00	8.98	287.36	287.36
100% Value	1E3	IDA SILT LOAM, 14 TO 20 PERCENT SLOPES, SEVERELY ERODED	18.00	0.81	14.58	14.58
100% Value	1F3	IDA SILT LOAM, 20 TO 30 PERCENT SLOPES, SEVERELY ERODED	8.00	10.05	80.40	80.40
Non-Crop	3E	CASTANA SILT LOAM, 14 TO 20 PERCENT SLOPES	42.00	0.57	23.94	19.30
Non-Crop	1D3	IDA SILT LOAM, 9 TO 14 PERCENT SLOPES, SEVERELY ERODED	32.00	0.19	6.08	5.94
Non-Crop	1E3	IDA SILT LOAM, 14 TO 20 PERCENT SLOPES, SEVERELY ERODED	18.00	0.36	6.48	6.48
Non-Crop	1F3	IDA SILT LOAM, 20 TO 30 PERCENT SLOPES, SEVERELY ERODED	8.00	2.43	19.44	19.44
Total			25.80	571.46	571.46	566.68



Overview



Legend

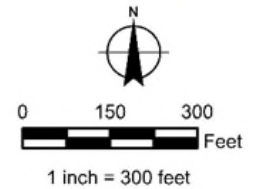
- Roads
- Soils
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 - 20.000001 - 30.000000
 - 30.000001 - 40.000000
 - 40.000001 - 50.000000
 - 50.000001 - 60.000000
 - 60.000001 - 70.000000
 - 70.000001 - 80.000000
 - 80.000001 - 90.000000
 - 90.000001 - 100.000000
- Corp Boundaries
- Townships
- Parcels

ELEVATION IMAGERY



Source: Esri, OpenStreetsMap

- Project Site Boundary
- 2 Foot Elevation Contours





OFFICE OF PLANNING AND ZONING WOODBURY COUNTY

Zoning Ordinance
Section 2.02(9)
Page 1 of 3

CONDITIONAL USE PERMIT APPLICATION

Owner Information:	Applicant Information:
Owner <u>Brandon Burkhart</u>	Applicant <u>Johnston Excavating, LLC</u>
Address <u>3247 Jasper Ave.</u>	Address <u>10032 Buckeye Ave.</u>
<u>Smithland, IA 51056</u>	<u>Sloan, IA 51055</u>
Phone <u>7128708581</u>	Phone <u>7124908241</u>

We, the undersigned, hereby apply to the Woodbury County Board of Adjustment for permission to: establish a temporary borrow site to remove earthen material/ resource extraction

Property Information:

Property Address 3247 Jasper Ave. Smithland, IA 51056
 or Address Range _____

Quarter/Quarter NE/SE Sec 30 Twship/Range 86-44 Little sioux

Parcel ID # 86443040005 GIS # _____ Total Acres 25.8

Current Use Farmland Proposed Use Borrow Pit/ Resource extraction

Current Zoning AP

The filing of this application is required to be accompanied with all items and information required pursuant to section 2.02(9)(C)(2) through (C)(4) of Woodbury County's zoning ordinances (see attached pages of this application for a list of those items and information).

A formal pre-application meeting is recommended prior to submitting this application.

Pre-app mtg. date 3/24/2022 Staff present DAN PRIESTLEY

The undersigned is/are the owners(s) of the described property on this application, located in the unincorporated area of Woodbury County, Iowa, assuring that the information provided herein is true and correct. I hereby give my consent for the Woodbury County Planning and Zoning Office and Board of Adjustment members to conduct a site visit and photograph the subject property.

This Conditional Use Permit Application is subject to and shall be required, as a condition of final approval, to comply with all applicable Woodbury County ordinances, policies, requirements and standards that are in effect at the time of final approval.

Owner [Signature] Applicant [Signature]

Date 4-7-22 Date 4/7/22

Fee: \$250 Case #: 6761

Check #: CC ending 3920

Receipt #: _____



PER SECTION 20.2(9)(C)(2)(d) PROVIDE A SPECIFIC DESCRIPTION OF THE PROPOSED CONDITIONAL USE:

The proposed Conditional Use Permit is to establish a temporary borrow pit to remove earthen material to be taken to Hornick for the completion of the Hornick Flood Protection Improvements Project. This project is to help with protecting the town from unwanted waters. The borrow site is now in farmland use. When completed, the borrow site will be shaped and resourced back to farmland with the topsoil being placed back on top of area. We will seed the area down with a cover crop when finished until the row crop can be planted.

1. Estimate of quantities of earthen material to be moved

Borrow Area: Cut area: 4.7 acres, Fill area: 0 acres, Work area: 4.7 acres

Total excavation for export: 63,000 cyds.

2. The Swppp plan is being drawn at this time. Braun Intertec is in the process of securing an Iowa DNR's NPDES General Permit. It will include stockpiling the top soil around the borrow area to create additional erosion control. The top soil will be seeded and mulched to help with stabilization. Silt fence will surround the area outside of the top soil. Total footage of silt fence to be used is approximately 1900' LF. At completion of project the area will have a cover crop seeded until the row crop can be planted.

*Please See attached Swppp and NPDES permit.

3. Proposed method of minimizing fugitive dust during the operations. We will be using a combination of applying water and sweeping anywhere tracking is happening to help control the dust and help minimize sediments from leaving the site. We will have a granular material at the entrance of the borrow area to help clean the tires before leaving. This should improve the safety for the employees at the borrow and the public passing by.

4. Haul route:

The haul route will be from the the borrow area to Hornick Flood Protection Improvement Project. Haul route will follow Highway 141. After talking with Kelly Mulvihill, with the IDOT, he expressed no issue with the haul route as long as we had granular material to help with tracking and that no additional signage would be required.

See attached Haul route

5. Traffic entrance to the borrow pit will be monitored for sediment leaving the site and be diligent in an efforts to keep the roadway safe for vehicles passing by.

6. Hours of operation: The borrow pit will operate between 6:00am to 7:00pm. The borrow will operate Monday- Saturday. We will make efforts to operate during the hours of sunrise to sunset to increase safety for employees and the public.

7. Duration of operation: December 2022

PER SECTION 2.02(9) (C)(2)(E) PROVIDE A MAP DRAWN TO SCALE , SHOWING THE SUBJECT PROPERTY. ALL STRUCTURES AND OTHER IMPROVEMENTS, WITH THE PROPOSED CONDITIONAL USE IDENTIFIED PER STRUCTURE OR IMPROVMENT. PROVIDE BY ATTACHMENT.

See Attachment: Borrow Pit drawing

PER SECTION 2.02(9) (C)(2)(E) PROVIDE A STATEMENT IN RESPONSE TO EACH OF SIX BELOW CRITERIA AND STANDARDS FOR APPROVAL OF CONDITIONAL USES AS LISTED IN SECTION 2.02(9)f OF THE ORDINANCES.

- a) Provide a statement to why you feel the conditional use requested is authorized as a conditional use in the zoning district within which the property is located and that any specific conditions or standards described as part of that
- b) Authorization have been or will be satisfied

The current zoning is Agricultural Preservation. Borrow pits are allowed on land that is zoned Agricultural Preservation. The purpose of the borrow pit is to extract material and use it on the Hornick Flood Protection Improvements Project. The borrow area will be returned back to its former use as farmland with all the top soil put back in place. A cover crop will be planted until row crop can be planted. The parcel is currently being used as farmland.

- b) Provide a statement to why the proposed use and development will be in harmony with the general purpose and intent of this ordinance and the goals, objectives, and standards of the general plan.

The parcel is zoned agricultural preservation and is currently being used as farmland. The purpose of the project is to dig a temporary borrow pit. The borrow pit will be returned to farmland with the topsoil put back on it. A cover crop will be planted to until the row crops can be planted.

By doing this we will decrease the steepness of the ground and help with future erosion control. We will plan to shape it similarly to the existing landscape just at a lower elevation.

c) Provide a statement to why the proposed use and development will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other factors affecting the public health, safety and general welfare.

The proposed use- a temporary borrow pit to extract earthen material to use for the Hornick Flood Protection Improvements Project and will not have a substantial or undue adverse effect upon adjacent properties.

The proposed use will have a temporary effect on some local traffic conditions due to the increased traffic during construction hours. We plan on using eight to ten semis and trailers to haul the earthen material to the project. Increase in traffic to the roadway. After talking to Kelly Mulvihill of the IDOT he saw no issue with the borrow site area as long as we had the granular material to help with tracking. He said no additional signage would be required.

We will be diligent in regards to keeping the dust down and cleaning up any tracking that happens. We will be doing this by water control and sweeping anywhere there is tracking occurring. The entrance to the borrow and Project site will have a granular material to help clean off sediment before entering the roadway. The proposed work will have no affects on the character of the neighborhood, parking, utility facilities, public health, safety or general welfare.

d) Provide a statement to why the proposed use and development will be located, designed, constructed, and operated in such a manner that it will be compatible with the immediate neighborhood and will not interfere with the orderly use, development and improvement of surrounding property.


The borrow pit is a temporary use necessary to create the material that is needed for the Hornick Flood Protection Improvements Project. The borrow will have the top soil put back on it. A cover crop will be planted until the row crop can be planted . We will be lowering a hill which will cause no drainage or runoff increases. This should help with erosion control as the hill will not be as steep.

e) Provide a statement to why essential facilities and services will adequately serve the proposed use or development.

Not applicable to the proposed use.

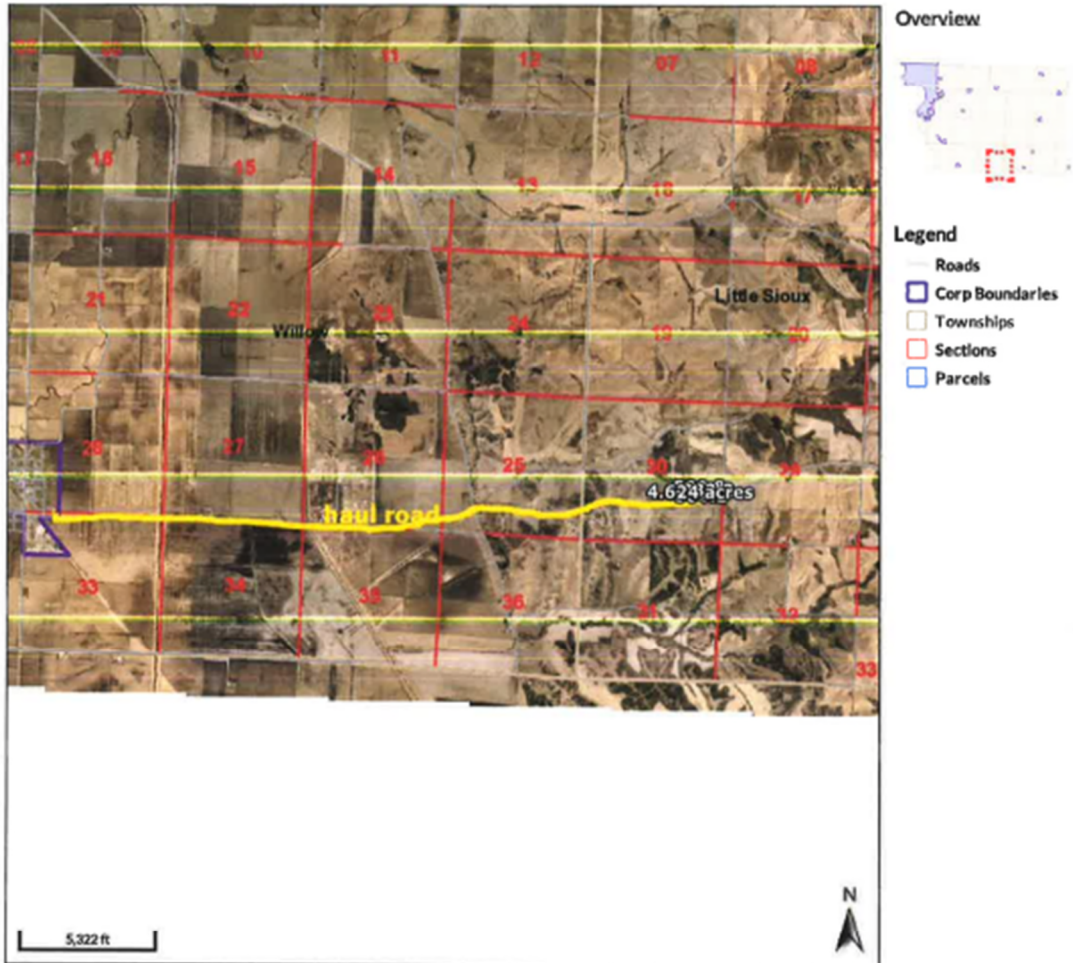
d) Provide a statement to why the proposed use or development will not result in unnecessary adverse effects upon any significant natural, scenic, or historic features of the subject property or adjacent properties.

