



**US Army Corps
of Engineers**®
Rock Island District

PUBLIC NOTICE

Applicant: Mozart Properties, LLC

Date: December 14, 2022

Expires: January 12, 2023

CEMVR-RD-2022-0844

Section 404

**Joint Public Notice
US Army Corps of Engineers
Iowa Department of Natural Resources**

1. **Applicant:** Mozart Properties, LLC, c/o Mr. Bruce Gates, 2208 Woodlands Parkway, Clive, Iowa 50325.

2. **Project Location:**

- Southwest corner of NW 86th Street and NW 70th Avenue, unnamed tributary to Beaver Creek, Johnston, Iowa
- Section 3, Township 80 North, Range 25 West
- Polk County, Iowa
- UTM NAD-83 Zone 15
- Lat 41.6867, Long -93.7401.

3. **Project Description and Purpose.**

A. The applicant proposes to construct a new 34-acre residential development, including associated roadway, utility infrastructure, and re-grading of the on-site pond, at the southwest corner of NW 86th Street and NW 70th Avenue, Johnston, Iowa. The project will impact 1.42 acres of wetland and 1,330 linear feet of waters of the U.S. A 275 feet long dam with a 15 feet wide top will be constructed at the on-site pond. Twin 60" reinforced concrete pipe culverts will be installed along the north tributary to accommodate roadway construction. Approximately 190 feet of the north tributary will be relocated to accommodate the twin culverts and roadway embankment. Streambank stabilization will be placed along 190 feet of the relocated north tributary and at several other locations on the north and south tributaries.

- 1) WUS-1A: 170 feet culvert & 40LF bank stab on each side (80LF) & 180 feet complete loss
- 2) WUS-1B: 310 feet complete loss
- 3) WUS-1C: 85 feet bank stab lining channel & 50 feet bank stab on each side (100LF)
- 4) WUS-2: 195 feet complete loss & 95 feet of bank stabilization
- 5) WUS-3: 100 feet complete loss (pond regrading)
- 6) WUS-4A: 35 feet complete loss (pond regrading) & 70 feet bank stab. each side (140LF)
- 7) Wetland 1: 0.18 acres complete loss
- 8) Wetland 2: 1.16 acres complete loss
- 9) Wetland 3: 0.08 acres complete loss
- 10) Pond 1: 1.46-acre pond to a 1.70-acre impoundment

B. The applicant did not provide an alternatives analysis or avoidance and minimization measures. Compensatory mitigation will be required per the April 2008 Mitigation Rule and the MVR Mitigation and Monitoring Guidelines.

4. Agency Review.

A. Department of the Army, Corps of Engineers. The Department of the Army application is being processed under the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

B. State of Iowa. The project plans have been submitted to the Iowa Department of Natural Resources (IDNR) for state certification of the proposed work in accordance with Section 401 of the Clean Water Act. The certification, if issued, will express the Department's opinion that the proposed activity will comply with Iowa's water quality standards (Chapter 61 IAC). The applicant has also applied for authorization of work in the floodplain pursuant to Chapter 455B of the Iowa Code and other applicable state permits. Written comments concerning possible impacts to waters of Iowa should be addressed to: Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319. A copy of the comments should be provided to the Corps of Engineers office (see paragraph 11. of this public notice for address).

5. Historical/Archaeological.

A. The District has received and reviewed the report entitled, *Phase I Cultural Resources Investigation for the Proposed Enclave At Wooded Point Development Project in the City of Johnston, Polk County, Iowa* dated January 2022. No historic properties were identified during the survey. There were several previously surveyed architectural properties located within the project area. As noted in the report they were no longer extant at the time of the survey. The structures had been recommended as not eligible for listing on the National Register of Historic Places. The District Archaeologist researched the timeframe for the removal of the structures, and it appears that they were demolished sometime between approximately 2006 and 2009. It does not appear there was any connection between the removal of the structures and this project.

B. The Corps finds the report to be adequate and concurs with the recommendations in the report. Therefore, it is the District's opinion that there will be **no historic properties affected** by the issuance of this permit. Via email dated September 23, 2022, the Iowa State Historic Preservation Office concurred with the Corps determination.

