

## KENDALL COUNTY ZONING BOARD OF APPEALS PUBLIC HEARING/MEETING

111 West Fox Street • Rooms 209 and 210 • Yorkville, IL • 60560 (630) 553-4141 Fax (630) 553-4179

#### **AGENDA**

August 2, 2021 - 7:00 p.m.

#### CALL TO ORDER – ZONING BOARD OF APPEALS

ROLL CALL for the Zoning Board of Appeals: Randy Mohr (Chair); Scott Cherry, Karen Clementi, Cliff Fox, Tom LeCuyer, Dick Thompson, and Dick Whitfield

MINUTES: Approval of Minutes from the June 28, 2021 Zoning Board of Appeals Hearing/Meeting

(Pages 2-17)

PETITIONS:

1. Petition 21 – 24 – Dave Hamman on Behalf of KEKA Farms, LLC (Property Owner)

and Pulte Home Corporation (Billboard Owner) (Pages 18-59)

Request: Renew the Special Use Permit Granted by Ordinance 2004-43 and Renewed by Ordinance

2019-22 Allowing the Placement of an Outdoor Advertising Sign (Billboard) at the Subject

Property

PIN: 03-01-127-006

Location: Southeast Corner of the Intersection of U.S. Route 34 and Hafenrichter (Farnsworth) in

Oswego Township

Purpose: Petitioner Wishes to Renew Special Use Permit for Billboard; Property is Zoned M-2

2. Petition 21 – 26 – Robert Bright on Behalf of the Madison Trust and Castle Bank N

A and JoAnn Bright-Theis (Pages 60-144)

Request: Major Amendments to the Special Use Permit for a Banquet Facility Granted by Ordinance

2019-23 by Dividing the Building Allowed to be a Banquet Facility into Separate Event Spaces, Setting the Maximum Capacities of the Event Spaces, Setting the Days of and Hours of Operation for the Event Spaces, and Removing the Requirement that the Barn

Doors be Closed by 7:00 p.m. at Events with Music

PINs: 04-29-300-010, 04-29-300-012, 04-30-400-007, 04-30-400-012, 04-30-400-013, 04-30-

400-018, 04-30-400-019, 04-31-200-013, 04-31-200-014, 04-32-100-006, and 04-32-

100-008

Location: 10978 Crimmin Road, Newark, Fox Township

Purpose: Petitioners Wish to Amend the Existing Special Use Permit; Property is Zoned A-1 with a

Special Use Permit

#### NEW BUSINESS/ OLD BUSINESS

None

#### REVIEW OF PETITIONS THAT WENT TO COUNTY BOARD

1. Petition 21-19 Special Use Permit for Market at 14975 Brisbin Road

#### **PUBLIC COMMENT:**

#### ADJOURN ZONING BOARD OF APPEALS- Next hearing/meeting on August 30, 2021

If special accommodations or arrangements are needed to attend this County meeting, please contact the Administration Office at 630-553-4171, a minimum of 24-hours prior to the meeting time.

## MINUTES – UNOFFICIAL UNTIL APPROVED KENDALL COUNTY

#### **ZONING BOARD OF APPEALS MEETING**

111 WEST FOX STREET, COUNTY BOARD ROOM (ROOMS 209 and 210)
YORKVILLE, IL 60560
June 28, 2021 – 7:00 p.m.

#### **CALL TO ORDER**

Chairman Randy Mohr called the Zoning Board of Appeals meeting to order at 7:00 p.m.

#### **ROLL CALL:**

Members Present: Scott Cherry, Karen Clementi, Cliff Fox, Tom LeCuyer, Randy Mohr, and Dick

Thompson

Members Absent: Dick Whitfield

Staff Present: Matthew Asselmeier, AICP, CFM, Senior Planner

Others Present: Wanda Hogan, Michael Mattingly, Judy Bush, Donna Sawicki, and James Bauler

#### **MINUTES:**

Member LeCuyer made a motion, seconded by Member Cherry, to approve the minutes of the May 3, 2021 hearing/meeting.

With a voice vote of five (5) ayes, the motion carried. Member Clementi abstained.

Chairman Mohr swore in Wanda Hogan, Michael Mattingly, Judy Bush, and Donna Sawicki.

#### **PETITIONS**

The Zoning Board of Appeals started their review of Petition 21-19 at 7:01 p.m.

#### Petition 21 – 19 – Wanda and Thomas Hogan

Request: Special Use Permit to Operate a Market (Sale of Agricultural Products, Pottery, Art and

Home Décor Not Produced on the Premises)

PIN: 08-13-400-013

Location: 14975 Brisbin Road, Minooka, Lisbon Township

Purpose: Petitioner Wants to Operate a Market on the Property; Property is Zoned A-1

Agricultural

Mr. Asselmeier summarized the requests.

In March 2021, the Petitioners submitted an application for a market at the subject property. At the Kendall County Regional Planning Commission meeting, Kendall County Zoning Board of Appeals hearing, and Kendall County Planning, Building and Zoning Committee meeting, concerns were raised about the intensity of the use, the compatibility of the use in relation to adjacent agricultural uses, the impact of the proposed use on property values, safety at the property and along Brisbin Road, and the appearance of the property. After receiving negative recommendations at the above meetings and hearing, the Petitioners withdrew the original Petition.

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On May 13, 2021, the Petitioners submitted a revised Petition. According to the information provided to the County, the Petitioners would like to offer an outdoor, twenty (20) stall market on the subject property with food. The market would feature vendors, including the Petitioners, their family members, and other vendors, that would sell goods not produced on the premises. The Petitioners have removed some items from the property and have agreed to install a four foot (4') snow fence around the ponds when the market is occurring.

The application materials, plat of survey, site plan, aerial of the property were provided and updated site plan were provided.

The property is located at 14975 Brisbin Road.

The property is approximately three point eight (3.8) acres.

The current land use is Agricultural. The future land use is Rural Estate Residential.

Brisbin Road is a township maintained Major Collector.

There are no trails planned along Brisbin Road.

There are no floodplains or wetlands on the property.

The adjacent land uses are Agricultural.

The adjacent zoning districts are A-1.

The Future Land Use Map calls for the area to be Agricultural and Rural Estate Residential. The Village of Plattville's Future Land Use Map calls for the property to be Low Density Residential. The subject property is greater than one point five (1.5) miles from the Village of Lisbon. However, the Village of Lisbon's Future Land Use Map calls for this property to be Mixed Use Business and Agricultural.

The A-1 special use to the west is for an indoor storage facility of boats, trailers, recreational vehicles and classic cars.

EcoCat submitted on February 2, 2021, and consultation was terminated.

NRI application submitted on January 28, 2021 as part of the original application. A revised application was submitted on May 13, 2021. The LESA Scores from both the original and revised applications was 190 indicating a low level of protection. The revised NRI Report was provided.

Lisbon Township was emailed information on May 18, 2021. To date, no comments were received.