The property owner is not aware of any significant natural, scenic, or historical features of the subject property or adjacent properties. If any of the significant natural, scenic, or historical features should arise, the property owner and proper officials will be notified and the appropriate protocol will be followed.

 **Beacon**™ Woodbury County, IA / Sioux City



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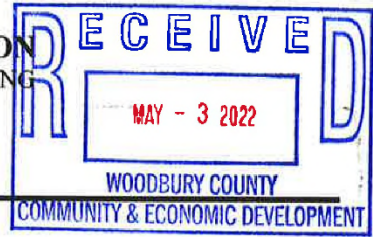
Date created: 4/5/2022
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Developed by  Schneider
GEOSPATIAL

Haul road from CUP to Hornick

Haul road will be from the borrow driveway approximately 600' West of the intersection of Jasper Ave. and Highway 141 to site driveway approximately 500' East of the intersection of 5th ave. and Highway 141. Total distance of haul road on Highway 141 to be approximately 4.75 miles.

GRADING PERMIT APPLICATION
WOODBURY COUNTY PLANNING & ZONING
6TH FLOOR COURT HOUSE
620 DOUGLAS STREET
SIOUX CITY, IOWA 51102



Applicant's Information:

Property Owner(s) Name: Brandon Burkhart
Mailing Address: 3247 Jasper Ave. Smithland, IA 51056
Phone No. 712-870-8581 E-mail Address: N/A

Grading Contractor's Information:

Property Owner(s) name: Johnston Excavating, LLC
Mailing Address: 10032 Buckeye Ave.
Phone No. 712-490-8241 E-mail Address: btjcjohnston5@hotmail.com

Property and location Information:

Property Address: 3247 Jasper Ave. Smithland, IA 51056
GIS Parcel Number: 864430400005 Quarter: NE/SE Section 30 Township 86-44 Little Sioux
Purpose for Grading Permit Application: Borrow Pit construction to be used with conditional use permit

Will Earthen Material be removed from the parcel? Yes No No. of Cubic Yards 63,000

Will Earthen Material be brought to the parcel? Yes No No. of Cubic Yards _____

Anticipated Start Date of Grading: June 1, 2022 Anticipated End Date of Grading: DEC. 15th 2022

Any Other Information: _____

[Signature]
PROPERTY OWNER(S) SIGNATURE

[Signature]
CONTRACTOR'S SIGNATURE

APPROVED: _____ DATE: 4/7/22
PLANNING AND ZONING DIRECTOR

AFTER THE APPLICATION HAS BEEN APPROVED AND THE PERMIT ISSUED, THIS PERMIT BECOMES NULL AND VOID IF GRADING HAS NOT COMMENCED WITHIN 120 DAYS. THE PERMIT EXPIRES TWELVE (12) MONTHS FROM ISSUANCE AND MUST BE RENEWED IF GRADING IS TO CONTINUE.

Below -Office Use Only:
Application Number: 6762 Date: 5-3-2022
Parcel's Zoning: AP Parcel's Flood Zone: Map Panel No: _____
Permit Issue Date: _____ Expiration Date: _____
Approved: _____ Denied: _____



IOWA DEPARTMENT OF NATURAL RESOURCES

GOVERNOR KIM REYNOLDS
LT. GOVERNOR ADAM GREGG
DIRECTOR KAYLA LYON

May 02, 2022

BRETT JOHNSTON
JOHNSTON EXCAVATING
10032 BUCKEYE AVE.
SLOAN, IA 51055

Re: Authorization of a Storm Water Discharge Associated With Construction Activity
Iowa Department of Natural Resources, NPDES General Permit No. 2
DNR Authorization Number: IA - 41102 - 40732
Facility Name and Location: HORNICK FLOOD PROTECTION BORROW PIT - CONSTRUCTION, SMITHLAND,
IA

This letter is to acknowledge that a complete Notice of Intent to be covered under Iowa's NPDES Storm Water General Permit No. 2 has been received. Please use the DNR Authorization Number provided above for any future correspondence on this project. By making this Notice of Intent with the DNR, you are committing to meet the terms and conditions in General Permit No. 2. If you do not have a copy of General Permit No. 2 please call (515)204-9234 and request that a copy be sent to you or go to <http://www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Storm-Water/Permits-Guidance-Forms>

In accordance with the terms and conditions in General Permit No. 2, a pollution prevention plan was to have been developed before the Notice of Intent was submitted to the department. The plan is to be implemented at the start of construction and updated accordingly. The pollution prevention plan and other records are to be kept on-site where the storm water discharge occurs. Unless otherwise requested, you do not need to provide a copy to the DNR.

When the construction project has reached final stabilization as defined in the permit, you must submit a Notice of Discontinuation to the DNR (refer to the summary guidance document). Final stabilization is not achieved for residential and commercial developments until all houses and buildings have been constructed and ground surrounding them has been finally stabilized.

If you have questions, please call me at 515-725-8417 or email at Joe.Griffin@dnr.iowa.gov.

Sincerely,

Joe Griffin
NPDES Section

Enclosure: Permit Authorization Sheet

File No. CON 11 - 34 -- 41102
IDNR Field Office # 3



DEPARTMENT OF NATURAL RESOURCES
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
NOTICE OF GENERAL PERMIT COVERAGE UNDER
GENERAL PERMIT NO. 2

STORM WATER DISCHARGE ASSOCIATED WITH CONSTRUCTION ACTIVITY

This notice of general permit coverage for a storm water discharge associated with construction activity is issued pursuant to the authority of section 402 (b) of the Clean Water Act (U.S.C. 1342(b)), Iowa Code 455B.174, and subrule 567--64.4(2), Iowa Administrative Code. A Notice of Intent has been filed with the Iowa Department of Natural Resources that this storm water discharge complies with the terms and conditions of NPDES General Permit No. 2. Authorization is hereby issued to discharge storm water associated with industrial activity as defined in Part VIII of the Iowa Department of Natural Resources NPDES General Permit No. 2 in accordance with the terms and conditions set forth in the permit.

Owner:

**JOHNSTON EXCAVATING
10032 BUCKEYE AVE.
SLOAN IA 51055
(712)490-8241**

Contact:

**BRETT JOHNSTON
JOHNSTON EXCAVATING
10032 BUCKEYE AVE.
SLOAN IA 51055
(712)490-8241**

Permit Coverage Issued To:

**HORNICK FLOOD PROTECTION BORROW PIT - CONSTRUCTION
3247 JASPER AVE.
in SMITHLAND, WOODBURY COUNTY
located at**

1/4 Section	Section	Township	Range
SE	30	86	44W

Coverage Provided Through: 5/11/2023
NPDES Permit Discharge Authorization Number: 41102 - 40732
Discharge Authorization Date: 5/11/2022

Project Description: BORROW PIT EXCAVATION 5.0 ACRES

SUBMITTED TO DNR-UNDER REVIEW 28973

Facility Info

Name HORNICK FLOOD PROTECTION - BORROW PIT **Type** GP #2 - Construction Activity
Address: 3247 JASPER AVE
Description: NW CORNER OF 141 AND L13
City/State/Zip: SMITHLAND IA 51056 **County** WOODBURY
Permit Description 5 ACRE BORROW PIT EXCAVATION FOR THE HORNICK FLOOD PROTECTION PROJECT.
Legal Status Private **Sic Code** **Acres disturbed** 5.00 **Discharge Start Date** 5/11/2022
Receiving Stream STORMWATER RUNOFF NORTH APPROX. 1,800 FEET TO WEBER CREEK.
Estimated. Timeline MAY 11TH TO NOVEMBER 1ST, 2022.
App Status New App **File No** **Auth No** **Pre-Permitted No**

Location Info

1/4 Section	Section	Township	Range
SE	30	86	44

Has the Storm Water Pollution Prevention Plan been developed prior to the submittal of this Notice of Intent and does the plan meet the requirements of the applicable General Permit ? (do not submit the SWPPP with the application) Yes

Will the Storm Water Pollution Prevention Plan comply with the approved State (Section 161A.64, Code of Iowa) or local sediment and erosion plans ? (for General Permit 2 only) Yes

Has a public notice been published for at least one day in the newspaper with the largest circulation in the area where the discharge is located and is the proof of notice attached?(new applications only) Yes

Payment Info

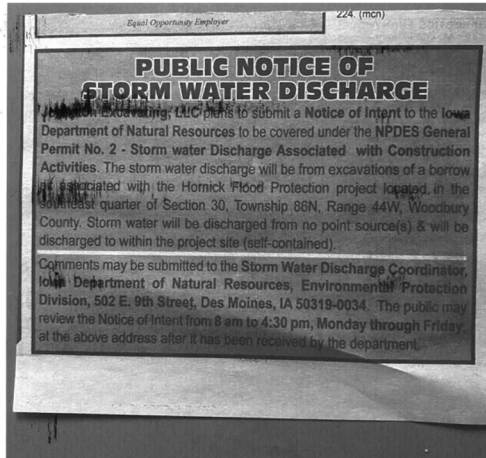
Date Paid 5/2/2022 **Payment Amt** \$180.00

Primary Contact Info

Name BRETT JOHNSTON **Company Name** JOHNSTON EXCAVATING
Address 10032 BUCKEYE AVE
City/State/Zip SLOAN IA 51055 **Phone No** (712)490-8241
Email Address BTJCJOHNSTON6@HOTMAIL.COM

Owner Info

Name BRETT JOHNSTON **Company Name** JOHNSTON EXCAVATING
Address 10032 BUCKEYE AVE
City/State/Zip SLOAN IA 51055 **Phone** (712)490-8241
Email Address BTJCJOHNSTON6@HOTMAIL.COM
Certifier Name **Certifier Company Name**
Email Address **Title**



**Hornick Flood Protection Project
Borrow Pit Site
Construction Storm Water Pollution
Prevention Plan (SWPPP)**

Prepared For:
Johnston Excavating, LLC

Prepared By:

Braun Intertec Corporation
11001 Hampshire Avenue South
Bloomington, MN 55438

SWPPP Preparation Date:
April 20, 2022



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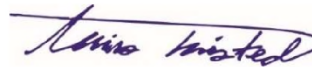
1.0 SWPPP Preparer and Owner Certification and Signature

1.1 SWPPP Preparer

I/We certify that this SWPPP and all supporting documents to the best of my/our knowledge, was prepared in accordance with and meet the state of Iowa's National Pollutant Discharge Elimination System (NPDES) General Permit No. 2 for Storm Water Discharge Associated with Construction Activities.

Date 04/20/2022

Megan Ullery
Braun Intertec
11001 Hampshire Avenue South
Minneapolis, MN 55438
mullery@braunintertec.com
952.388.3213
Certification of Preparer: Site Management
(University of Minnesota)



Date 04/20/2022

Travis Fristed
Braun Intertec
tfristed@braunintertec.com
Minneapolis, MN 55438
tfristed@braunintertec.com
952.500.1180
Certification of Preparer: Site Management,
SWPPP Designer (University of Minnesota)

1.2 Owner/Operator

I certify that I have reviewed and, to the best of my knowledge, attest all contents of this SWPPP are true, accurate, and complete. I am aware that there is the potential for significant penalties for submitting false information, including the possibility of fines and imprisonment for knowingly submitting false information.