6. Endangered Species.

A. District staff has performed a preliminary review of this application for the potential impact on threatened or endangered species pursuant to Section 7 of the Endangered Species Act as amended. The following all have potential habitat in Linn County, Iowa.

- Indiana bat (*Myotis sodalists*)
- Northern Long-eared Bat (*Myotis septentrionalis*)
- Monarch Butterfly (*Danaus plexippuss*)

B. According to the Iowa Department of Natural Resources' Natural Areas Inventory website there are no known occurrences of federally listed species within or near the project area. No critical habitats are listed within the project area. There are no maternity roost trees within the project area. The wetland delineation did not identify any pollinator habitat within the project area. An acoustic survey was performed between June 29 to July 9, 2022. Calls identified included Indiana bat, but because the p-value for Indiana bat did not indicate presence, no qualitative analysis was conducted. No northern long-eared bat calls were identified by the software. Based on this lack of suitable habitat, lack of known species occurring within or near the project area, and negative results of the acoustic survey our preliminary determination is that this project will have "**no effect**" to critical habitat or the federally listed species stated above.

7. **Dredge/Fill Material Guidelines.** The evaluation of the impact of the proposed activity on the public interest will also include application of the guidelines promulgated by the Administrator of the United States Environmental Protection Agency under authority of Section 404(b) of the Clean Water Act (40 CFR Part 230).

8. **Public Interest Review.** The decision whether to issue the Corps permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

9. **Who Should Reply.** The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. These statements should be submitted on or before the expiration date specified at the top of page 1. These statements should bear upon the adequacy of plans and suitability of locations and should, if appropriate, suggest any changes considered desirable.

10. **Public Hearing Requests.** Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided.

11. **Reply to the Corps.** Comments concerning the Corps permit should be addressed to the US Army Corps of Engineers, Rock Island District, Attn: RD (K. Brown), Clock Tower Building - Post Office Box 2004, Rock Island, Illinois 61204-2004. **Kirsten Brown** may be contacted for additional information at (309) 794-5369 or email at Kirsten.L.Brown@usace.army.mil.