The property is in Lisbon Township, but Seward Township maintains Brisbin Road in this area. Seward Township was emailed information on May 18, 2021. Seward Township Highway Commissioner Scott Cryder sent a letter stating that he was withdrawing the objection of the previous Township Highway Commissioner and recommending approval of the requested special use permit. This letter was provided.

The Village of Plattville was emailed information on May 18, 2021. To date, no comments were received.

Lisbon-Seward Fire Protection District was emailed information on May 18, 2021. The Fire Protection District requested two (2) fire extinguishers and two (2) basic first aid kits, one (1) at the entrance and one (1) in the middle of the market. The Fire Protection District's email was provided.

ZPAC reviewed this proposal at their meeting on June 1, 2021. The Petitioner stated the food vendor would be similar to a food truck. The Petitioner agreed to install hand washing stations near the restrooms. Given the number of events, the use would not meet the requirements for testing under the State's non-community well program. The Petitioner reiterated that no parking would occur along Brisbin Road. The Petitioner's Attorney invited everyone onto the site and asked if something needed to be removed or relocated, to let the Petitioner know. ZPAC voted to recommend approval of the proposal by a vote of six (6) in favor and zero (0) in opposition; four (4) members were absent. The minutes of the meeting were provided.

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on June 23, 2021. The Petitioners clarified that the individual vendor stalls would be approximately fifteen feet by twenty feet (15'X20'). The Petitioners agreed that the request by the Lisbon-Seward Fire Protection District be added as a condition of the special use permit. Discussion occurred regarding overflow parking and the Petitioners agreed to amend the site plan showing additional parking to the west of the market area. Commissioners wanted to see no parking/tow zone signs installed by the Township in front of the subject property, if the Township could lawfully install such signs. Tom Anzelc felt the proposal was not the right fit for Lisbon Township. Cathleen Anzelc expressed concerns about precedent, noted that another market was in the area, felt that property values would be negatively impacted, asked who would monitor the property for setup and teardown, and was concerned that the use will be incompatible with agricultural uses. Letters of support from neighbors Don and Jacque Schuck, Brenda and Dustin Walzer, and Carla and Sherman Tweet, Jr. were read. The Kendall County Regional Planning Commission voted to recommend approval of the proposal with the conditions proposed by Staff and that the Petitioners developed additional parking west of the site plan for overflow or vendor parking within one (1) year of the approval of the special use permit. The Commission also recommended that the applicable Township examine establishing a no parking or towaway zone along Brisbin Road at the subject property. The vote was eight (8) in favor and two (2) in opposition. Chairman Ashton voted no because he was unsure if the Petitioners would install the extra parking. Member Stewart voted no because he did not believe the site had been satisfactorily cleaned up. The minutes of the meeting were provided.

According to the plat of survey, the original site plan, and the revised site plan, the site will consist of twenty (20) outdoor vendor stations plus one (1) additional food vendor located along the western and southwestern portion of the property near the existing approximately forty foot by eighty foot (40'X80') steel barn. A food area will be located north of the barn. An existing red storage trailer is located north of the existing gravel drive.

No new buildings are planned for the site. No existing structures are planned for demolition.

One (1) four foot (4') temporary snow fence will be installed around the ponds when the market is occurring.

Section 7:01.D.48 places several conditions and restrictions on special use permits regarding the sale of pottery, art, and home décor. These include:

- 1. A sit-down food area is allowed if incidental to the primary operation of retail sales.
- 2. The subject parcel must not be less than three (3) acres in size.
- 3. Must be along a hard surfaced road classified as an arterial or major collector in the Land Resource Management Plan.
- 4. Is located in an area not designated as Agricultural on the Land Resource Management Plan.
- 5. Must occur in a manner that will preserve the existing farmhouse, barns, related structures, and the pastoral setting.
- 6. Must serve as a transitional use between agricultural areas and advancing suburban development.
- 7. Must serve to prevent spot zoning.
- 8. Retail and wholesale must occur in an existing building, unless otherwise approved by the County Board.
- 9. Any new structures must reflect the current architecture of the existing structures.
- 10. No outside display of goods.
- 11. Cannot generate noise, vibrations, glare, fumes, odors, or electrical interference beyond which normally occurs on A-1 zoned property.
- 12. Limited demolition of farmhouse and outbuildings is allowed.
- 13. Site plan is required.
- 14. Signage must follow the requirements in the Zoning Ordinance.
- 15. Off-street parking must follow the requirements in the Zoning Ordinance.

Assuming the County Board approves sales outside existing buildings, all of the above requirements of the Zoning Ordinance are addressed.

If approved, this would be the tenth (10<sup>th</sup>) special use permit for the sale of products not grown on the premises in the unincorporated area.

According to the business plan provided, the Petitioner would like to operate the market a maximum two (2) weekends per month between April and October. The market would be open from 8:00 a.m.

until 5:00 p.m. with vendors given additional time to set-up their spaces. A weekend is considered Saturday and Sunday.

Other than the Petitioners and their family, the business will not have any employees.

All vendors will have necessary insurance.

No new structures are planned for the property.

A barrier will be installed by the propane tank.

According to the site plan and revised site plan, two (2) porta-johns are planned south of the existing red storage trailer.

A potable water source is available in the existing steel barn.

The Petitioners would make accommodations for vendors that want electricity. Solar panels are onsite.

A refuse area is planned east of the porta-johns.

The property drains to the east.

The Petitioners secured stormwater permits in 2000 for the construction of the two (2) ponds on the premises.

Based on the information provided, no stormwater permits are required.

The property fronts Brisbin Road. Patrons would drive west on the existing gravel driveway and parking in one (1) of the designated areas. Patrons would leave the property on the same gravel driveway.

Following the Regional Planning Commission meeting, the Petitioners updated the parking layout on the site plan. The site plan showed two (2) parking areas. The parking area by the existing steel barn consists of eight (8) parking spaces including three (3) handicapped accessible parking spaces. The eight (8) parking stalls would be eight feet by fifteen feet (8'X15'). The three (3) handicapped parking spaces would be ten feet by fifteen feet (10'X15') with a five foot (5') landing area. An additional forty-seven (47) parking spaces were planned along the north and west sides of the site. Originally, the Petitioners planned to install thirteen (13) parking spaces along the north property line, but the Regional Planning Commission was concerned about overflow parking for patrons and vendor parking. The number of available parking spaces could be reduced if vendors with larger vehicles and trailers occupy the parking spaces along the western end of the site. The parking spaces would be gravel, hay, or grass with the exception of the three (3) handicapped accessible spaces which would be hard surfaced.

Vendors would park at their vending station.

The Petitioners plan to use cones with chains to keep vehicles away from pedestrians.

No additional lighting was planned as part of this project. If additional lighting were added, a photometric plan would be required because the number of parking spaces exceeds thirty (30).

The Petitioner plans to have a sign at Brisbin Road when the market is open. A picture of the sign was provided. The sign is approximately four feet by six feet (4'X6') in size. While the sign can be illuminated, the Petitioner will not light the sign.

No additional landscaping is planned.