Date

Brett Johnston
Johnston Excavating, LLC
btjohnston6@hotmail.com
712-490-8241

BRAUN
INTERTEC

2.0 Project Site Information, Contacts, and Environmental Evaluation (Part IV.D.1)

2.1 Project/Site Information

Site Name	Hornick Flood Protection - Borrow Pit
Site Location	3247 Jasper Ave
City	Smithland
County	Woodbury County
Township	86-44 Little Sioux
Lat/Long	-94.22004, 46.59832
Permit No.	XXXXXXXXXX

2.2 Contact Information/Responsible Parties

Permit Owner:

Johnston Excavating, LLC
Brett Johnston
10032 Buckeye Ave.
Sloan, IA 51055
712-490-8241 BtjJohnston6@hotmail.com

SWPPP Site Manager & Inspector (Qualified Personnel):

Johnston Excavating, LLC
Brett Johnston
10032 Buckeye Ave.
Sloan, IA 51055
712-490-8241 BtjJohnston6@hotmail.com

BMP Installer/Maintenance Supervisor(s):

Johnston Excavating, LLC
Brett Johnston
10032 Buckeye Ave.
Sloan, IA 51055
712-490-8241 BtjJohnston6@hotmail.com

2.3 Soils (Part IV.D.1.c)

The soils at the site from local USDA/SCS mapping include the following soil types:

Soil Symbol	Soil Name	Slope %	Erodibility	Hydrologic Group	Runoff Coefficient
1D3	Ida silt loam, severely eroded	9-14%	Slight	B	0.21
1F3	Ida silt loam, severely eroded	20-30%	Slight	B	0.21

Slopes in the project area of the project will be reduced as the soils in the borrow pit are being taken off-site. Additional erosion controls and sediment controls will be installed if the work area is expanded.

The project will be stripping topsoil and preserving to be re-spread over all land areas that will be returned to a vegetated status after the entire project is completed. The runoff co-efficient of the project area should stay the same or improve after the site is finished.

Compacted soils will be tilled or cultivated to a depth of 4 inches prior to final seeding.

2.4 Drainage Patterns (Part IV.D.1.d)

Current site topography shows the site draining into itself and towards the north and the west. Post construction drainage patterns will not change, except for the slopes of the hill will be flatter and elevations decreased. Drainage patterns, slopes, and the locations of structural and nonstructural controls are illustrated on Figure 5. The project will not have a common drainage location that serves an area with more than ten acres disturbed at one time, therefore temporary or permanent sediment basins are not proposed.

2.5 Vegetation

Current site vegetation is agricultural row crop that is maintained by the landowner/tenant. Following completion of construction, disturbed soils will be planted with rye grass and turnips until returned to agricultural row crop the next growing season.

2.6 Receiving Waters (Part IV.D.1.e)

List all surface waters within one mile of the project area.

Water Body ID	Name of water body	Type	Impaired Water? *	Special Water?	Impairments	Distance from site
N/A	Weber Creek	Creek	No	No	None	North 1800-ft

Description of existing storm sewer systems:

N/A

3.0 Project Construction Planning

3.1 Nature and Sequence of Construction Activity (Part IV.D.1.a)

Describe the general scope of the work for the project, major phases of construction, etc.:

General scope of the project is to establish a temporary borrow pit to excavate earthen material to be used as a fill material for the Hornick Flood Protection Project.

Major phases of construction will include:

1. Install sediment controls (silt fence, rock construction exit)
2. Removal and stockpiling of topsoil (push topsoil into wind rows and temporarily stabilize with hydromulch)
3. Excavation of fill materials (approximately 20 feet off od hill)
4. Topsoil spreading, seeding, and hydromulch over all exposed soils.

3.2 Construction Site Estimates (Part IV.D.1.b)

Project Area Estimates	
Total project area	5.0 acres
Construction site area to be disturbed	4.6 acres
Pre-construction impervious surface area	0.00 acres
Post-construction impervious surface area	0.00 acres
Net New Impervious area	0.00 acres

Erosion and Sediment Control BMP Quantity Estimates	
Machine-Sliced Silt Fence	Approx. 2,100 ft

Stabilized Rock Construction Exit	1 (100' x 25')
Hydromulch & Temporary Seed	5 Acres

3.3 Project Timing and Phasing (Part IV.D.2.a and D.2.b)

Estimated Project Start Date	5/1/2022
Estimated Project Completion Date	11/1/2022

The major phases of construction and their associated Erosion and Sediment Controls are described below:

1. Initial Sediment Control Installation
 - 5/1/2022
 - The objective of this phase is to install all perimeter sediment control BMPs as necessary to ensure any and all disturbed soils to follow this phase are captured before leaving the site.
 - Sediment controls to be added during this phase:
 - Machine-Sliced Silt Fence around the down gradient perimeter of the site
 - Stabilized Rock Construction Exit
 - Upon completion of this phase, the site will be ready for earth disturbing activities.
2. Removal and Stockpiling of Topsoil
 - 5/1/2022
 - The objective of this phase is to strip and preserve topsoil within wind rows with the intention to use as a secondary sediment control to contain and/or filter storm Water.
 - Erosion and Sediment Control to be added during this phase:
 - Hydromulch temporary erosion controls as needed (within 14 days)
 - Upon completion of this phase, the site will move to Phase 3.
3. Removal of Fill Materials
 - 5/1/2022
 - The objective of this phase is to excavate materials for off-site hauling to the Hornick Flood Protection project site.
 - Erosion and Sediment Control BMPs to be added during this phase:
 - Temporary erosion controls as needed if there is a pause of work (within 14 days)
 - Dust Control Watering (as needed)
 - Upon completion of this phase, the site will move to Phase 4.
4. Return Site to Original Condition
 - Fall 2022

- The objective of this phase is to return the topsoil back onto the original locations, planting with rye grass and turnips, and apply hydromulch
 - Erosion and Sediment Control BMPs to be added during this phase:
 - Apply hydromulch
5. Permit Termination (Part II.G)
- 11/2022
 - Filing of the Notice of Discontinuation can be done once all the following apply:
 - All construction has been completed
 - Site achieved final stabilization within 30 days (Part VII)
 - All temporary Erosion and Sediment Controls have been removed from the site
 - Upon completion of this phase, the site if complete and the project will be closed.

3.4 Dewatering/Basin Draining (Part III.C.4)

Will the project include ground water dewatering?

No

If yes, include water appropriation information.

N/A

Storm Water removed from the trenches, basins or foundations will be treated prior to discharge by either: (1) allowed to settle in on-site sedimentation basins, or (2) filtered through a dewatering bag, or (3) infiltrated on-site.

4.0 Pollution Prevention

4.1 Potential Sources of Pollution (Part IV)

Potential sources of sediment to storm water runoff for the proposed project include:

- Grading and site excavation operations
- Vehicle tracking
- Dust

Potential pollutants and sources, other than sediment, to storm Water runoff:

- Vehicles/Equipment - refueling activities, minor equipment maintenance, leaks, dust, general waste

4.2 Spill Prevention and Control Plan (Part III.B)

- Any hazardous material liquid spill that has potential danger to public health and safety or to the environment will be reported by the SWPPP Manager or their designee to the Iowa Department of Natural Resources and local police department within six hours of the spill or discovery of the spill.

- Spill response procedures will be as follows:
 - Upon discovery of a spill, stop the source of the spill, if possible, without risk of injury.
 - Cease all spill material transfer until the release is stopped and waste is removed from the spill site.
 - Initiate containment to prevent spill from reaching ground and surface waters (including storm drains) of the site.
 - Notify the SWPPP Manager about the spill.
 - The SWPPP Manager (or their designee) will coordinate further cleanup activities, and call the Iowa Department of Natural Resources and local police department to notify no more than six hours after spill is discovered.
 - Review the SWPPP and amend, if needed. Record a description of the spill, cause, and cleanup measures taken.

4.3 Erosion and Sediment Control

The project will utilize the following Erosion and Sediment Controls:

- Silt fence
- Hydromulch
- Designated parking, fueling, and maintenance areas
- Spill kits

4.4 Project Discharge Procedures

In the event of a sediment or sediment-laden waters release from the project site, the following procedures shall be followed.

1. If sediment is released from the project site and is deposited onto an adjacent property, communication to the adjacent landowner shall be completed so that an agreed upon timeframe and method to recover the lost sediment as soon as possible, preferably within 7 days from the date of release. If the landowner prefers the recovery be completed beyond the permit required 7 days, a written agreement shall be obtained. Documentation of the recovery and any additional stabilization measures shall be completed when the recovery is completed.
2. If sediment or sediment-laden waters are released from the site to a surface water, the permit owner must contact the IDNR and report the release. Information needed to report the release includes date, waterbody release entered, approximate amount of release, maintenance completed or scheduled to prevent recurrence.

4.5 Other Controls

The project will utilize the following pollution controls:

- All wastes must be removed from the Site and disposed of in a permitted facility.
- Rock Construction Exit to minimize off-site tracking.
- Dust Control by water spraying.

5.0 Erosion and Sediment Controls

The primary objectives of this SWPPP and the specific BMPs detailed within the erosion and sediment control plans are to stabilize disturbed areas as quickly as possible following land disturbing activities, contain sediment at the point of land disturbance, minimize the off-site deposition of contaminated sediments removed from the site, and prevent the offsite discharge of sediment and sediment-laden storm Water.

Does the project have more than 10 acres that will be disturbed and draining to a common location?

No

5.1 Temporary Erosion Controls

The project will utilize the following temporary erosion control BMPs:

- Phased Construction when able
- Temporary Stabilization (Hydromulch)
- Dust control (as needed)

5.2 Permanent Erosion Controls

- N/A

5.3 Temporary Sediment Control BMPs

- Machine-sliced silt fence
- Stabilized rock construction exits

5.4 Permanent Sediment Control BMPs

N/A

BMP locations and additional information on each erosion and sediment control BMP can be found in the Appendices.

6.0 Permanent Storm Water Management

Will the project create a new cumulative impervious surface greater than or equal to one acre?

No

7.0 Inspections, Maintenance, and Record Keeping (Part IV.D.4 and Part V)

7.1 Inspections

Per the Permit, the project area that is disturbed, and not stabilized with sufficient density, along with storage areas of materials and other construction activity must be inspected at least once every 7 days. If additional pollution prevention measures are to be needed and installed, or any changes in product type, location, or quantity, the SWPPP Manager must enter these changes into the amendment log, or other form of documentation and changes to the Site must be made within 7 days.

7.2 Maintenance

Routine maintenance of nonfunctional BMPs shall be initiated immediately upon discovery of need.

The following is a highlight of the projects proposed BMPs and their maintenance thresholds. Complete installation, maintenance, and function information can be found in their respective BMP detail sheets located in the Appendices.

- **Silt fence** shall undergo maintenance once sediment accumulation is greater than 50% of the height of the silt fence.
- **Stabilized construction exits** shall undergo maintenance once the exit surface is visibly compacted with sediment, and/or sediment tracking is observed exiting the BMP.
- **Dust control** shall be implemented once nuisance fugitive dust is observed leaving the site.
- **Temporary stabilization** shall be initiated immediately upon the knowledge that a particular portion of the site will remain unworked for greater than 14 days. No soils shall remain unworked for more than 14 days.
- **Off-site sedimentation**
 - If observed on public roads, removal shall be initiated immediately and removed no later than 24 hours from discovery.
 - If observed outside of the project boundaries, removal shall be initiated immediately and removed no later than 7 calendar days from discovery. If the 7 day timeframe is not feasible due to access permission issues, documentation of such issues shall be made, and removal shall occur as soon as feasible.

BMP repairs or replacements shall be completed by the end of the next business day.

Once maintenance has been completed, repairs completed, dates, and supervisory personnel shall be documented either on applicable inspection report, in a separate maintenance log, or in another form of record keeping.

