

Recorder Use Only

**BOARD OF  
SUPERVISORS  
BOONE COUNTY,  
IOWA**



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SHERYL J THUL, COUNTY RECORDER  
BOONE IOWA

*Ret - County Auditor*

ORDINANCE NO. 77

ORDINANCE AMENDING THE OFFICIAL BOONE COUNTY ZONING MAP

Rezoning from A-1 to A-2 (Ag Business).

**Approximately 629 Acres owned by Lass Land, Julee Swanson, Brian Heineman, Powers Land Company, Russell Christensen**

LEGALLY DESCRIBED AS THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 35, T84N, R28W OF THE 5TH P.M., BOONE COUNTY, IOWA, LYING NORTH OF RAILROAD RIGHT OF WAY. CONTAINS 38.94 ACRES.

THE NORTH HALF OF THE NORTHWEST QUARTER AND THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 35, T84N, R28W OF THE 5TH P.M., BOONE COUNTY, IOWA. CONTAINS 119.97 ACRES, INCLUDING 2.98 ACRES OF PUBLIC ROAD RIGHT OF WAY.

LOT 1 OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, T84N, R28W AND THE SOUTHWEST QUARTER OF SECTION 36, T84N, R28W OF THE 5TH P.M., BOONE COUNTY, IOWA, LYING NORTH OF RAILROAD RIGHT OF WAY. CONTAINS 105.72 ACRES.

THE NORTHEAST QUARTER OF SECTION 35 AND THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 36, ALL IN T84N, R28W OF THE 5TH P.M., BOONE COUNTY, IOWA. CONTAINS 240.51 ACRES, INCLUDING 2.00 ACRES OF PUBLIC ROAD RIGHT OF WAY.

THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER; LOT 1 OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, EXCEPT PARCEL "A" OF SAID LOT 1; THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, EXCEPT LOT "A"; AND THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, EXCEPT PARCEL "A" OF THE E1/2 OF THE SW1/4, ALL IN SECTION 35, T84N, R28W OF THE 5TH P.M., BOONE COUNTY, IOWA. CONTAINS 117.12 ACRES, INCLUDING 1.69 ACRES OF PUBLIC ROAD RIGHT OF WAY. (SEE ATTACHED EXHIBIT J)

**Location Summary: Take US 30 west past Ogden and turn north on E Ave and go ¼ mile. Go east on 210<sup>th</sup> Street 1.5 miles. The area under consideration is on the south side of 210<sup>th</sup> Street.**

**WHEREAS,** In this case, Alternative Energy Sources, Inc. has petitioned Boone County to rezone property at the above describe location from A-1 (Agriculture) to A-2 (Agriculture Business) to serve a proposed ethanol plant;

**WHEREAS,** The Director of Planning and Development has forwarded a recommendation for approval to the Boone County Zoning Commission with conditions;

**WHEREAS,** The Zoning Commission has held a public hearing in accordance with the

Code of Iowa and has forwarded a letter of recommendation of approval to the Boone County Board of Supervisors for the rezoning of the property noted hereinabove. The recommendation of the Zoning Commission was in concurrence with the recommendation of the Planning Director;

**WHEREAS**, The petitioner has submitted a “Zoning Amendment Compliance Agreement” whereby five specific conditions have been addressed. The Boone County Board of Supervisors have reviewed the suggested agreement and modified the language therein;

**WHEREAS**, The Boone County Board of Supervisors consider additional conditions in response to public input.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF BOONE COUNTY, IOWA AS FOLLOWS:**

**SECTION ONE:** That Boone County shall, and it does hereby, approve an amendment to the Official Zoning Map, that area described hereinabove be rezoned from A-1 (Agriculture) to A-2 (Agriculture Business).