No information regarding noise control was provided.

The proposed Findings of Fact were as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. True. The Petitioner has submitted a site plan indicating that measures will be taken to ensure that the use will not have a negative impact on public health, safety, morals, comfort, or general welfare. Conditions may be placed in the special use permit to address hours of operation and signage. The Petitioner agreed to follow all applicable public health and public safety related laws.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. True. Conditions are proposed that will regulate hours of operation and site layout. No new buildings or other significant alterations away from the appearance of the property as an agricultural related property are planned.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. Utilities are already available at the property. The site plan includes a parking plan. The property previously secured a stormwater management permit.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. This is true. No variances have been requested.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed use is consistent with an objective found on Page 3-5 of the Kendall County Land Resource Management Plan which calls for "a strong base of agricultural, commercial and industrial uses that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents."

Staff recommended approval of the requested special use permit subject to the following conditions and restrictions:

- The site shall be developed substantially in accordance with the site plan. Any new structures
  related to the uses allowed by this special use permit shall require a major amendment to the
  special use permit and any new structures must reflect the current architecture of the existing
  structures. Limited demolition of farmhouse and outbuildings is allowed.
- 2. The owner(s) or operator(s) of the business allowed by this special use permit must ensure the four foot (4') fence is erected around the ponds as shown on the site plan prior to the opening of the business allowed by this special use permit when the business is open to the public.
- 3. The subject parcel must remain at least (3) acres in size.
- 4. The uses allowed by this special use permit must occur in a manner that will preserve the existing farmhouse, barns, related structures, and the pastoral setting.
- 5. Retail and wholesale sales may occur outside existing buildings.
- 6. The uses allowed by this special use permit cannot generate noise, vibrations, glare, fumes, odors, or electrical interference beyond which normally occurs on A-1 zoned property.
- 7. A maximum twenty (20) vendors and one (1) additional food vendor may be on the subject property.
- 8. The uses allowed by this special use permit may operate a maximum of two (2) weekends per month. For the purposes of this ordinance, a weekend shall be considered Saturdays and Sundays. The uses may be open for sale between the hours of 8:00 a.m. and 5:00 p.m. The property owner may reduce these hours of operation. Vendors may setup no earlier than two (2) hours prior to opening and must be offsite within two (2) hours of closing. The uses allowed by this special use permit may be operational between the months of April and October.
- 9. Only the owners of the property and their family members shall be employees of the business allowed by this special use permit.
- 10. The owners of the business allowed by this special use permit may install one (1) sign along Brisbin Road. The sign shall be a maximum of four feet by six feet (4'X6') in size. The sign shall not be illuminated. The sign may be placed along Brisbin Road on days when the uses allowed by the special use permit are open. The sign may be placed along Brisbin Road the day before the business allowed by this special use permit is open.
- 11. All trash and garbage generated by uses allowed by this special use permit shall be stored in the garbage areas designated on the site plan. The owner(s) or operator(s) of the business allowed by this special use permit shall ensure that garbage and trash shall be removed from the property at least one (1) time per week or as necessary to maintain the property clear of garbage and trash.
- 12. No music shall be generated by the uses allowed this special use permit.
- 13. The owner(s) or operator(s) of the uses allowed by this special use permit shall live at the subject property as their primary place of residence.
- 14. The operator(s) of the uses allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.

- 15. The operator(s) of the uses allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of use.
- 16. On the days when the uses allowed by this special use permit are open to the public, two (2) fully functioning fire extinguishers and two (2) basic first aid kits shall be available, one (1) set of these items shall be located at the entrance to the market and the other set shall be located in the middle of the market. (Added at Regional Planning Commission)
- 17. Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permit.
- 18. This special use permit and the ordinance granting this special use permit shall be considered revoked on the tenth (10<sup>th</sup>) anniversary of the Kendall County Board's approval of this special use permit ordinance or when Thomas or Wanda Hogan no longer own the subject property, whichever occurs first. If Thomas or Wanda Hogan wish to continue the use allowed by this special use permit after the tenth (10<sup>th</sup>) anniversary of the Kendall County Board's approval of this special use permit ordinance or if a subsequent owner of the subject property wishes to operate the use allowed by this special use permit, a new special use permit shall be required. This condition shall not be eligible for a minor amendment.
- 19. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

Member Fox asked about the processes about a major amendment to a special use permit and a new special use permit. Mr. Asselmeier said the processes were the same. The applicant would have to go through all of the meetings. A minor amendment requires only Staff review and review and approval by the Planning, Building and Zoning Committee.

Chairman Mohr opened the public hearing at 7:17 p.m.

Michael Mattingly, Attorney for the Petitioners, thanked the Board for the opportunity to present at the hearing. He stated that concerns were raised at the Regional Planning Commission regarding overflow parking. A revised plat showing overflow parking was provided. He noted the number of parking spaces increased from twenty-one (21) to forty-seven (47). He also noted that the additional parking area was under till and would be installed in 2022. He said both Petitioners live on the property. He also explained that the Petitioners have cleaned up the property. He stated that the new Seward Township Road Commissioner had no objections to the proposal. He said that they tried to meet with the adjoining neighbors and he noted four (4) of those neighbors have submitted letters of support. The Petitioners were looking to start in 2022, but could start in 2021. He noted the location of the snow fence on the site plan. The business would be a country market.

Wanda Hogan, Petitioner, said it was never going to be a flea market. It will be crafts and farmers' market. No junk would be offered for sale. She would review the products offered by vendors.

Chairman Mohr noted that he did not see the property unless he was looking for the property. He felt that the property had been cleaned up.

Member Clementi asked how would the County know that only two (2) per month would occur. Mr.

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Asselmeier would said that if the County received a complaint about the number of times the market was open, the County would investigate. Also, if the market was advertised as being open more than allowed, the County would investigate.

Ms. Hogan invited Members to the market.

Mr. Mattingly noted that the other advisory boards and Staff have recommended approval of the request.

Mr. Asselmeier noted that condition 1 needed to be amended to reflect that parking spaces labeled 14-47 would need be installed by April 2022. It was the intent at the Regional Planning Commission that these spaces would not be in place in 2021. Mr. Mattingly said that recommended change would be consistent with what was stated at the Regional Planning Commission meeting.

Chairman Mohr requested that the Fire Protection District approve the fire extinguishers. Mr. Asselmeier noted the phrase "fully functioning" was placed in the restriction. Chairman Mohr requested the fire extinguishers be inspected annually.

Chairman Mohr also requested no parking signs erected along Brisbin Road. Mr. Asselmeier said discussion occurred at the Regional Planning Commission meeting regarding whether or not a township had a right to install no parking signs and establish no parking zones. Chairman Mohr acknowledged that it would be a long walk from Brisbin Road to the market area.

Without objection, Mr. Asselmeier read the letter of support from Jose Oliveres Guzman into the record.

Chairman Mohr closed the public hearing at 7:30 p.m.

Member LeCuyer made a motion, seconded by Member Clementi, to approve the Findings of Fact.