7.3 Record Keeping (Part V)

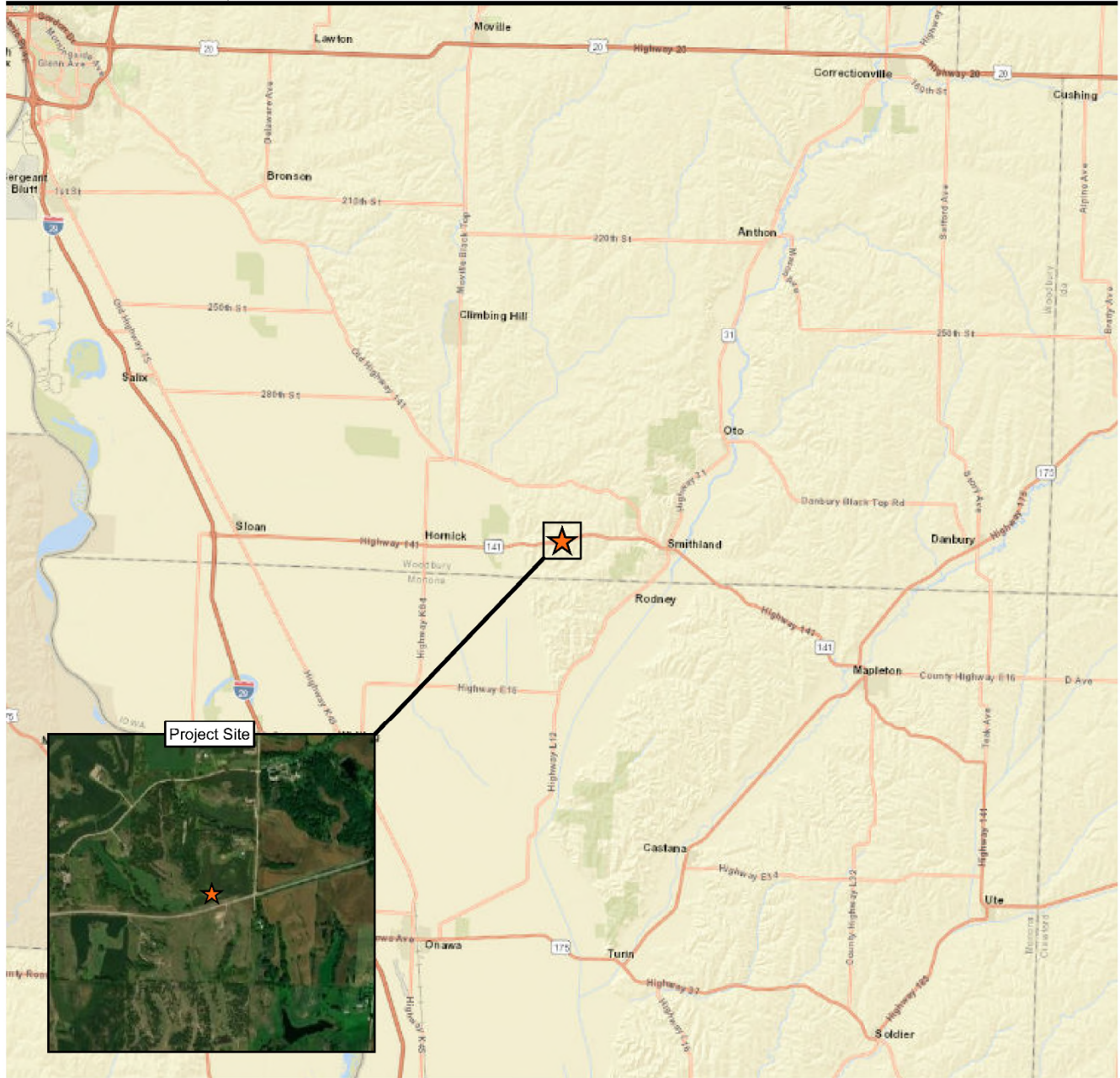
The original SWPPP and Notice of Intent shall be kept on the project site at all times or available within three hours of request (if kept off-site). All records including the Notice of Intent, original SWPPP, inspection reports, logs, erosion and sediment control plans, and amendments, must be retained by the SWPPP Manager for a minimum of 3 years from the date of permit discontinuation.

Below are logs, and personnel lists that must be updated periodically throughout the duration of the project.

- Inspection Results and Log
- SWPPP Amendments and Log
 - Records of all changes made to the SWPPP, ESC Plan, or personal changes.



Appendix A

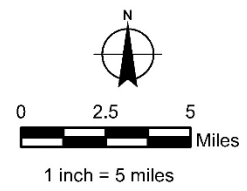
General Location and Site Characteristic Maps



Source: Esri Basemaps



-  Project Site
-  Approximate Site Boundary



11001 Hampshire Avenue S
 Minneapolis, MN 55438
 952.995.2000
 braunintertec.com

Project No:
 B2202933

Drawing No.
 Fig1_GenLocMap

Drawn By: ZS
 Date Drawn: 4/8/2022
 Checked By: TF
 Last Modified: 4/8/2022

Hornick Flood Protection Project – Borrow Pit

Portion of Woodbury County Parcel 864430400005

Hornick, Iowa




General Location Map




Figure 1

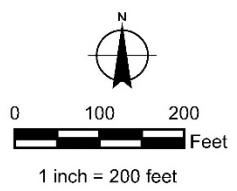


Source: NRCS Web Soil Survey, Esri, OpenStreetsMap

-  Project Site Boundary
- Erosion Hazard (Off-Road, Off-Trail)
-  Severe
-  Moderate

- Soil Survey (NRCS MUSYM)
-  12C - Napier silt loam, 5 to 9 percent slopes
 -  1D3 - Ida silt loam, 9 to 14 percent slopes, severely eroded
 -  1E3 - Ida silt loam, 14 to 20 percent slopes, severely eroded

-  1F3 - Ida silt loam, 20 to 30 percent slopes, severely eroded
-  2G - Hamburg silt loam, 40 to 75 percent slopes
-  3E - Castana silt loam, 14 to 20 percent slopes



BRAUN INTERTEC
The Science You Build On.
11001 Hampshire Avenue S
Minneapolis, MN 55438
952.995.2000
braunintertec.com

Project No:	B2202933
Drawing No:	Fig2_SoilsMap
Drawn By:	ZS
Date Drawn:	4/8/2022
Checked By:	TF
Last Modified:	4/8/2022

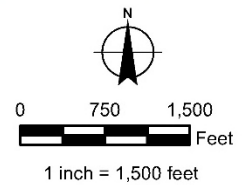
Hornick Flood Protection Project – Borrow Pit
Portion of Woodbury County Parcel 864430400005
Hornick, Iowa

County Soil Survey and Geological Features
Figure 2



Source: Esri, OpenStreetsMap

- Project Site Boundary
- 1 Mile Buffer
- USGS (NHD) Flowline
- Artificial Path
- Stream River
- LakePond



11001 Hampshire Avenue S
 Minneapolis, MN 55438
 952.995.2000
 braunintertec.com

Project No:
 B2202933

Drawing No:
 Fig3_Waters_Borrow

Drawn By: ZS
 Date Drawn: 4/8/2022
 Checked By: TF
 Last Modified: 4/13/2022

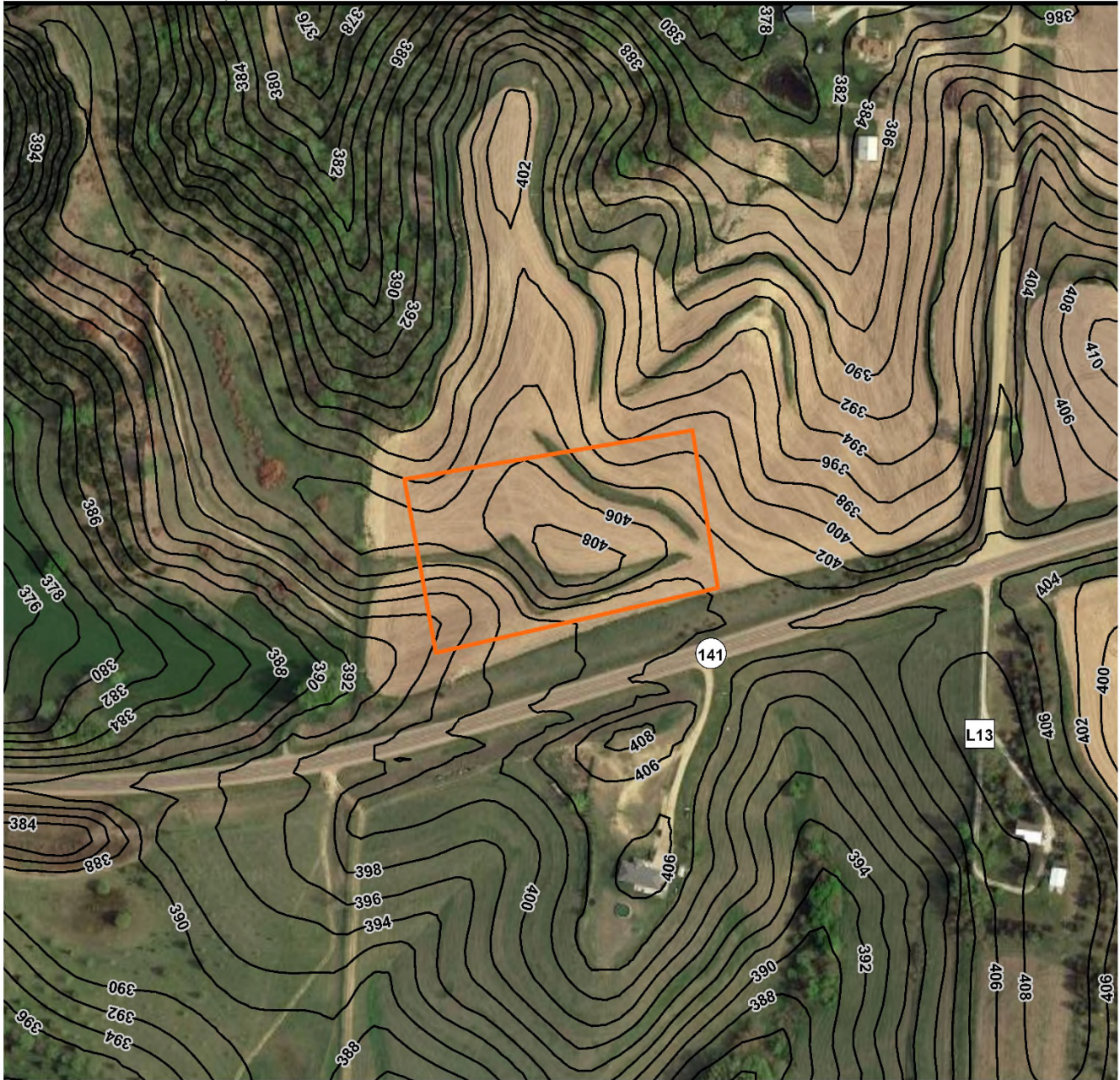
Hornick Flood Protection Project – Borrow Pit