**SECTION TWO:** That the following conditions apply:

1. Applicant will be responsible for upgrading 210<sup>th</sup> street from U.S. 169 to the entrance of the Applicant’s ethanol plant. The county will support and participate with Applicant in pursuing state funds for the project. Following such upgrading, the county shall be responsible for maintenance, upkeep and replacement. For the purposes of this ordinance, upgrading shall be defined as upgrading the surface from gravel to a paved surface capable of handling truck traffic and other associated improvements deemed necessary by the Boone County Engineer or Iowa Department of Transportation to meet current standards.
2. Applicant will provide copies of all permits required by State and Federal agencies reflecting that the ethanol plant satisfies necessary environmental requirements.
3. Applicant will provide to the Drainage District(s) Trustees and the Zoning Administrator information on the effect of wastewater leaving the ethanol plant, such discharge to substantially comply with DNR permit conditions. The applicant will be responsible for preventing damage or over-flow to the drainage district(s) caused solely by Applicant’s failure to comply with DNR permit conditions and state codes pertaining to drainage districts. Applicant shall not be liable or responsible for force majeure or other events, conditions or circumstances not reasonably within the control of Applicant.
4. Applicant will design and utilize lighting with illumination levels recommended by IESNA as the basis of the design;

5. An ethanol plant at this location shall not currently utilize coal as a source for the ethanol process. If the ethanol plant operator so desires to convert to coal burning at some point in time in the future, the operator shall come before the Zoning Commission and Board of Supervisors to request an amendment to this ordinance.
  
6. Landscaping (non-deciduous 100% screen) and/or land modification (earth berm or mounding) shall be placed according to **Exhibit Q** in the Planning Department Staff Report (attached) for the specific purposes of providing a visual screen from the ethanol plant. Landscaping plans shall be submitted during the zoning permit process. Landscaping plans shall be approved prior to issuing zoning permits. Moderate growth plantings shall be provided as a means of meeting the intent to provide immediate visual screening for surrounding property owners.
  
7. Reasonable measures shall be taken by the applicant to encourage truck traffic to utilize designated truck routes to and from the ethanol plant. For the purposes of this ordinance, truck routes shall be generally described as concrete paved surfaced roads.

**SECTION THREE:** That this amendment shall be in full force and effect from and after its passage and approval in the manner provided by law.

**ACTION UPON FIRST READING**

**DATE:** 2-23-2007

Moved by: O'Brien

Seconded by: Sorensen

Discussion: see below

AYES (A), NAYES (N), ABSENT (X):

Albert Sorensen  Mike O'Brien  David Reed

**ACTION UPON SECOND READING**

**DATE:** 2-26-2007

Moved by: O'Brien

Seconded by: Sorensen

Discussion: see below

AYES (A), NAYES (N), ABSENT (X):

Albert Sorensen  Mike O'Brien  David Reed

**ACTION UPON FINAL READING**

**DATE:** 2-28-2007

Moved by: O'Brien

Seconded by: Sorensen

Discussion:

AYES (A), NAYES (N), ABSENT (X):