The votes were as follows:

Ayes (6): Cherry, Clementi, Fox, LeCuyer, Mohr, and Thompson

Nays (0): None Abstain (0): None Absent (1): Whitfield

The motion passed.

Member Clementi made a motion, seconded by Member LeCuyer to recommend approval of the requested special use permit with the conditions proposed by Staff and an amendment to condition 1 that parking spaces 14-47 be installed by April 2022.

Chairman Mohr said that he would not press the issue with the fire extinguishers.

The votes were as follows:

Ayes (6): Cherry, Clementi, Fox, LeCuyer, Mohr, and Thompson

Nays (0): None Abstain (0): None Absent (1): Whitfield

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The motion passed.

The proposal will go to the Kendall County Planning, Building and Zoning Committee on Monday, July 12, 2021.

Chairman Mohr suggested increasing the minimum lot size for this type of use be increased from three (3) acres to five (5) acres and having more than one (1) point of ingress and egress. He suggested having the matter discussed at the Annual Meeting.

The Zoning Board of Appeals completed their review of Petition 21-19 at 7:34 p.m.

The Zoning Board of Appeals started their review of Petition 21-22 at 7:34 p.m.

#### Petition 21 – 22 – James Bauler

Request: Variance to Section 4:14.A.3.a to Allow the Installation of Fence at a Maximum Height of

Eight Feet Instead of Six Feet in the West Side Yard

PIN: 03-04-455-007

Location: 68 Saugatuck Road, Montgomery, Oswego Township

Purpose: Petitioner Wants to Install an Eight Foot Tall Fence on the West Side of the Property;

Property is Zoned R-6 One Family Residence District

Mr. Asselmeier summarized the request.

The Petitioner owns 68 Saugatuck Road (Lot 53 in Boulder Hill Unit 19) and installed a fence eight feet (8') in height on the west side of the property. The Petitioner was advised that Section 4:14.A.3.a restricts the height of fences to six feet (6') in the side and rear yards. The Petitioner installed a fence at six feet (6') in height on the east and south sides of the property. Rather than lower the portion of the fence that is above the required height, the Petitioner chose to seek a variance.

The application materials, plat of survey showing the location of the fence, aerial of the property, and a picture of the fence were provided.

The property was approximately zero point three (0.3) acres in size.

The current land use was single-family residential.

The future land use was Suburban Residential.

Saugatuck Road is a Local Road maintained by Oswego Township. There were no trails planned on the road.

There are no wetlands or flood plain on the property.

The adjacent land uses were single-family residential and Comed ED right-of-way.

The adjacent zoning districts were R-6.

The area was planned to be Suburban Residential Comed ED right-of-way.

According to the information provided, the Petitioner wanted the fence for security reason. The Petitioner has not contacted the Kendall County Sheriff's Department regarding this matter.

Oswego Township was emailed this proposal on May 25, 2021. To date, no comments were received.

The Oswego Fire Protection District was emailed this proposal on May 25, 2021. They submitted an email on May 25<sup>th</sup> stating they have no comments regarding the proposal.

The proposed Findings of Fact were as follows:

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. There are no topographic conditions that result in a particular hardship or practical difficulty.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. Any property owner with R-6 zoned property, including other properties in Boulder Hill, could request a similar variance and for the same reasons.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The owner does not have a hardship, but would like to keep the fence at the height requested.

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. The requested variance should not negatively impact any of the neighbors and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. Adding the proposed fence will not impair any of the above items and will not impact the roadway.

Staff recommended denial of the request variance. However, if the Board wished to grant the variance, Staff recommended the following conditions:

- 1. The maximum height of the fence shall be eight feet (8') on the west side of the subject property.
- 2. The variance shall apply to fences on the west side of the subject property only.
- 3. This variance shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns.

Member Fox asked if the fence was already in place. Mr. Asselmeier responded that the fence was already in place.

Chairman Mohr opened the public hearing at 7:37 p.m.

Judy Bush said that as a resident of Boulder Hill, she was against the variance. She did not see the need for the fence. Security issues should be addressed by Sheriff's Deputies. She has had bad neighbors, but has abided by the regulations. She was afraid that, if the variance was granted, others in Boulder Hill would pursue similar variances and open up other issues.

Donna Sawicki expressed concerns about Boulder Hill and the precedent what would be set. She suggested allowing a fence at a staggered height.

Chairman Mohr asked if there are other illegal fences in Boulder Hill. Member Clementi responded that there are unsightly things that are not incompliance.

Chairman Mohr swore in James Bauler.

James Bauler said that he installed the fence because there is a six foot (6') fence on the opposite side of his fence. He stated that his daughter and her friend saw a shadow of someone looking into his camper.

Member LeCuyer asked if he called the County before installing the fence. Mr. Bauler said that he called on a Saturday and a lady told him that no height restriction exists, a permit was not required, and that a metal fence was not allowed. It was noted that the County was not open Saturdays. The County allows chain link fence. Brian Holdiman told Mr. Bauler that he received faulty information.

Member Fox noted that the camper was open to the street and asked what the purpose was for the extra two feet (2'). Mr. Bauler said he has cameras.

Member Clementi asked if the police were called. Mr. Bauler said that he did not call the police.

Mr. Asselmeier noted that, if the Petition is denied, the fence would have to be lowered to six feet (6').

Member Clementi noted that people could look into the property from the Comed right-of-way.

Member Fox noted the issues in Newark of having people install different things on their property and concerns about precedent.

Chairman Mohr agreed on the issue of precedent.

Mr. Bauler noted his safety issues. He noted that someone was standing on the bottom frame.

Member Clementi noted the need to contact the police.

Ms. Sawicki agreed on the security issue and that the fence was nice. She stated that the fence height would not solve the matter. The police would not be able to see the issue.

Chairman Mohr closed the public hearing at 7:49 p.m.

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It was noted that the Findings of Fact were made in the negative.

Member Clementi made a motion, seconded by Member Fox, to approve the Findings of Fact.

The votes were as follows:

Ayes (6): Cherry, Clementi, Fox, LeCuyer, Mohr, and Thompson

Nays (0): None Abstain (0): None Absent (1): Whitfield

The motion passed.

Member Clementi made a motion, seconded by Member LeCuyer, to approved the requested variance with the conditions proposed by Staff.

The votes were as follows:

Ayes (0): None

Nays (6): Cherry, Clementi, Fox, LeCuyer, Mohr, and Thompson

Abstain (0): None Absent (1): Whitfield

The motion failed.

The Zoning Board of Appeals completed their review of Petition 21-22 at 7:52 p.m.

#### **NEW BUSINESS/OLD BUSINESS**

None

#### REVIEW OF PETITIONS THAT WENT TO THE COUNTY BOARD

Mr. Asselmeier reported that Petition 21-14 was approved by the County Board.

#### **PUBLIC COMMENTS**

Mr. Asselmeier said there are two (2) Petitions for the August 2<sup>nd</sup> hearing, the renewal of the special use permit for a billboard at Route 34 and Hafenrichter and the owners of the banquet facility at 10978 Crimmin Road have proposed some amendments related to banquet center operations.