Portion of Woodbury County Parcel 864430400005

Hornick, Iowa

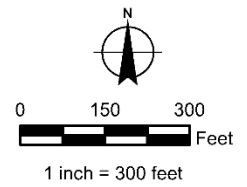
Surface Waters

Figure 3



Source: Esri, OpenStreetsMap

- Project Site Boundary
- 2 Foot Elevation Contours



11001 Hampshire Avenue S
 Minneapolis, MN 55438
 952.995.2000
 braunintertec.com

Project No:
 B2202933

Drawing No:
 Fig4_Contour_Borrow

Drawn By: ZS
 Date Drawn: 4/8/2022
 Checked By: TF
 Last Modified: 4/13/2022

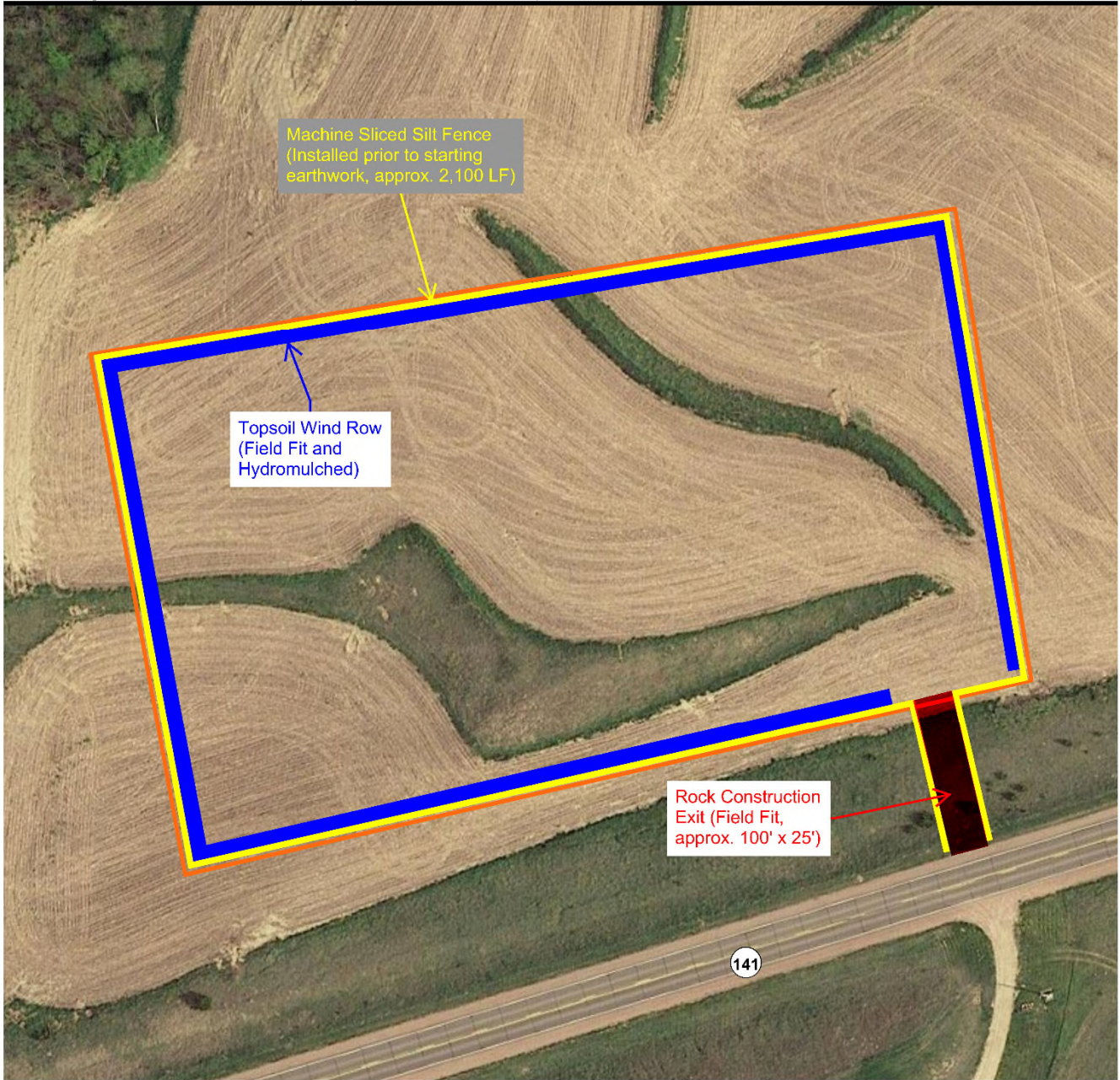
Hornick Flood Protection Project – Borrow Pit


Portion of Woodbury County Parcel 864430400005

Hornick, Iowa

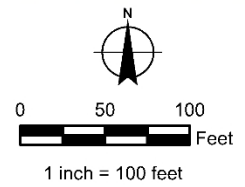
**Contour
 Map**

Figure 4



 Project Site Boundary

Source: MBS, Esri, OpenStreetsMap



11001 Hampshire Avenue S
 Minneapolis, MN 55438
 952.995.2000
 braunintertec.com

Project No:
 B2202933

Drawing No:
 Fig5_BMP_Borrow

Drawn By: ZS
 Date Drawn: 4/8/2022
 Checked By: TF
 Last Modified: 4/14/2022

Hornick Flood Protection Project – Borrow Pit

Portion of Woodbury County Parcel 864430400005

Hornick, Iowa

**BMP
 Map**

Figure 5

Appendix B

Erosion and Sediment Control Plan

Appendix C

Storm Water Discharge Associated with Construction Activities – General Permit No. 2

Appendix D

Notice of Intent & Permit Coverage Document issued by
IDNR

Appendix E

IDNR

Site Inspection Report

Appendix F

Corrective Action Log

Corrective Action Log

Project Name: Hornick Flood Protection- Borrow Pit
SWPPP Manager Contact: Brett Johnston

Inspection Date	Inspector Name(s)	Description of BMP Deficiency	Corrective Action Needed (including planned date/responsible person)	Date Action Completed/ Responsible Person

Appendix G

SWPPP Amendment Log

SWPPP Amendment Log

Project Name: Hornick Flood Protection- Borrow Pit
SWPPP Manager Contact: Brett Johnston

Amendment No.	Description of the Amendment	Date of Amendment	Amendment Prepared by [Name(s) and Title]



Appendix H

Grading and Stabilization Activities Log

Grading and Stabilization Activities Log

Project Name: Hornick Flood Protection- Borrow Pit
SWPPP Manager Contact: Brett Johnston

Date Grading Activity Initiated	Description of Grading Activity	Date Grading Activity Ceased (Indicate Temporary or Permanent)	Date When Stabilization Measures are Initiated	Description of Stabilization Measure and Location



Appendix I

SWPPP Training Log

SWPPP Training Log
Storm Water Pollution Prevention Training Log

Project Name: Hornick Flood Protection-Borrow Pit
Project Location: _____

Instructor's Name(s): _____

Instructor's Title(s): _____

Date	Name of Attendee	Company	Erosion Control BMPs	Sediment Control BMPs	Emergency Procedures	Good Housekeeping Procedures



Appendix J

Additional Support Documents

Minutes of the Monthly Meeting of the Woodbury County
Soil & Water Conservation District
May 18, 2022 – Conference Call/Zoom
425-436-6318 Code 154099
USDA Service Center, 204 First St, Sergeant Bluff, Iowa

A special meeting of the Woodbury County Soil & Water Conservation District Commissioners was called to order via conference call at 9:30 AM, Thursday, May 18, 2022 by Chairperson Lane Tabke

Those participating in the meeting were:

Commissioners

Kelly Ingenthron
Lane Tabke

Gary Walters

Others

Kristi Kranz, Conservation Assistant
Randi Prichard, Acting District
Conservationist

Tabke appointed Kranz the recorder of the meeting.

(2022-56) Motion by Ingenthron, seconded by Walters to approve the Agenda. Motion Carried

Prichard explained the borrow pit and it's use, there is a terrace on the land that is still under a 20 year maintenance agreement and has five years left on the agreement. It would be 470 ft taken out, the full cost share amount would be \$251.45

(2022-57) Motion by Ingenthron, second by Walters approve the removal of the one terrace and have the producer pay back the full cost share amount of 251.45 Motion carried.

(2022-58) Motion by Walters, second by Ingenthron to adjourn the meeting at 9:40 AM. Motion carried.

Date Approved _____

Lane Tabke, Chairperson

Ted Bromander, Secretary

CERTIFIED TESTING SERVICES, INC.

Laboratory Compaction Characteristics of Soil

419 W. 6th Street
 P.O. Box 1193
 Sioux City, Iowa 51102

Client Name: City of Hornick
400 Main Street
Hornick, IA 51026

Project Name: Flood Protection Improvements
2019-FRF-0004

Location: Hornick, IA

Source Material: Imported (East Feedlot Borrow)

Sample Description: Yellow Brown Silt
Soil ID. No. 1

Material Designation: --- Sample date: 03/25/22

Test Method: ASTM D698

Test Procedure: A

Sample Preparation: Dry Method

Rammer: --- Mechanical X Manual

Project No.: 13650-01 Date: 03/30/22

TEST RESULTS	
Maximum Dry Unit Wt.:	<u>104.5</u> pcf
Optimum Water Content:	<u>18.0</u> %

Test performed date: 03/29/22

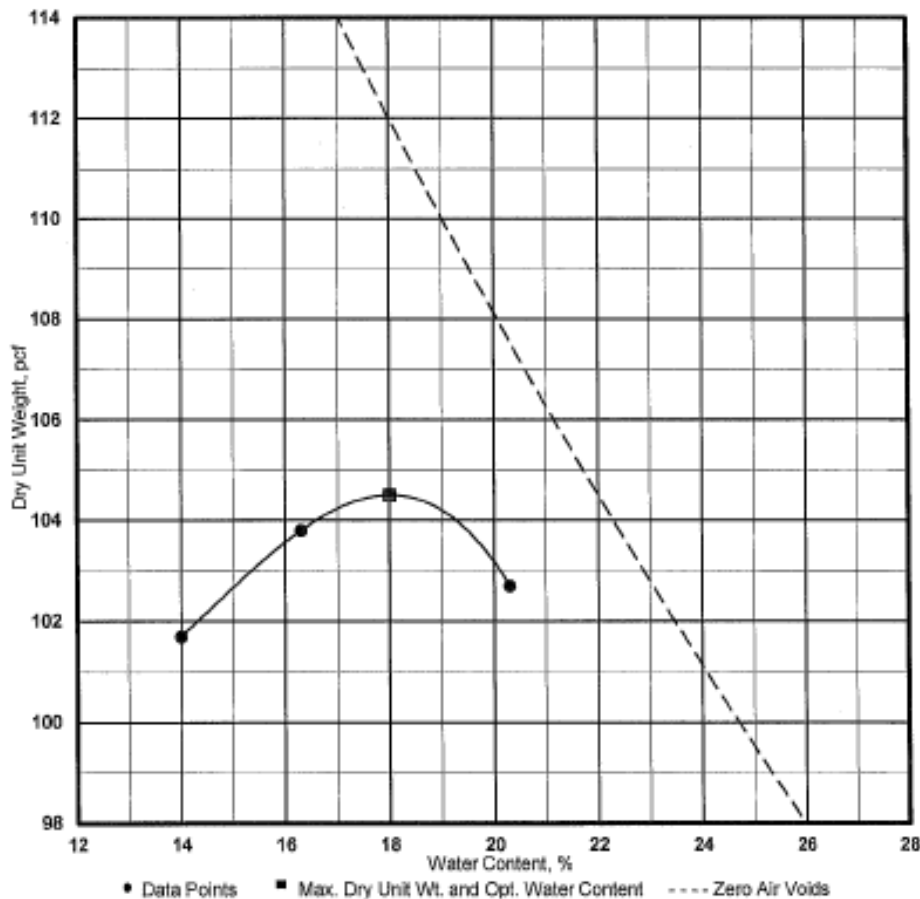
Liquid Limit: --- Plastic Limit: ---

Plasticity Index: --- ASTM D4318

% passing # 200 sieve: --- ASTM D1140

Reviewed by: Matthew R. Dailey, P.E.

Zero air voids for specific gravity of 2.65 Assumed



CERTIFIED TESTING SERVICES, INC.