Albert Sorensen  Mike O'Brien  David Reed

February 2007

Alternative Energy Sources, Inc. – A-1 to A-2 Rezoning  
Ordinance No 77

*David W. Reed*  
Chairman  
Boone County Board of Supervisors

3-23-07  
Date

*Philippe E. Meier*  
ATTEST:  
Philippe E. Meier, County Auditor

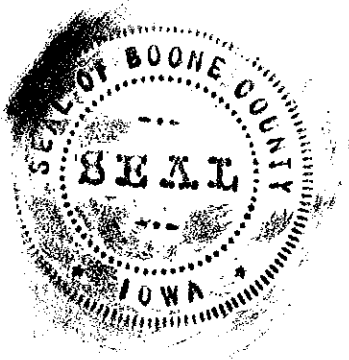
3-23-07  
Date

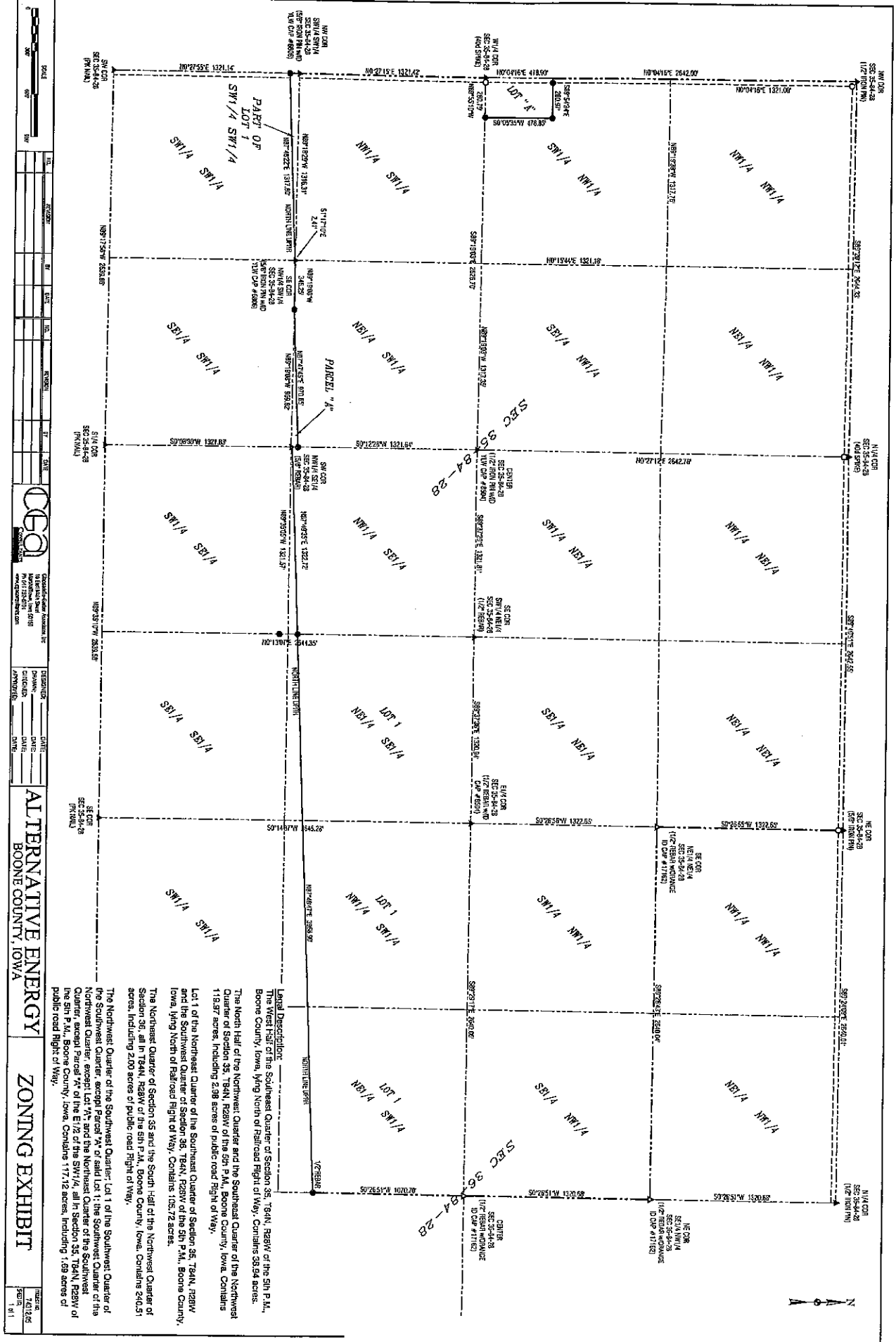
February 23, 2007 - Modified language and additional conditions to proposed Ordinance, Section Two – adding #5, #6 and #7.

February 26, 2007 - Clarification to Section Two -- clarification to # 1,# 3 and grammatical changes to #5 and #7

**Exhibit J – attached**

**Exhibit Q – attached**





**Parcel Description:**  
 The West Half of the Southwest Quarter of Section 35, T94N, R24W of the 5th P.M., Boone County, Iowa, lying North of Railroad Right of Way, Contains 38.94 acres.  
 The North Half of the Northwest Quarter and the Southeast Quarter of the Northwest Quarter of Section 35, T94N, R24W of the 5th P.M., Boone County, Iowa, Contains 11.937 acres, including 2.98 acres of public road Right of Way.  
 Lot 1 of the Northwest Quarter of the Southeast Quarter of Section 35, T94N, R24W and the Southwest Quarter of Section 35, T94N, R24W of the 5th P.M., Boone County, Iowa, lying North of Railroad Right of Way, Contains 105.72 acres.  
 The Northwest Quarter of Section 35 and the South Half of the Northwest Quarter of Section 35, all in T94N, R24W of the 5th P.M., Boone County, Iowa, Contains 240.51 acres, including 2.00 acres of public road Right of Way.  
 The Northwest Quarter of the Southwest Quarter, Lot 1 of the Southwest Quarter of the Southwest Quarter, except Parcel 'A', and the Northwest Quarter of the Southwest Quarter, except Parcel 'B', of the SW 1/4, all in Section 35, T94N, R24W of the 5th P.M., Boone County, Iowa, Contains 117.12 acres, including 1.69 acres of public road Right of Way.