#### ADJOURNMENT OF THE ZONING BOARD OF APPEALS

Member Clementi made a motion, seconded by Member Fox, to adjourn.

With a voice vote of six (6) ayes, the motion carried.

The Zoning Board of Appeals meeting adjourned at 7:54 p.m.

The next hearing/meeting will be on August 2, 2021.

Respectfully submitted by, Matthew H. Asselmeier, AICP, CFM Senior Planner

ZBA Meeting Minutes 6.28.21

#### **Exhibits**

- 1. June 23, 2021 Letter from Jose Oliveres Guzman
- 2. Memo on Petition 21-19 Dated June 25, 2021
- 3. Certificate of Publication for Petition 21-19 (Not Included with Report but on file in Planning, Building and Zoning Office)
- 4. May 25, 2021 Email from Alec Keenum
- 5. Memo on Petition 21-22 Dated May 25, 2021
- 6. Certificate of Publication for Petition 21-22 (Not Included with Report but on file in Planning, Building and Zoning Office)



## KENDALL COUNTY ZONING BOARD OF APPEALS JUNE 28, 2021

In order to be allowed to present any testimony, make any comment, engage in cross-examination, or ask any question during this public hearing, you must enter your name, address, and signature on this form prior to the commencement of the public hearing. By signing this registration sheet, you agree that you understand that anything you say will be considered sworn testimony, and that you will tell the truth, the whole truth and nothing but the truth.

NAME	ADDRESS	SIGNATURE
Lucy Brest Mond Moth Wand Joga DONNA SAWICKI		



#### To: Kendall County Plan Commission

I am one of the neighbors of Thomas and Wanda Hogan, 14975 Brisbin Road, Minooka. Illinois. I am writing to you regarding the Hogan's request to acquire a special use permit to hold a country market on their property which shall be called Hogan's Haven Country Market, I do not object to the Hogan's site plan or the proposed special use and would hope the board will consider this letter as proof that their neighbors who live on Brisbin Road near the property do not object to the proposed special use permit.

Because of work schedules or health problems, I may not be able to attend these very important meetings but would like the boards that run Kendall County to take my wishes into consideration when making their decisions.

Signature:

Printed Name;

Guzman

Address:

Subscribed and sworn to this 23 day

., 202

DSEKO INCres

Notary Public

OFFICIAL SEAL
JOSE ORNELAS
IOTARY PUBLIC, STATE OF I

NOTARY PUBLIC, STATE OF ILLINOIS My Commission Expires Aug. 24, 2024



#### **DEPARTMENT OF PLANNING, BUILDING & ZONING**

111 West Fox Street • Room 203 Yorkville, IL • 60560

(630) 553-4141

Fax (630) 553-4179

#### Petition 21-24

Dave Hamman on Behalf of KEKA Farms, LLC (Property Owner) and Pulte Home Corporation (Billboard Owner)
M-2 Special Use – Renewal of a Special Use Permit for an Off-Premise Advertising Sign at the Northeast Corner of Route 34 and Hafenrichter (Farnsworth)

#### INTRODUCTION

In December 2004, through Ordinance 2004-43, the Kendall County Board approved a special use permit for the placement of an off-premise advertising sign at the subject property. The special use permit was renewed in 2017 through Ordinance 2017-14. The special use was renewed again in 2019 through Ordinance 2019-22. Restriction Number 2.C of the 2019 special use permit renewal and Section 12:06.A.4 require the owner to either remove the sign or to renew the special use permit every two (2) years.

#### SITE INFORMATION

PETITIONER Dave Hamman on Behalf of KEKA Farms, LLC and Pulte Home Corporation

ADDRESS No Address Has Been Assigned to the Sign

LOCATION Northeast Corner of Route 34 and Hafenrichter (Farnsworth)



TOWNSHIP Oswego

PARCEL # 03-01-127-006

LOT SIZE 42.89 acres (Sign is on the southwest corner.)

EXITING LAND Agricultural

USE

ZONING M-2 Heavy Industry District with a Special Use Permit (Off-Premise Sign)

ZBA Memo – Prepared by Matt Asselmeier – July 29, 2021

Page 1 of 5

#### **LRMP**

Land Use	County: Commercial and Suburban Residential (Max 1 DU/Acre) City of Aurora: Commercial
Roads	Route 34 is maintained by IDOT Hafenrichter/Farnsworth is a Local Road Maintained by Oswego Township.
Trails	Aurora has a trail planned along Hafenrichter.
Floodplain/ Wetlands	There are no wetlands or floodplain on the property.

## REQUESTED ACTION

Renewal of the Special Use Permit Awarded by Ordinance 2004-43 Granting a Special Use Permit for an Off-Premise Advertising Sign at the Subject Property

## APPLICABLE REGULATIONS

Section 12:06.A – Signs – General Standards

Section 12:12 – Signs – Special Use Signs: Commercial off-premise advertising structures may be permitted via a special use only in the M-2 and M-3 Manufacturing Districts.

Section 13:08 – Special Use Procedures

#### **SURROUNDING LAND USE**

Location	Adjacent Land Use	Adjacent Zoning	Land Resource Management Plan	Zoning within ½ Mile
North	Industrial	M-2 SU	Low Density Residential (0-5 du/acre) (Aurora)	Aurora, Kane County, DuPage County and M-2 SU in Unincorporated Kendall County
South	Commercial/Residential	Aurora (B-2(S), R-1(S) and R-5(S))	Low Density Residential (0-5 du/acre) and Commercial (Aurora)	Aurora and R-3 in Unincorporated Kendall County
East	Agricultural/Residential	Aurora (R-1(S) and R-5(S))	Low Density Residential (0-5 du/acre) and Medium Density Residential (6-10 du/acre) (Aurora)	Aurora and Will County
West	Residential	Aurora (R-5(S))	Commercial, Light Industrial and Industrial (Aurora)	Aurora, A-1, M-1 SU, and B-3 in Unincorporated Kendall County

Page 2 of 5

#### PHYSICAL DATA

#### **ENDANGERED SPECIES REPORT**

Not Required

#### NATURAL RESOURCES INVENTORY

Not Required

#### **ACTION SUMMARY**

#### **OSWEGO TOWNSHIP**

Petition information was sent to Oswego Township on June 10, 2021.

#### **CITY OF AURORA**

Petition information was sent to the City of Aurora on June 10, 2021. The property owner is in annexation negotiations with the City of Aurora. The City of Aurora submitted an email on June 10, 2021, stating they did not objection, but that the sign would be removed upon annexation. The email is included as Attachment 7.

#### OSWEGO FIRE PROTECTION DISTRICT

Petition information was sent to Oswego Fire Protection District on June 10, 2021. The Oswego Fire Protection District submitted an email on June 10, 2021, stating they had not comments regarding the request. The email is included as Attachment 6.