Laboratory Compaction Characteristics of Soil

419 W. 6th Street
P.O. Box 1193
Sioux City, Iowa 51102

Client Name: City of Hornick
400 Main Street
Hornick, IA 51026

Project Name: Flood Protection Improvements
2019-FRF-0004

Location: Hornick, IA

Source Material: Imported (Highway 141 Borrow)

Sample Description: Yellow Brown Silt
Soil ID. No. 2

Material Designation: --- Sample date: 03/25/22

Test Method: ASTM D698

Test Procedure: A

Sample Preparation: Dry Method

Rammer: --- Mechanical X Manual

Project No.: 13650-02 Date: 03/30/22

TEST RESULTS

Maximum Dry Unit Wt.: 104.5 pcf
Optimum Water Content: 18.0 %

Test performed date: 03/29/22

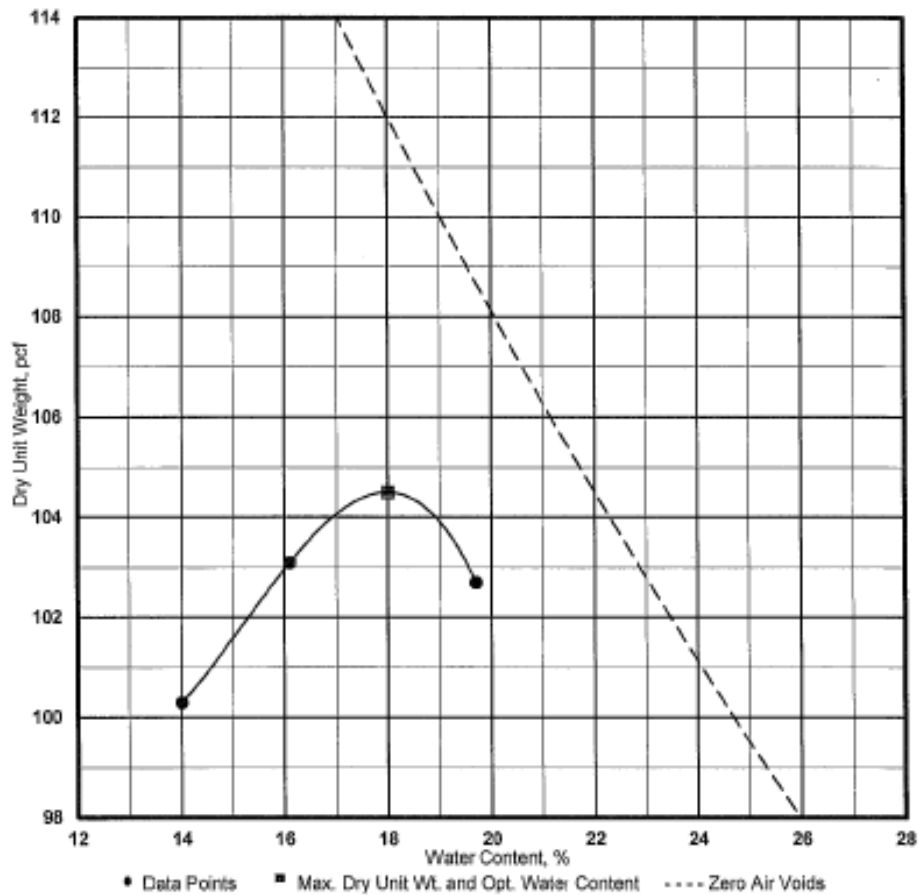
Liquid Limit: --- Plastic Limit: ---

Plasticity Index: --- ASTM D4318

% passing # 200 sieve: --- ASTM D1140

Reviewed by: Matthew R. Dailey, P.E.

Zero air voids for specific gravity of 2.65 Assumed





Office of the State Archaeologist

University of Iowa
700 Clinton Street Building
Iowa City, Iowa 52242
319-384-0732
archaeology.uiowa.edu

Monday, May 9, 2022

Brett Johnston
Johnston Excavating, LLC
10032 Buckeye Ave.
Sloan, IA 51055

Ref WD Woodbury **Iowa Site File Search No.** 2022153

Dear Brett:

I have conducted a search of the Iowa Site File for archaeological sites recorded within a one-mile radius of the area described in your request for search on 5/9/2022. This area is within 86N-44 Sec 30. Our records indicate that no archaeological sites have been reported to the OSA within 100 m of the project location. No sites are recorded within one mile of that location at the time of the records search. Other sites may be present at or near the project location but have not been discovered or reported to the OSA.

OSA Bioarchaeology Director Lara Noldner and State Archaeologist John Doershuk have reviewed this Site Search from the standpoint of the Iowa Code sections concerning protection of burials. As you may know, the OSA specifically has authority regarding ancient burials (those 150 years or more in age). Given a relatively high probability for the presence of cultural resources, and that no prior surveys have been conducted in the vicinity, archaeological testing is warranted. Surface survey of the whole project area should be conducted and a minimum of 20, 20cm auger tests should be dug across the highest elevation of the landform at 15m intervals and screened with 1/4" mesh. This work should include a report of findings to OSA with concurrence of no historic properties affected prior to any project-related disturbance.

Several caveats are in order. First, this scope will likely not fulfill the requirements of Section 106 of the National Historic Preservation Act but is specifically targeted at identifying burial mounds and/or obvious human remains. No field method short of 100 percent excavation using archaeological techniques will eliminate all possibility of human remains at a location. Therefore, should human remains be exposed as part of proposed activities at any stage of the project, the Iowa burial law [Code of Iowa, Sections 263B, 523I.316(6), and 716.5; IAC 685, Ch.11.1] requires that all work in the vicinity of the finding be halted, the remains protected, local law enforcement officials notified, and the Bioarchaeology Program Director at the OSA contacted immediately (319-384-0740 or 319-384-0732).

If applicable, a map including the HILD locations (Historic Indian Location Database) and Notable Locations (database of locations with potential historical or archaeological value) is included with this search. Historic documentation indicates an archaeological site may be present at these locations. Your project should take into consideration these potential areas of archaeological interest.

Please remember that you may contract with any member of the Association of Iowa Archaeologists Consultants List; please direct your chosen consultant to provide John Doershuk (John-Doershuk@uiowa.edu) with an electronic report of their investigation which should adhere to typical AIA survey report guidelines. John will do his utmost to then review and provide you with comments within five business days of complete report submittal.

Sincerely,

A handwritten signature in cursive script that reads "Colleen Randolph".

Colleen Randolph
Site Records Manager

**RULES OF PROCEDURE
FOR THE
WOODBURY COUNTY BOARD OF ADJUSTMENT**

ARTICLE I: PURPOSE

The Woodbury County Board of Adjustment created the foregoing rules with the intent of making its procedures clear, clean, and easy to follow, both for the Board members and for members of the public.

The following rules of procedure have been approved by the Board of Supervisors on MONTH/DATE/YEAR and are hereby adopted by the Woodbury County Board of Adjustment.

ARTICLE II: MEMBERS

There are 5 members of the Woodbury County Board of Adjustment. They shall be residents of unincorporated Woodbury County, Iowa and are appointed by the Woodbury County Board of Supervisors.

ARTICLE III: OFFICERS

Section 1. Officers

The Board shall select from its membership a Chair and a Vice-Chair who will perform the usual duties pertaining to such office. Per Section 2.01: B of the County Zoning Ordinance, the Zoning Director or his/her appointee, will serve as Secretary.

Section 2. Selection

At the first regular meeting of the calendar year the Board will pick its officers from its membership. All officers are eligible for re-election.

Section 3. Tenure

The Chair shall take office immediately following their selection and shall hold office for a term of 1 year or until their successor is selected and assumes office.

The Vice-Chair shall take office immediately following their selection and shall hold office for a term of 1 year or until their successor is selected and assumes office.

Section 4. Duties

The Chair will preside at all regular meetings and hearings, appoint committees, and perform such other duties as may be ordered by the Board. The Vice-Chair shall act in the capacity of the Chair in their absence. If the Chair and Vice-Chair are both absent from a meeting and there is a quorum, the most-senior Board member shall serve as Chair of that meeting. The Secretary will record and maintain minutes of the meetings, maintain all records, and perform such other duties as the Board of Adjustment may determine.

Section 5. Vacancy

If office of the Chair becomes vacant, the Vice-Chair shall succeed to this office for the unexpired term and the Board shall select a successor to the office of Vice-Chair for the unexpired term. If only the office of the Vice-Chair becomes vacant, the Board shall select a successor to the office of Vice-Chair for the unexpired term.

ARTICLE IV. MEETINGS

Section 1. Compliance with the Open Meetings Law

All meetings of the Board shall be conducted in compliance with Chapter 21 of the Code of Iowa and other applicable law.

Section 2. Regular Meetings

The Board of Adjustment is on-call for its regular meeting scheduled on the first Monday of every month beginning at 6pm in the 1st Floor Board Room at the Woodbury County Courthouse, subject to formal business to be considered. Notice of the regular meeting shall typically be sent by the Secretary to the members at least 2-days prior to such meeting and shall state the purpose and time of the meeting.

Section 3. Special Meetings

Special meetings may be called at the request of the Chair from time to time as required to conduct the business of the County, provided that at least 24-hours notice of such meeting is given to each member.

Section 4. Quorum and Consensus

The presence of three members shall constitute a quorum. Without a quorum, no business will be transacted and no official action on any matter will take place.

Section 5. Majority Required

A majority of the quorum present is required for the adoption of any matter to come before the Board.

Section 6. Manner of Acting

Any question to come before the Board shall be in the form of a motion by a Board member and shall require a second for consideration. Remarks made by a Board member shall be limited to 10-minutes unless an extension is granted by a majority of the Board. Board members shall address the Chairperson and confine their remarks to the question before the Board and shall be respectful of other Board members and avoid referencing or questioning the motives of another Board member.

Section 7. Roll Call Votes.

The Chair shall order a roll call vote when requested by a member. The roll shall be called alphabetically, except the Chair shall be called last.

Section 8. Effects of Abstention.

When a Board member abstains due to a conflict of interest, the vote of the Board shall be computed on the basis of the number of Board members not disqualified by reason of conflict of interest. However, at least 3 Board members eligible to vote are required for a quorum on any matter. Abstentions that are not due to a conflict of interest shall be counted as a "no" vote.

Section 9. Electronic Participation

Members of the Board may participate in a meeting by electronic means only in circumstances where participation in person is impossible or impractical. Any member participating electronically shall be connected by a speaker phone, video conference, or other device or software, so that the public can hear any discussion by that member. The vote of any member participating electronically must be made public at the meeting and the minutes of the meeting shall include sufficient information to indicate the vote of each member participating.

ARTICLE V: ADMINISTRATION

Section 1.

Board meetings are administered by the Chair. The Chair has the right to:

1. Call the meeting to order
2. Recognize speakers
3. Call for motions on agenda items, and facilitate debate
4. Preserve order and decorum
5. Determine points of order

ARTICLE VI. ORDER OF BUSINESS

Section 2.

The Secretary will prepare an agenda for each meeting and send it to each member typically at least 2-days before the meeting. The order of business shall typically be as follows:

1. Call to order and opening statement by Chair
2. Roll call
3. Public comments on matters not on the established agenda (3-minute limit)
4. Approval of minutes
5. Item of business
6. Public comments on matters not on the established agenda (3-minute limit)
7. Board member comments
8. Adjournment

Section 3.

As to an item of business, the order shall typically be as follows:

1. Staff report
2. Petitioner comments
3. Board member comments and questions for staff/petitioner
4. Staff/petitioner rebuttal opportunity
4. Public comments
5. Staff/petitioner rebuttal opportunity
6. Vote

ARTICLE VII. MOTIONS AND VOTING

Section 1.

Motions may be made by anyone on the Board. The Chair will restate the motion before a vote is taken. The Board typically recognizes three kinds of motions:

- A. Main Motion – request for action on an item; can be made by any member, including the Chair.
- B. Motion to Amend a Motion – which the Board must vote on first, then the Board votes on the underlying motion.
- C. Motion to Postpone discussion of a matter until a future meeting.

Section 2.

Another Board member may then second a motion. The motion dies if no member seconds it.

Section 3.

The Board may then debate the motion further.

1. Members should keep their discussion concise and limited to the motion on the table.
2. A member may withdraw his/her own motion at any time during debate.

Section 4.

The Chair may then conclude debate by calling for a vote. Each member must respond:

1. Yes (“aye”)
2. No (“nay”)
3. Abstain

Section 5.

The Chair shall then state whether the motion passes or fails, and the final vote tally.

ARTICLE VIII. PUBLIC PARTICIPATION

Section 1.

Any member of the public wishing to address the Board may do so during the appropriate “public comments” section of the Order of Business.

Section 2.

Comments by any one member of the public shall be limited to 3 minutes.

Section 3.

Any person so addressing the Board shall step up to the microphone and give their name and address for the record.

Section 4.

Should a person engage in slanderous remarks, personal attacks, or boisterous behavior, the Chair may refuse to recognize the speaker, may ask the speaker to leave, or may have the speaker removed.

ARTICLE IX. AMENDMENTS

Section 1.

The Board may suspend or amend these rules at any regular or special meeting by a majority vote of the members present.

DATE ADOPTED

CHAIRPERSON

ATTESTOR

EXAMPLE SOLAR ORDINANCE

4. **Engineer Certification:** Applications for NonC-WECS shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the applicable regulations and certified by a licensed professional engineer shall also be submitted. This analysis is frequently supplied by the manufacturer.
5. **Compliance with FAA Regulations:** NonC-WECS must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
6. **Compliance with National Electric Code:** Applications for NonC-WECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. This information is frequently supplied by the manufacturer.
7. **Utility Notification:** No NonC-WECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

4.2.18 Utility Scale Solar Installations. (Amended 10/3/16-Ord 2016-03)

The Purpose of this section is to encourage utility scale photovoltaic solar installations. Concentrating solar power (CSP) systems shall be prohibited.