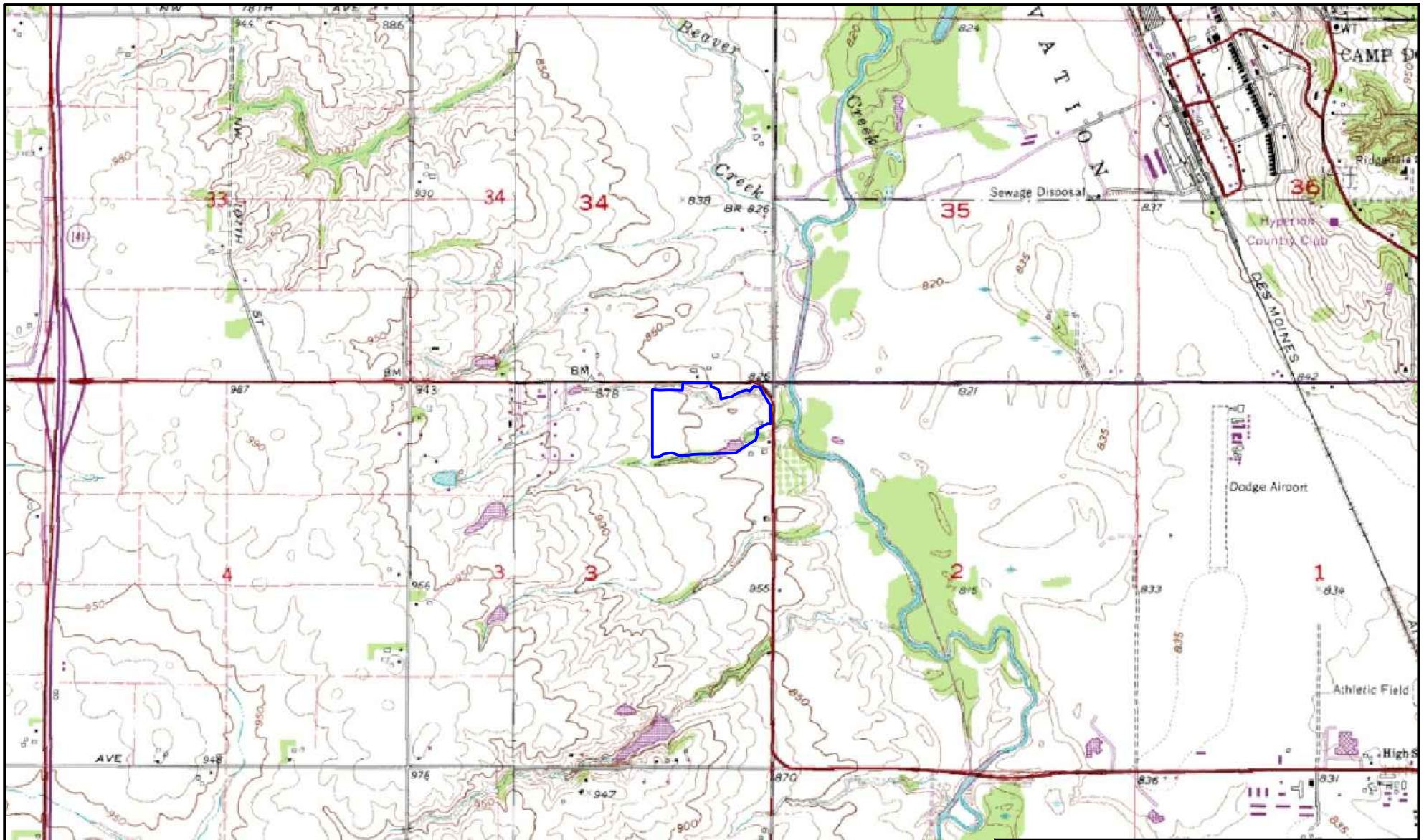


Attach
Plan 6 pages

Kirsten L. Brown
Senior Project Manager, Western Branch
Regulatory Division

REQUEST TO POSTMASTERS: Please post this notice conspicuously and continuously until the expiration date specified at the top of page 1.

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LEGEND

— PROJECT AREA

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 Project Location pg. 1 of 6