#### **ZPAC**

ZPAC reviewed this proposal at their meeting on July 6, 2021. ZPAC recommended approval of the request by vote of six (6) in favor and zero (0) in opposition with four (4) members absent. The minutes of the meeting are included as Attachment 8.

#### **RPC**

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on July 28, 2021. There were no comments or questions regarding the proposal. The Kendall County Regional Planning Commission recommended approval of the request by a vote of eight (8) in favor and zero (0) in opposition with two (2) members absent. The minutes of the meeting are included as Attachment 9.

#### **GENERAL INFORMATION**

The sign is twelve feet by sixteen feet (12' X 16') in size. There will be fourteen feet (14') from the ground to the top of the sign. Renderings of the sign and the petitioner's application (including lease, findings of fact, and site plan) are included as Attachment 1.

The petitioner desires to renew the special use permit awarded by Ordinance 2004-43 and renewed by Ordinance 2017-14 with no changes in restrictions. Ordinance 2004-43 is included as Attachment 2, Ordinance 2017-14 included as Attachment 3, and Ordinance 2019-22 is included as Attachment 4.

The restrictions imposed by Ordinance 2019-22 include:

- 1. The sign shall look substantially in the form as shown in the attached Exhibit.
- 2. The sign shall be located substantially in the location depicted on the attached Site Plan.
- 3. The sign will be removed or Pulte Group (or their successors) will apply to renew their special use in two (2) years from the date of approval of this ordinance by the County Board.
- 4. The sign will not be illuminated.
- 5. The advertising on the sign is restricted to Pulte Group's residential development.

- 6. The off-premise advertising structure allowed by this special use permit shall follow all applicable Federal, State and Local laws related to this type of use including, but not limited to, the distance from property line requirements of the Kendall County Zoning Ordinance.
- 7. Failure to comply with the above regulations and restrictions could result in the revocation of the special use permit.
- 8. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

The appearance of the signs was included as Exhibits C and D in Ordinance 2019-22.

Pursuant to Section 12:06.A.4, real estate and development signs may be located offsite for a period not to exceed two (2) years, provided a special use permit is issued.

A picture of the sign is included as Attachment 5.

#### **BUILDING CODES**

Since the sign is pre-existing, a building permit would not be required.

#### **ACCESS**

Not Applicable

#### **TRAILS**

A trail is planned along Hafenrichter. However, the City of Aurora has not previously requested a right-of-way dedication.

#### **PARKING**

Not Applicable

#### LIGHTING

The sign will not be illuminated.

#### **SIGNAGE**

Not Applicable

#### **SCREENING**

Not Applicable

#### **STORMWATER**

No portion of the property is in a flood area and no wetlands exist on the property. No stormwater issues are anticipated by the proposal.

#### **EASEMENTS**

No easements are believed to be impacted by the proposed sign.

#### FINDINGS OF FACT

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided that the sign remains at its current location, the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the public.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and ZBA Memo – Prepared by Matt Asselmeier – July 29, 2021

Page 4 of 5

is compatible with the surrounding area and/or the County as a whole. True, the proposed special use will not negatively impact adjoining properties.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. This requirement is not applicable because the proposed special use does not require utilities, access roads, points of ingress and egress, drainage or other facilities.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. True, the proposed special use shall conform to the applicable regulations of the district.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed special use is consistent with the purposes and objectives of the Land Resource Management Plan.

#### RECOMMENDATION

If approved, Staff recommends the following conditions be included in the approving special use ordinance:

- 1. The rendering of the sign and map depicting the location of the sign shall be Exhibits in the approval ordinance.
- 2. The sign will be removed or Pulte Home Corporation (or their successors) will apply to renew their special use in two (2) years from the date of approval of this ordinance by the County Board.
- 3. The sign will not be illuminated.
- 4. The advertising on the sign is restricted to Pulte Home Corporation's residential development.
- 5. The off-premise advertising structure allowed by this special use permit shall follow all applicable Federal, State and Local laws related to this type of use including, but not limited to, the distance from property line requirements of the Kendall County Zoning Ordinance.
- 6. Failure to comply with the above regulations and restrictions could result in the revocation of the special use permit.
- 7. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

#### **ATTACHMENTS**

- 1. Application (Including Renderings, Site Plan, and Applicant's Findings of Fact)
- 2. Ordinance 2004-43
- 3. Ordinance 2017-14
- 4. Ordinance 2019-22
- 5. Picture of Sign
- 6. June 10, 2021 Oswego Fire Protection District Email
- 7. June 10, 2021 City of Aurora Email
- 8. July 6, 2021 ZPAC Minutes (This Petition Only)
- 9. July 28, 2021 Kendall County Regional Planning Commission Meeting Minutes (This Petition Only)

Page 5 of 5



#### **DEPARTMENT OF PLANNING, BUILDING & ZONING**

111 West Fox Street • Yorkville, IL • 60560 (630) 553-4141 Fax (630) 553-4179

### **APPLICATION**

	PROJECT NAME	FILE #:
NAME OF APPLICANT		
Heather Lawson		
CURRENT LANDOWNER/NAME	E(s)	
Dave Hamman		
SITE INFORMATION ACRES	SITE ADDRESS OR LOCATION	ASSESSOR'S ID NUMBER (PIN)
42.39 SE corn	er of Hafenrichter and Route 34	PIN 03-01-127-006
EXISTING LAND USE	CURRENT ZONING	LAND CLASSIFICATION ON LRMP
1	M2	
REQUESTED ACTION (Check A	ll That Apply):	
X SPECIAL USE	MAP AMENDMENT (Rezone to _	)VARIANCE
ADMINISTRATIVE VARIAN	ICE A-1 CONDITIONAL USE for:	SITE PLAN REVIEW
TEXT AMENDMENT	RPD (Concept; Prelimina	ry; Final) ADMINISTRATIVE APPEAL
PRELIMINARY PLAT	FINAL PLAT	OTHER PLAT (Vacation, Dedication, etc.)
AMENDMENT TO A SPECIA		
<sup>1</sup> PRIMARY CONTACT	PRIMARY CONTACT MAILING AL	DDRESS PRIMARY CONTACT EMAIL
Heather Lawson		
PRIMARY CONTACT PHONE #	PRIMARY CONTACT FAX #	PRIMARY CONTACT OTHER #(Cell, etc.)
<sup>2</sup> ENGINEER CONTACT	ENGINEER MAILING ADDRESS	ENGINEER EMAIL
		ENGINEER EMAIL
NA ENGINEER PHONE #	NA ENGINEER FAX #	NA  ENGINEER OTHER # (Cell, etc.)
NA	NA	NA
I UNDERSTAND THAT BY COUNTY STAFF & BOAR	/ SIGNING THIS FORM, THAT THE D/ COMMISSION MEMBERS THRO	PROPERTY IN QUESTION MAY BE VISITED BY DUGHOUT THE PETITION PROCESS AND THAT TO ALL CORRESPONDANCE ISSUED BY THE
I CERTIFY THAT THE INF		TTED ARE TRUE AND CORRECT TO THE APPLICATION AND ACT ON BEHALF OF THE
SIGNATURE OF APPLICA	DocuSigned by:  F3FDFE3993FB4ED	<b>DATE</b> 5/26/2021