- A. **Major site plan and Special Exception Use Permit required:** A site plan shall be submitted and reviewed as part of the approval of a utility scale solar installation. A utility scale solar installation shall require a Special Exception Use Permit.
- B. **Additional information:** In addition to all submittal requirements of a Special Exception Use Permit application, the application for a utility scale solar installation shall include the following information on the site plan or in narrative form, supplied by the utility scale solar installation owner, operator or contractor installing the structure(s):
 1. Number, location and spacing of solar panels/arrays.
 2. Planned location of underground or overhead electric lines.
 3. Project development timeline.
 4. Interconnection agreement.
 5. Operation and maintenance plan.
 6. Decommissioning plan.
- C. **Site and Structure Requirements**
 1. **Setback.** Setbacks for all structures (including solar arrays) must adhere to

the minimum principal setback standards for the zoning district where the project is located; greater setbacks may be required by the Board of Adjustment.

2. **Screening.** A landscape buffer may be required to be installed and maintained during the life of the operation. Determination of screening requirements will be made by the Board of Adjustment as part of the review and approval process and will be based on adjacent or nearby surrounding land uses and topography.
3. **Utility Connections.** Reasonable efforts shall be made to place all utility connections from the solar installation underground, depending on appropriate soil conditions, shape and topography of the site, distance to the connection, or other conditions or requirements.
4. **Grading plan.** A grading plan shall be submitted and shall include all proposed changes to the landscape of the site (e.g., clearing, grading, topographic changes, tree removal, etc.).
5. **Glare minimization.** All solar panels must be constructed to minimize glare or reflection onto adjacent properties and adjacent roadways and must not interfere with traffic, including air traffic, or create a safety hazard.
6. **Compliance with local, state and federal regulations.** Utility scale solar installations shall comply with applicable local, state and federal regulations.
7. **Appurtenant structures.** All appurtenant structures shall be subject to bulk and height regulations of structures in the underlying zoning district.
8. **Floodplain considerations.** Utility scale solar installations are considered to be maximum damage potential structures and facilities for purposes of the floodplain district regulations.
9. **Signage.** No signs other than appropriate warning signs, or standard manufacturer's, operator's or installer's identification signage, shall be displayed.
10. **Fencing/security.** A security fence must be installed along all exterior sides of the utility scale solar installation and be equipped with a minimum of one gate and locking mechanism on the primary access side. Security fences, gates and warning signs must be maintained in good condition until the utility scale solar installation is dismantled and removed from the site.

D. **Operation and maintenance plan.** The applicant shall submit a plan for the operation and maintenance of the solar installation, which shall include measures for maintaining safe access to the installation, stormwater and erosion controls, as well as general procedures for operation and maintenance of the installation.

1. **Soil erosion and sediment control considerations.** The applicant agrees to conduct all roadwork and other site development work in compliance with a National Pollutant Discharge Elimination System (NPDES) permit as required by the Iowa Department of Natural Resources and comply with requirements as detailed by local jurisdictional authorities during the plan submittal. If subject to NPDES requirements, the applicant must submit the permit for review and comment, and an erosion and sediment control plan before beginning construction. The plan must include both general “best management practices” for temporary erosion and sediment control both during and after construction and permanent drainage and erosion control measures to prevent damage to local roads or adjacent areas and to prevent sediment laden runoff into waterways.
2. **Stormwater management considerations.** For the purposes of pollutant removal, stormwater rate and runoff management, flood reduction and associated impacts, the applicant shall provide a detailed analysis of pre- and post-development stormwater runoff rates for review by local jurisdictional authorities.
3. **Ground cover and buffer areas.** Ground around and under solar arrays and in project site buffer areas shall be planted and maintained in perennial vegetated ground cover, and meet the following standards:
 - a. Top soils shall not be removed during development, unless part of a remediation effort.
 - b. Soils shall be planted and maintained in perennial vegetation to prevent erosion, manage run off and build soil. Seeds should include a mix of grasses and wildflowers, ideally native to the region of the project site that will result in a short stature prairie with a diversity of forbs or flowering plants that bloom throughout the growing season. Blooming shrubs may be used in buffer areas as appropriate for visual screening.
 - c. Seed mixes and maintenance practices should be consistent with recommendations made by qualified natural resource professionals such as those from the Department of Natural Resources, County Soil and Water Conservation Service, or Natural Resource Conservation Service.
4. **Cleaning chemicals and solvents.** During operation of the proposed installation, all chemicals or solvents used to clean photovoltaic panels should be low in volatile organic compounds and the operator should use recyclable or biodegradable products to the extent possible. Any onsite storage of chemicals or solvents shall be referenced.
5. **Maintenance, repair or replacement of facility.** Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to emergency response officials. Any retrofit, replacement or refurbishment of equipment

shall adhere to all applicable local, state and federal requirements.

E. Decommissioning and site reclamation plan.

1. The application must include a decommissioning plan that describes: the anticipated life of the utility scale solar installation; the anticipated manner in which the project will be decommissioned; the anticipated site restoration actions; the estimated decommissioning costs in current dollars; and the method for ensuring that funds will be available for decommissioning and restoration.
2. The applicant shall provide the basis for estimates of net costs for decommissioning the site (decommissioning costs less salvage value). The cost basis shall include a mechanism for calculating adjusted costs over the life of the project.
3. Restoration or reclamation activities shall include but not be limited to the following:
 - a. Restoration of the pre-construction surface grade and soil profile after removal of structures, equipment, graveled areas and access roads.
 - b. Re-vegetation of restored soil areas with crops, native seed mixes, plant species suitable to the area, consistent with the county's weed control plan.
 - c. For any part of the energy project on leased property, the plan may incorporate agreements with the landowner regarding leaving access roads, fences, gates or repurposed buildings in place or regarding restoration of agricultural crops or forest resource land. Any use of remaining structures must be in conformance with the regulations in effect at that time.
4. Following a continuous 1 year period in which no electricity is generated, or if substantial action on the project is discontinued for a period of 1 year, the permit holder will have 1 year to complete decommissioning of the utility scale solar installation. Decommissioning shall be completed in accordance with the approved decommissioning plan. The land owner or tenant must notify the County when the project is discontinued.

4.2.19 Non-Utility Scale Solar Installations (Amended 10/3/16-Ord 2016-03)

- A. **Permitted Accessory Use.** Active solar energy systems shall be allowed as an accessory use in all zoning classifications where structures of any sort are allowed, subject to certain requirements as set forth below.
 1. **Height.** Active solar energy systems must meet the following height requirements:
 - a. Building- or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For

purposes for height measurement, solar energy systems other than building-integrated systems shall be given an equivalent exception to height standards as building mounted mechanical devices or equipment.

- b. Ground- or pole-mounted solar energy systems shall not exceed 20 feet in height when oriented at maximum tilt.
2. **Set Back.** Active solar energy systems must meet the accessory structure setback for the zoning district and primary land use associated with the lot on which the system is located.
 - a. Roof-mounted solar energy systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
 - b. Ground-mounted solar energy systems. Ground-mounted solar energy systems may not extend into the side-yard or rear setback when oriented at minimum design tilt.
3. **Approved Solar Components.** Electric solar energy system components must have a UL listing and solar hot water systems must have an SRCC rating.
4. **Approval Required.** All solar energy systems shall require a Zoning Permit from the Clinton County Planning and Zoning office. Zoning approval does not indicate compliance with Building Code or Electric Code.
5. **Compliance with Building Code.** All active solar energy systems shall be consistent with the State of Iowa Building Code and solar thermal systems shall comply with HVAC-related requirements of the Electric Code.
6. **Compliance with State Electric Code.** All photovoltaic systems shall comply with the Iowa State Electric Code.
7. **Compliance with State Plumbing Code.** Solar thermal systems shall comply with applicable Iowa State Plumbing Code requirements.
8. **Utility Notification.** All grid connected solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

EXAMPLE SOLAR ORDINANCE
Proposed Zoning Ordinance Amendment

Creation of Division 115: Solar Energy Systems

LOUISA COUNTY IOWA

Sections:

- 1.01 Statement of Intent
- 1.02 Personal Solar Energy System (PSES)
- 1.03 Solar Garden and Solar Farm Energy System (SFES)
- 1.04 Indemnification and Liability
- 1.05 Cessation of Operations
- 1.06 Penalties
- 1.07 Solar Energy System Owner/County/Property Owner Restoration Agreement
- 1.08 Related Rules and Regulations
- 1.09 Severability
- 1.10 Special Use Permit Fee Structure

1.01 Statement of Intent. The purpose of this Division is to facilitate the construction, installation, and operation of Solar Energy Systems (SES) in Louisa County in a manner that promotes economic development, protects property values, and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, conservation lands, and other sensitive lands.

This Division does not repeal, abrogate, annul, impair or interfere with any existing ordinance.

1.02 Personal Solar Energy System (PSES).

A. Purpose and Intent.

The purpose of these regulations is to provide a uniform and comprehensive set of standards for the installation and use of PSESs designed for on-site home, farm and small commercial use that are used primarily to reduce on-site consumption of utility power. The intent of these regulations is to protect the public health, safety, and community welfare without unduly restricting the development of PSESs.

B. Permitted Use.

Personal Solar Energy Systems shall be considered an accessory use to a principal permitted use in any zoning district.

C. Special Requirements

Personal Solar Energy Systems shall be subject to the requirements included in Zoning Ordinance Section 60.6 Bulk Regulations unless otherwise stated herein:

- 1) *Ground Mounted PSES height.* Shall not be greater than fifteen (15) feet at maximum tilt of the solar panel(s) in any zoning district.
- 2) *Structure Mounted PSES height.* Shall not be greater than the allowable height of any structure within the zoning district in which the PSES is to be installed.
- 3) *Setbacks.* The ground mounted PSES shall maintain perimeter setbacks including; side and rear yard setbacks of ten (10) feet measured at full horizontal tilt and shall be ten (10) feet from any other building or structure on the same lot. No PSES shall be permitted to be located in the required front yard setback unless at least sixty (60) feet back from the edge of the county road right of way or at least eighty (80) feet back from the edge of state or federal road right of way.
- 4) *Building Codes.* All county, state, and national construction codes shall be followed.
- 5) *Use.* The PSES shall provide electricity for on-site use by the owner. This does not prohibit an owner from making excess power available for net metering.
- 6) *Approved Solar Components.* Electric solar energy system components must have an Underwriters Laboratory (UL) listing or approved equivalent.

D. Building Permit

Before a building permit is issued, the following shall be submitted to the Louisa County Zoning Administrator for review:

- 1) Site plan showing:
 - a) Name, address, email address, and phone number of the property owner;
 - b) Parcel lines;
 - c) All existing structures, with heights clearly marked;
 - d) Sanitary infrastructure (i.e. Septic field);
 - e) Setback measurements;
 - f) easements present on the property, including those for utilities
 - g) field tile location
 - h) floodplain location, if applicable
 - i) topography lines (2-foot contours)

- f) Location of all solar panels and associated equipment; and,
 - g) Location of the electrical disconnect for the PSES.
- 2) Evidence that the local electric utility has been informed of the customer's intent to install a customer-owned solar energy system.
 - 3) Evidence that the site plan has been submitted to the local fire protection district.

After a review and acceptance of site plan and required information, a letter authorizing construction shall be issued.

1.03 Solar Garden Energy System (SGES) and Solar Farm Energy System (SFES)

A. Purpose and Intent.

The purpose of these regulations is to provide a uniform and comprehensive set of standards for the installation and use of SGES and SFES designed for commercial energy production. The intent of these regulations is to protect the public health, safety, and community welfare while allowing development of solar energy resources for commercial purposes. Concentrating solar power (CSP) systems shall be prohibited.

B. Special Use Permit (SUP).

Solar Garden Energy Systems and Solar Farm Energy Systems shall require a Special Use Exception within the "A-1" Agricultural District, the "B-1" Business District, and the "I-1" Industrial Districts and shall be subject to the procedures and standards included in Section 150.2.2 Special Use Exceptions, in the Louisa County Zoning Ordinance unless otherwise stated in this Solar Energy Ordinance.