Exhibit J

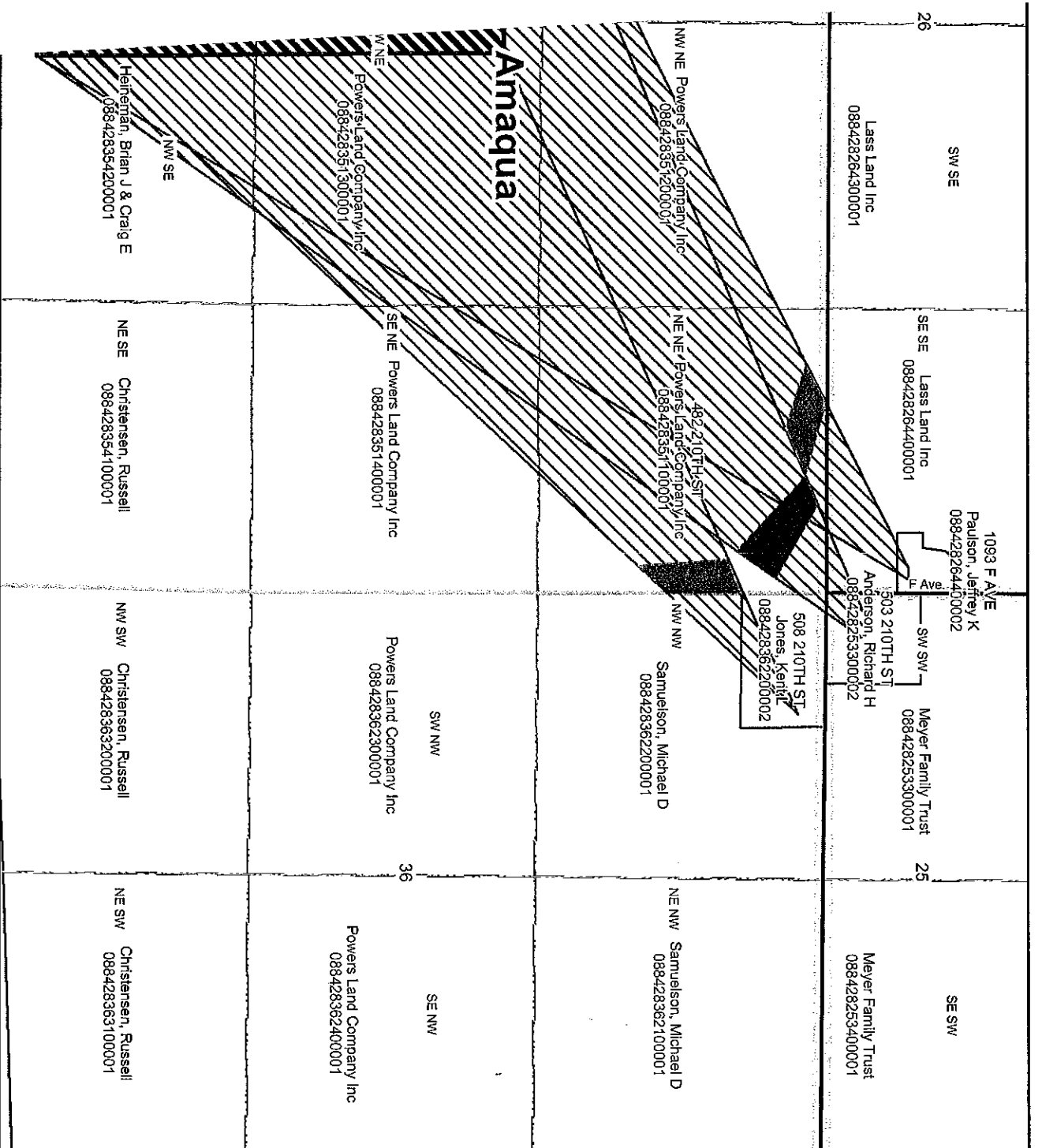


Exhibit Q

Large coniferous trees 8-10 feet

Medium coniferous trees 4-6 feet

Small coniferous trees 2-4 feet

Line of sight



Hatched pattern represents area