FEE PAID:\$

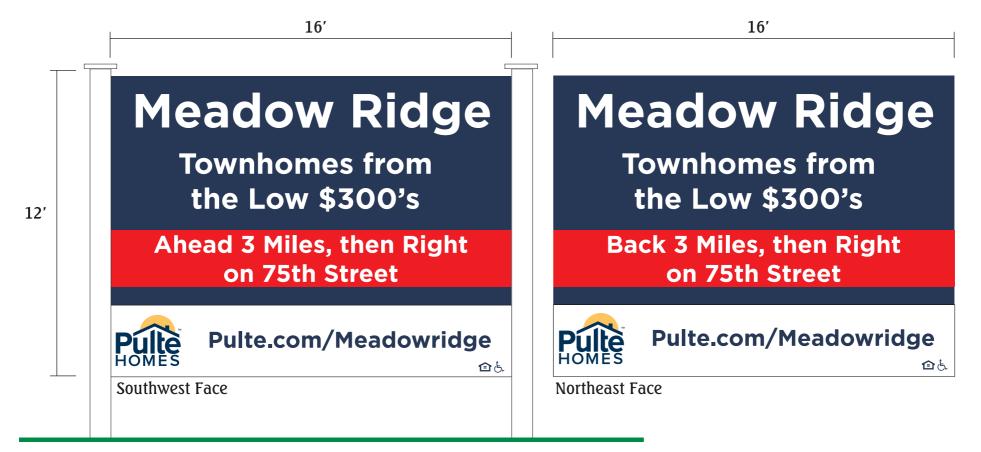
CHECK #:

Last Revised: 12.15.20

Special Use

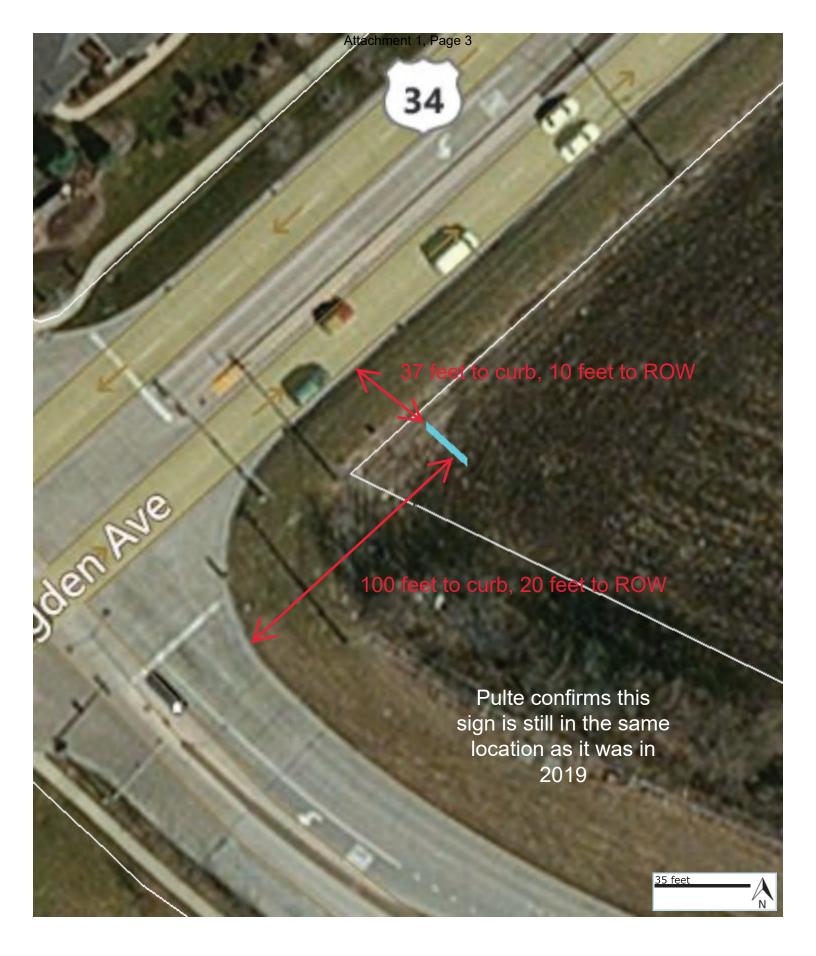
<sup>&</sup>lt;sup>1</sup>Primary Contact will receive all correspondence from County <sup>2</sup>Engineering Contact will receive all correspondence from the County's Engineering Consultants

12'x16' Double Sided Informational Billboard. NE Corner OF Fransworth & Ogden In Aurora.



12'x16' Double Sided Billboard Re-face. 3/8" MDO Painted Ronan Dark Blue w/White, Red & Digital Vinyl.

Approval Signature





### BILLBOARD LEASE AGREEMENT

Lessee:

Pulte Home Corporation 1900 E. Golf Road, Suite 300 Schaumburg, IL 60173

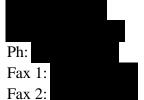
Contact: Heather Lawson, Marketing Manager

Ph: 847.230.5400 (main) ext. 5334

Fax: 847.969.9395

Lessor:

KEKA Farms LLC
Attn: Dave Hamman



Sign Location: Northeast Corner of Farnsworth and Ogden avenues, in unincorporated

Kendall County, Illinois

Sign Information: 12' X 16' double face sign

#### Terms of Contract

1. Sign owner to maintain sign structure.

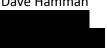
- 2. Contract term of 12 months from the date of signed contract. Renewable for additional time as needed and agreed upon by Lessee and Lessor, provided that Lessee acknowledges that Lessor has a Land Purchase Contract with DH Horton which this Billboard Lease agreement is subject and subordinated to, and which refers to the location of the Billboard as being on the "Commercial Lot" which provides, "Seller has a sign lease with Pulte Homes for signage on the Commercial Lot which is terminable by either Seller or Pulte Homes with 30 days written notice. Seller shall give notice of termination of that sign lease upon closing, together with an agreement by Seller, acceptable in form and substance to Buyer, that no builder signage similar to the existing sign will be permitted on the Commercial Lot post-Closing, unless on a sign permitted by the City of Aurora."
- 3. Advertiser (Also referred to herein as Lessee) and property owner have a mutual cancellation policy with 30 days written notice.
- 4. Rent: \$800.00 per month payable monthly for double face sign. Installation and maintenance of faces shall be the sole responsibility of Lessee during the duration of the lease agreement. Agreement is null & void if sign location is deemed illegal.