USGS TOPOGRAPHIC MAP

ENCLAVE AT WOODED POINTE
 SOUTHWEST CORNER OF NW 86TH STREET AND
 NW 70TH AVENUE
 JOHNSTON, IOWA

0 APPROXIMATE DRAWING SCALE 2000 Feet Project ID #: 21M155.00

Date: 08/24/2022

Prepared By: ESM

Checked By: SMT

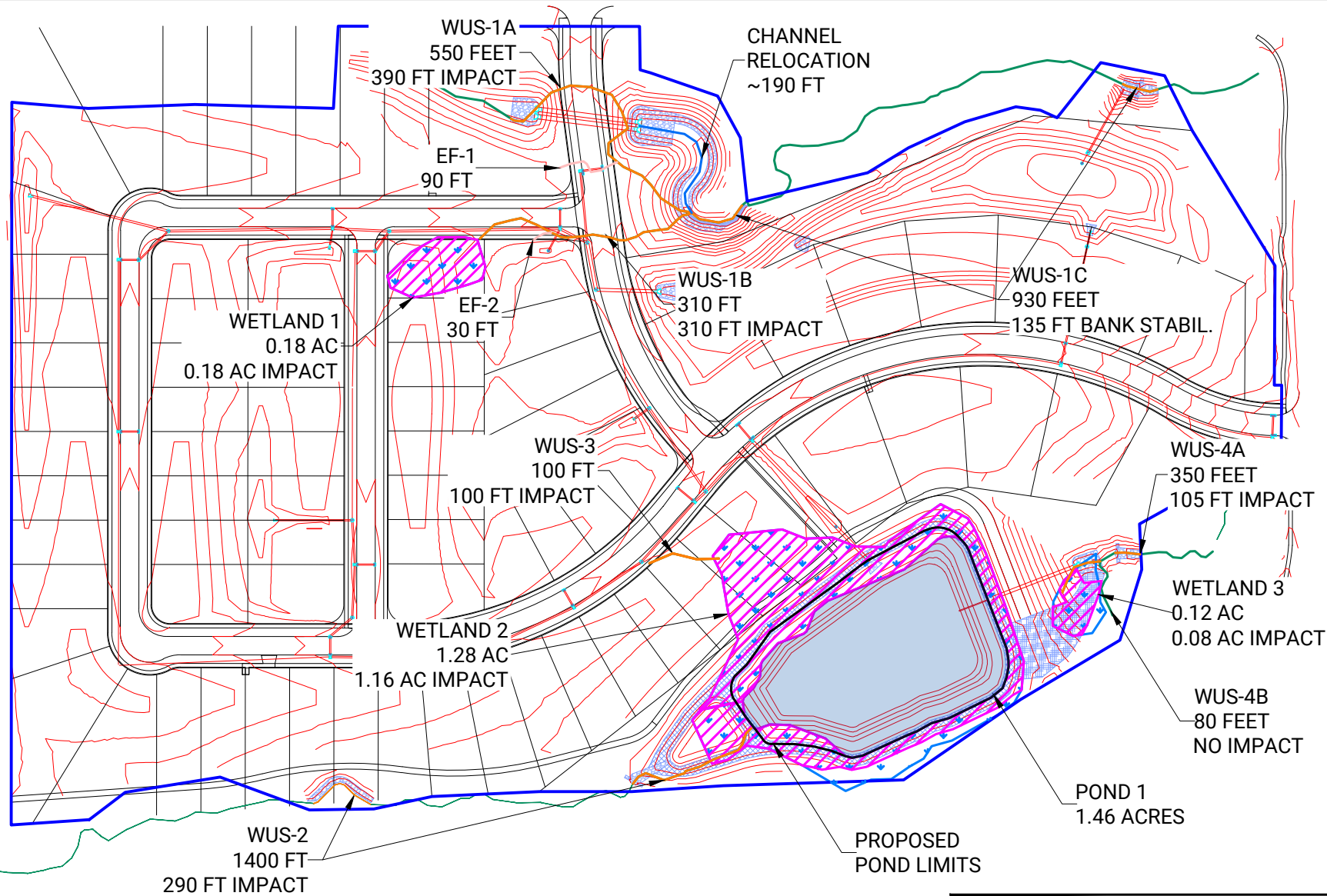




- LEGEND**
- PROJECT AREA
 - WETLAND AREA
 - WUS
 - DRAINAGE FEATURE
 - POND
 - WETLAND IMPACT
 - WUS IMPACT

CEMVR-RD-2022-0844 Mozart Properties LLC
Wetland & WUS Impacts pg. 2 of 6

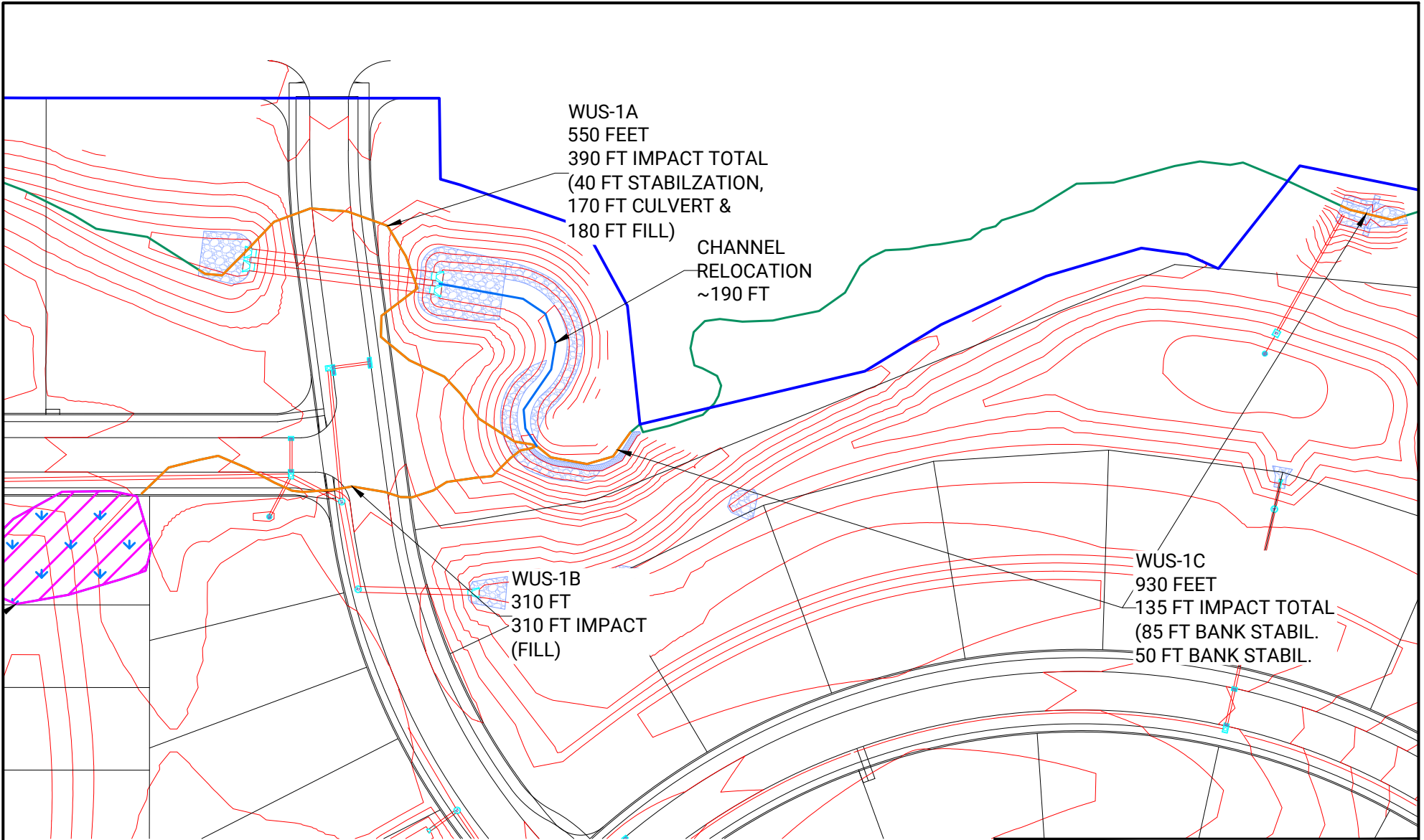
WETLAND & WUS DELINEATION MAP		
ENCLAVE AT WOODED POINTE SOUTHWEST CORNER OF NW 86TH STREET AND NW 70TH AVENUE JOHNSTON, IOWA		
0	APPROXIMATE DRAWING SCALE	200
		Feet
Date: 08/24/2022		Project ID #: 21M155.00
Prepared By: ESM		Foth
Checked By: SMT		



- LEGEND**
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 - ▭▭▭▭ - POND
 - ▨▨▨▨ - WETLAND IMPACT
 - ▨▨▨▨ - WUS IMPACT

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Wetland & WUS Impacts pg. 3 of 6

WETLAND & WUS IMPACT MAP		
ENCLAVE AT WOODED POINTE SOUTHWEST CORNER OF NW 86TH STREET AND NW 70TH AVENUE JOHNSTON, IOWA		
0 APPROXIMATE DRAWING SCALE 200 Feet	Project ID #: 21M155.00	
Date: 08/24/2022		3
Prepared By: ESM		
Checked By: SMT		