C. Special Requirements.

SGES and SFES are subject to the following requirements:

- 1) *Height.* Shall not exceed fifteen (15) feet at maximum tilt of the solar panel(s).
- 2) *Setbacks.*
 - a. The front yard setbacks shall be a minimum of fifty (50) feet from the edge of the right of way which form the outside perimeter of a SGES or SFES project area and one hundred (100) feet from a residence that is a part of the SGES or SFES project area. The Board of Adjustment may grant an exception to the setback requirement if the proposed or existing buffer is sufficient to screen the project from view of adjoining property or public rights-of-way, if the owners of the adjoining properties agree in writing to waive these setback requirements
 - b. In the case of a SGES or SFES to be built on more than one parcel and parcels are abutting, a zero (0) side or rear setback shall be permitted to the property line in common with the abutting parcel(s).

- c. Solar panels shall be least three hundred (300) feet from a residence that is not part of the SGES or SFES project area. The Board of Adjustment may grant an exception to the setback requirement if the proposed or existing buffer is sufficient to screen the project from view of adjoining property or public rights-of-way, if the owners of the adjoining properties agree in writing to waive these setback requirements
 - d. Solar panels shall be eighty (80) feet from the State Right of Way and sixty (60) feet from County Right of Way.
- 3) *Screening.* A landscape buffer may be required to be installed and maintained during the life of the operation. Determination of screening requirements will be made by the Board of Adjustment as part of the review and approval process and will be based on adjacent or nearby surrounding land uses and topography.
 - 4) *Fencing.* A security fence ~~of at least six (6) feet in height but no greater than eight (8) feet shall enclose the SGES or SFES.~~ To restrict access to public.
 - 5) *Lighting.* If lighting is provided for the SGES or SFES, lighting shall be shielded and downcast such that the light does not project directly onto the adjacent parcels.
 - 6) *Noise.* Noise levels caused by the SGES or SFES measured at the property line shall not exceed fifty (50) decibels when located adjacent to an existing residence or residential district.
 - 7) *Installation and Design.* The SGES or SFES shall be designed and located in such a fashion so as to prevent glare toward any inhabited buildings on adjacent properties, as well as adjacent roadways.
 - 8) *Utility Connections.* Reasonable efforts shall be made to place all utility connections from the solar installation underground, depending on appropriate soil conditions, shape and topography of the site, distance to the connection, or other conditions or requirements.
 - 9) *Outdoor storage.* Only the outdoor storage of materials, vehicles, and equipment that directly support the operation and maintenance of the solar farm or solar garden shall be allowed.
 - 10) *Endangered Species and Wetlands.* Applicant shall seek natural resource consultation with the Iowa Department of Natural Resources.
 - 11) *Weed control.* Applicant must present an acceptable weed/grass control plan for property inside and outside fenced area for the entire property. The operating company during the operation of the Solar Farm must maintain the fence and adhere to the weed control plan.
 - 12) *Waste.* All solid wastes, whether generated from supplies, equipment parts, packaging, operation or maintenance of the SGES or SFES shall be removed from the site and disposed

of in an appropriate manner. All hazardous waste generated by the operation shall be removed from the site immediately and disposed of in a manner consistent with all local, state, and federal requirements.

- 13) *Maintenance, repair or replacement of a facility.* Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to emergency response officials. Any retrofit, replacement or refurbishment of equipment shall adhere to all applicable local, state and federal requirements.
- 14) *Cleaning chemicals and solvents.* During operation of the proposed installation, all chemicals or solvents used to clean photovoltaic panels shall be low in volatile organic compounds and the operator shall use recyclable or biodegradable products to the extent possible. Any on-site storage of chemicals or solvents shall be referenced on the site plan.
- 15) *Road Use Agreements.* All routes on county roads that will be used for the construction and maintenance purposes shall be identified on the site plan. All routes for either ingress or egress shall be shown. The solar farm developer must complete and provide a preconstruction baseline survey to determine existing road conditions for assessing potential future damage due to development related traffic. The developer shall provide a road repair plan to ameliorate any and all damage, installation, or replacement of roads that might be required by the developer. The developer shall provide a letter of credit or surety bond in an amount and form approved by the appropriate highway authority(s) officials when warranted. The provision of this subsection shall be subject to the approval of the Louisa county Engineer.
- 16) *Soil erosion and sediment control.* The applicant agrees to conduct all roadwork and other site development work in compliance with a national pollutant discharge elimination system (NPDES) permit as required by the state department of natural resources and comply with requirements as detailed by local jurisdictional authorities during the plan submittal. If subject to NPDES requirements, the applicant must submit the permit for review and comment, and an erosion and sediment control plan before beginning construction. The plan must include both general "best management practices" for temporary erosion and sediment control (both during and after construction), and permanent drainage and erosion control measures to prevent both damage to local roads/adjacent areas and sediment laden run-off into waterways.
- 17) *Storm Water Management.* For the purposes of pollutant removal, stormwater rate and runoff management, flood reduction and associated impacts, the applicant shall provide a detailed storm water management plan with analysis of pre- and post-development stormwater runoff rates for review by local jurisdictional authorities.
- 18) *Administration and Enforcement.* The Zoning/Building Administrator and any necessary personnel may enter any property for which a special use or building permit has been issued

under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met as specified by statute, ordinance and code. Failure to provide access shall be deemed a violation of this ordinance.

D. Certification.

SGES or SFES shall conform to applicable industry standards, including those from the Underwriters Laboratory (UL) and Federal Aviation Administration (FAA).

All applicable county, state, and national construction and electric codes shall be followed.

E. Safety.

All SGES or SFESs shall provide the following at all locked entrances:

- 1) A visible "High Voltage" warning sign;
- 2) Name(s) and phone number(s) for the electric utility provider;
- 3) Name(s) and phone number(s) for the site operator;
- 4) The facility's 911 address, GPS coordinates; and,
- 5) A lock box with keys as needed.

F. Application.

The application for a Special Use permit for a Solar Garden Energy System or Solar Farm Energy System shall include:

- 1) A written summary of the project including a general description of the project and its approximate generating capacity.
- 2) The name(s), address(s), and phone number(s) of the owner and SGES or SFES operator.
- 3) The Interconnection Agreement.
- 4) A site plan of the SGES or SFES site showing:
 - a) Boundaries of the site;
 - b) All proposed SGES or SFES structures;
 - c) Property lines;
 - d) Setback measurements;
 - e) Location of all existing structures within the project area with their uses identified and any existing structure within three hundred (300) feet of the project area with their uses identified.
 - (f) topography lines (2-foot contours); and

(g) floodplain location, if applicable.

5) All other information contained in Section 19.7 of the Zoning Ordinance as may be required to file a petition.

To protect agricultural soils, all solar gardens and solar farms will be subject to a land evaluation site assessment (LESA). The LESA information will be utilized for a special use permit application and not for map amendment or rezoning purposes.

G. Decommissioning Plan.

Prior to applying for a building permit, the SGES or SFES project owner/operator shall submit a decommissioning plan to the Louisa County Zoning Administrator. The Zoning Administrator shall review the plan for completeness and refer it to the Louisa County Board of Adjustment. The plan shall include:

- 1) A description of the plan to remove the SGES or SFES equipment and restore the land to its previous use upon the end of the project's life, as stated in the Solar Energy Ordinance granting the Special Use Permit, or as stated in the Louisa County Zoning Ordinance.
- 2) Provisions for the removal of structures, debris, and associated equipment on the surface and to a level of not less than ten (10) feet below the surface, and the timeline/sequence in which removal is expected to occur;
- 3) Provisions for the restoration of the soil, vegetation and disturbed earth, which shall be graded and reseeded;
- 4) An estimate of the decommissioning costs certified by a licensed professional engineer in current dollars. The engineer providing this estimate shall submit it to the Louisa County Zoning Administrator for review and all costs associated with this engagement shall be borne by the applicant;
- 5) A written financial plan approved to ensure that funds will be available for decommissioning and land restoration;
- 6) A provision that the terms of the decommissioning plan shall be binding upon the owner or operator and any of their successors, assigns, or heirs.
- 7) Upon review of the decommissioning plan, the Louisa County Board of Adjustment shall set an amount to be held in a bond, escrow, or other acceptable form of funds approved by the Board. The value of the surety shall not be reduced based on the salvage value of any materials or equipment. The plan shall state that Louisa County shall have access to the project and to the funds to effect or complete decommissioning one (1) year after cessation of operations; and,
- 8) The applicant shall provide the county with a new estimate of the cost to decommission the SGES or SFES project every five (5) years under the same conditions as set forth in this Sections above. Salvage value of structures, electrical wire and other appurtenances

shall not be considered with in the cost estimate calculations. Upon receipt of this new estimate, the county may require, and the applicant, owner, and/or operator of the SGES or SFES project shall provide, a new financial plan for decommissioning acceptable to the county. Failure to provide an acceptable financial plan shall be considered a cessation of operations.

- 9) Release of Financial Security. Financial security shall only be released when the Zoning Administrator determines, after inspection, that the conditions of the decommissioning plan have been met.

H. Building Permit

Before a building permit is issued, the following shall be submitted to the Louisa County Zoning Administrator for review:

- 1) Site plan with all items previously required in the petition. Additional items to be included are:

- a) All SGES or SFES structures including, but not limited to, the project solar panels, substation, interconnect substation, and location and voltage of any overhead transmission lines;
- b) Ancillary equipment;
- c) Transmission lines;
- d) Wells;
- e) Sanitary infrastructure (i.e. Septic fields);
- f) Field tile location;
- g) Existing easements; and,
- h) Wetland location, if any.

- 2) Emergency Plan. The site and emergency plan shall be submitted to the local fire protection district(s) and/or department(s) whose jurisdiction is included in whole or in part within the SGES or SFES project area. Any specialized training necessary will be provided at the operator's expense.

- 3) All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this ordinance.

After a review and acceptance of site plan and required information, a letter authorizing construction shall be issued.

1.04 Indemnification and Liability.

The applicant, owner, and/or operator of the SGES or SFES project shall defend, indemnify, and hold harmless the County of Louisa and its officials from and against any and all claims, demands, losses,

suites, causes of action, damages, injuries, costs, expenses, and liabilities whatsoever, including attorney's fees, without limitation, arising out of acts or omissions of the applicant, owner, and/or operator associated with the construction and/or operations of the SGES or SFES project.

1.05 Cessation of Operations.

Any SGES or SFES provided for in this ordinance that has not been in operation and producing electricity for at least one hundred and eighty (180) consecutive days, excluding natural catastrophic event, shall be removed. The Louisa County Zoning Administrator shall notify the owner to remove the system. Within ninety (90) days, the owner shall either submit evidence showing that the system has been operating and producing electricity or remove it. If the owner fails to or refuses to remove the solar energy system, the violation shall be referred to the Louisa County Attorney. In the case of a natural catastrophic event, a detailed restoration plan to return to operational status must be provided to the Zoning Administrator.

1.06 Violations & Penalties.

Violations and Penalties of this division are set forth in Division 140.

1.07 Solar Farm Energy System owner/County/Property Owner Restoration Agreement.

A. Reasonable evidence of financial ability to construct the solar energy system as determined by the Board of Adjustment is a condition precedent to the issuance of any special use or building permit under this ordinance.

B. Louisa County and/or the property owner leasing land for a solar energy system shall require a performance bond, surety bond, escrow account, letter of credit or other financial assurance to Louisa County and/or property owner for each solar energy system that guarantees the performance of the restoration agreement, as referenced in the Decommissioning Plan.

1.08 Related Rules and Regulations.

Each Solar Energy System shall comply with all applicable local, state and federal requirements.

1.09 Severability.

The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

1.10 Special Use Permit Fee Structure for Solar Garden Energy Systems and Solar Farm energy Systems.

For Systems Sized	Permit Fee
0-50 kilowatts (kW-dc)	\$300
51-100 kilowatts (kW-dc)	\$500
101-500 kilowatts (kW-dc)	\$1,000

501 - 1000 kilowatts (kW-dc)	\$3,000
1000 - 2000 kilowatts (kW-dc)	\$6,000
> 2000 kilowatts (kW-dc)	\$200 for each additional 0-100 kilowatts, with a maximum of \$10,000.