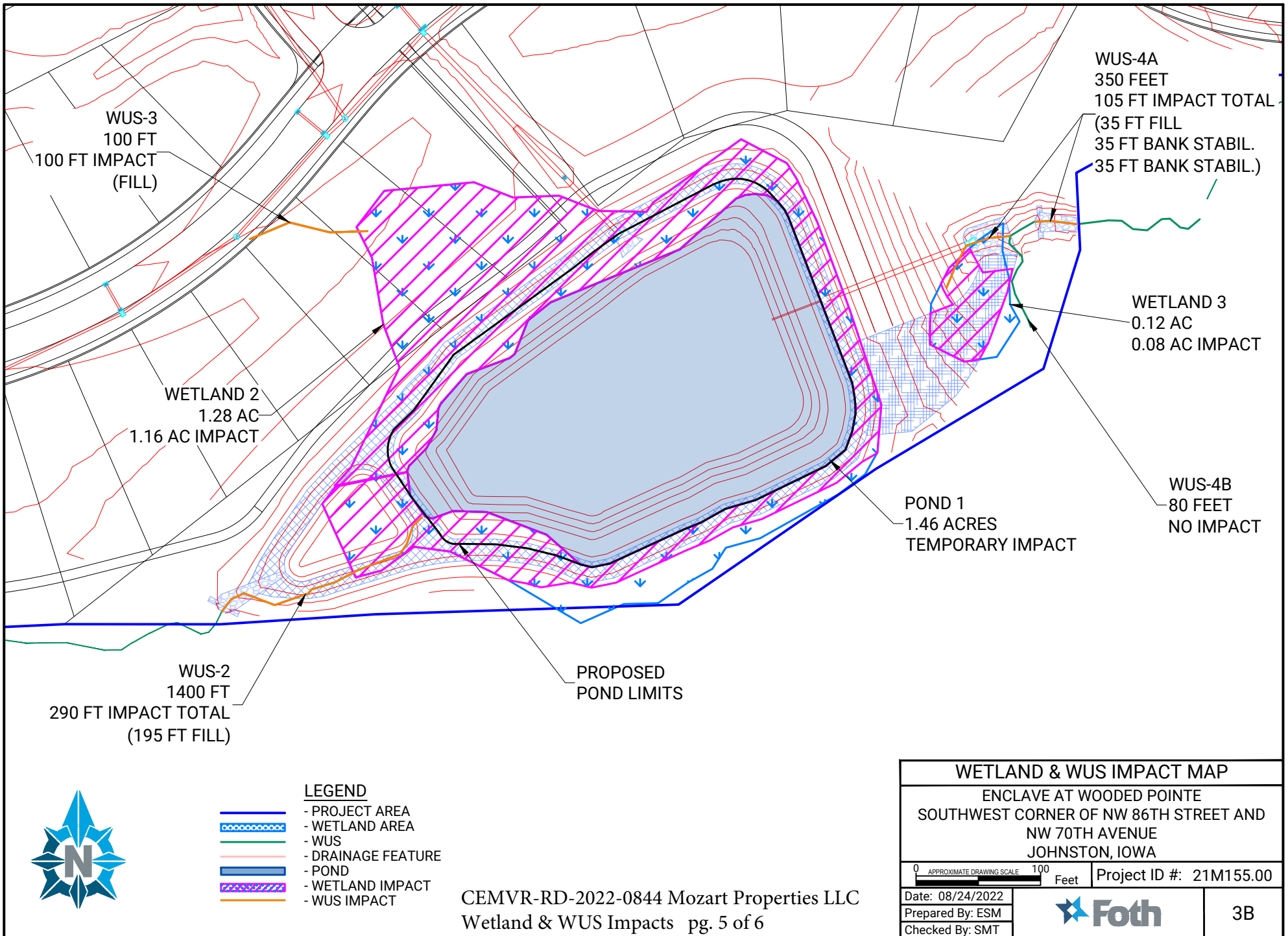


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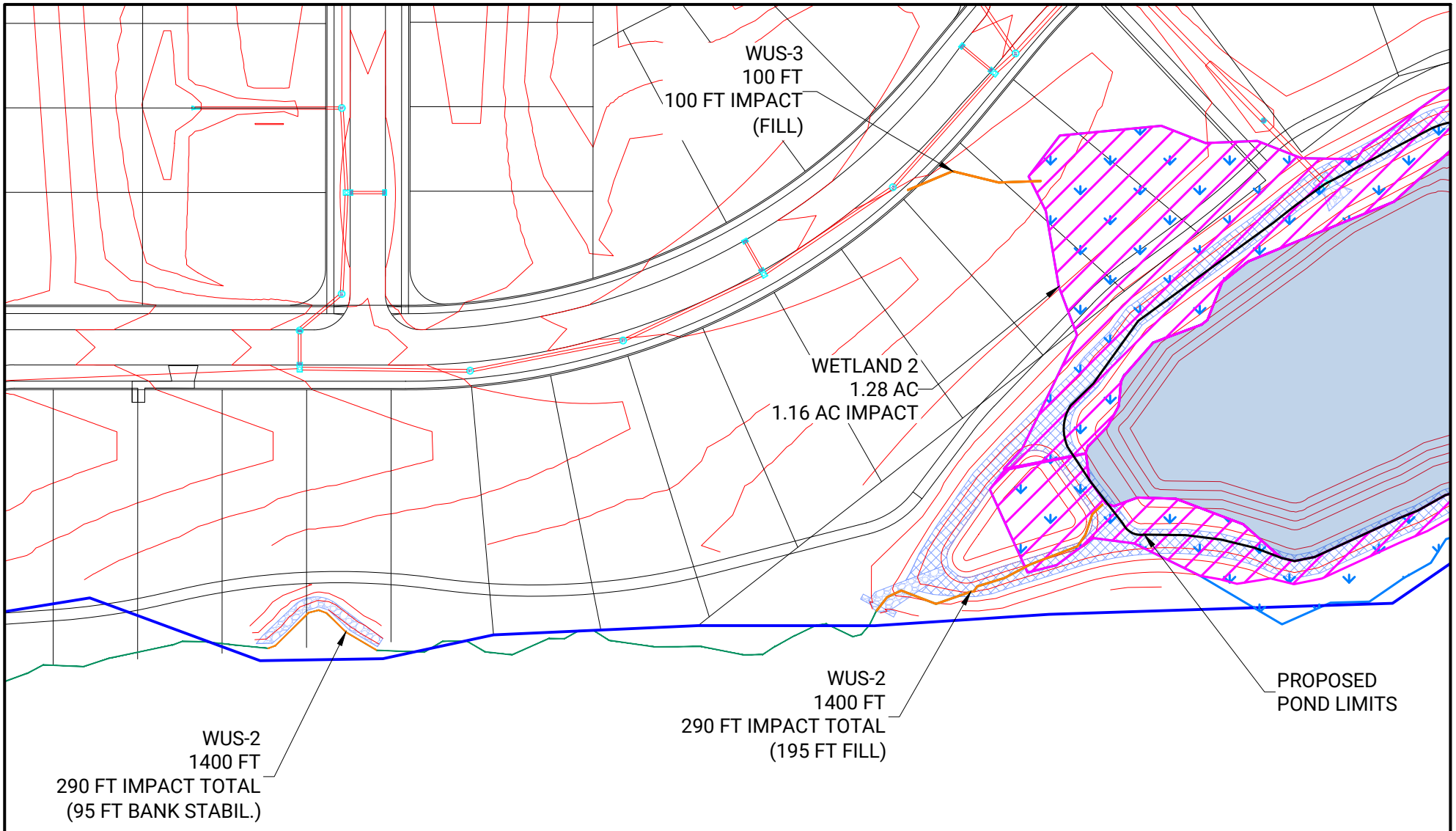
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- - WUS IMPACT

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 Wetland & WUS Impacts pg. 4 of 6

WETLAND & WUS IMPACT MAP		
ENCLAVE AT WOODED POINTE SOUTHWEST CORNER OF NW 86TH STREET AND NW 70TH AVENUE JOHNSTON, IOWA		
0 <small>APPROXIMATE DRAWING SCALE</small> 100 Feet	Project ID #: 21M155.00	
Date: 08/24/2022		3A
Prepared By: ESM		
Checked By: SMT		



CEMVR-RD-2022-0844 Mozart Properties LLC
Wetland & WUS Impacts pg. 5 of 6



WUS-2
1400 FT
290 FT IMPACT TOTAL
(95 FT BANK STABIL.)

WUS-2
1400 FT
290 FT IMPACT TOTAL
(195 FT FILL)

WETLAND 2
1.28 AC
1.16 AC IMPACT

WUS-3
100 FT
100 FT IMPACT
(FILL)

PROPOSED
POND LIMITS



LEGEND

-  - PROJECT AREA
-  - WETLAND AREA
-  - WUS
-  - DRAINAGE FEATURE
-  - POND
-  - WETLAND IMPACT
-  - WUS IMPACT

CEMVR-RD-2022-0844 Mozart Properties LLC
Wetland & WUS Impacts pg. 6 of 6

WETLAND & WUS IMPACT MAP

ENCLAVE AT WOODED POINTE
SOUTHWEST CORNER OF NW 86TH STREET AND
NW 70TH AVENUE
JOHNSTON, IOWA

0 APPROXIMATE DRAWING SCALE 100 Feet Project ID #: 21M155.00

Date: 08/24/2022

Prepared By: ESM

Checked By: SMT



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