# I HAVE READ AND UNDERSTAND THE LEASE AGREEMENT STATED ABOVE AUTHORIZED SIGNATURES

DocuSigned by:	
Signature of Pulte Home Corporation	Signature of Lessor KEKA Farms LLC by Dave Hamman, one of its Managers
5/26/2021	May 25, 2021
Date	Date

May 25, 2021

KEKA Farms, LLC Dave Hamman



Kendall County Planning, Building & Zoning 111 West Fox Street Yorkville, IL 60560-1498

Planning, Building & Zoning Department:

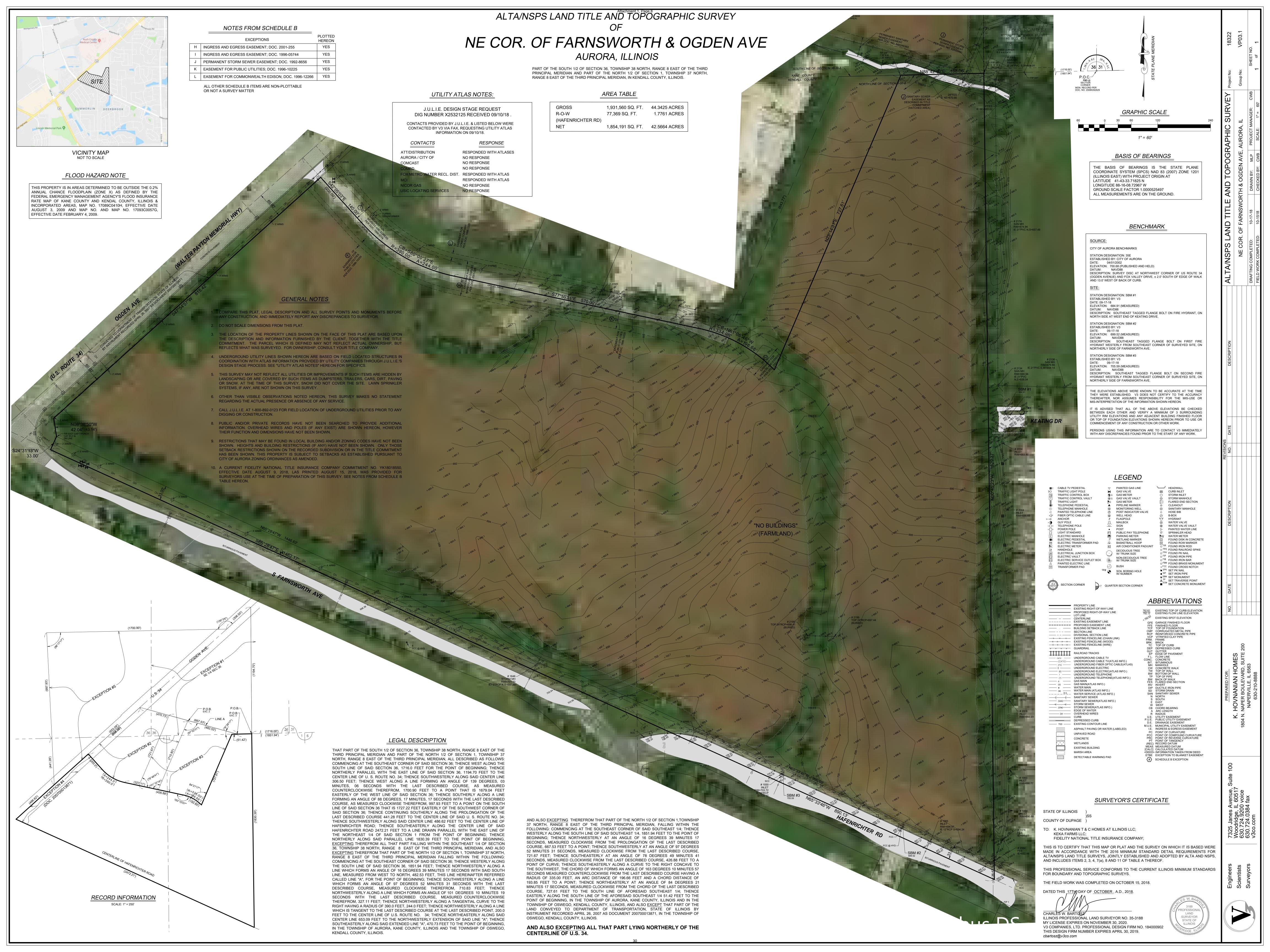
On behalf of KEKA Farms LLC, I am writing this letter to grant permission/approval to Pulte Homes to renew the special use permit for the sign located on my property at Hafenrichter and Route 34 (PIN 03-01-127-006).



Dave Hamman, Manager

Please fill out the following findings of fact to the best of your capabilities. §13:08.J of the Zoning Ordinance outlines findings that the Zoning Board of Appeals shall consider in rendering a decision, but is not required to make an affirmative finding on all items in order to grant a **special use**. They are as follows:

That the establishment, maintenance, and operation of the special use will not be detrimental to, or endanger, the public health, safety, morals, comfort, or general welfare.
That the special use will not be substantially injurious to the use and enjoyment of othe properties in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate
provisions for appropriate buffers, landscaping, fencing, lighting, building materials open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole.
That adequate utilities, access roads and points of ingress and egress, drainage, and/or
other necessary facilities have been or are being provided.
That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals
That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies.



03-01-127-006

03-01-127-004

Zoning Petition #0457

State of Illinois County of Kendall

# ORDINANCE NUMBER 2004 - <u>43</u> GRANTING SPECIAL USE SOUTHEAST CORNER OF HAFENRICHTER AND ROUTE 34

<u>WHEREAS</u>. Centex Homes filed a petition for a Special Use within the M-2 district, for property generally located at the intersection of Hafenrichter and Route 34 in Oswego Township; and

<u>WHEREAS</u>, said petition is to allow an off-premise advertising sign, as provided in Sections 12.11 and 12.12 of the Kendall County Zoning Ordinance; and

WHEREAS, said property is zoned M-2: Manufacturing; and

WHEREAS, said property is legally described as follows:

Part of the north half of Section 1, Township 37 North, Range 8 East of the Third Principal Meridian in Oswego Township Kendall County Illinois

<u>WHEREAS</u>, all procedures required by the Kendall County Zoning Ordinance were followed including notice for public hearing, preparation of the findings of fact, and recommendation for approval by the Special Use Hearing Officer; and

<u>WHEREAS</u>, the Kendall County Board finds that said petition is in conformance with the provisions and intent of the Kendall County Zoning Ordinance;

<u>NOW, THEREFORE, BE IT ORDAINED</u>, that the Kendall County Board hereby grants approval of a SPECIAL USE PERMIT to permit an off-premise advertising sign on the subject parcel as depicted in Group Exhibits "A" and "B" attached hereto and made a part hereof, subject to the following conditions:

- 1. The sign will be removed or Centex Homes will apply to renew their special use in three years from the date of this ordinance.
- 2. The sign will not be illuminated; and
- 3. The advertising on the sign is restricted to Centex Homes' developments.

Failure to comply with the terms of this ordinance may be cited as a basis for amending or revoking this special use permit.

IN WITNESS OF, this ordinance has been enacted on December 21, 2004

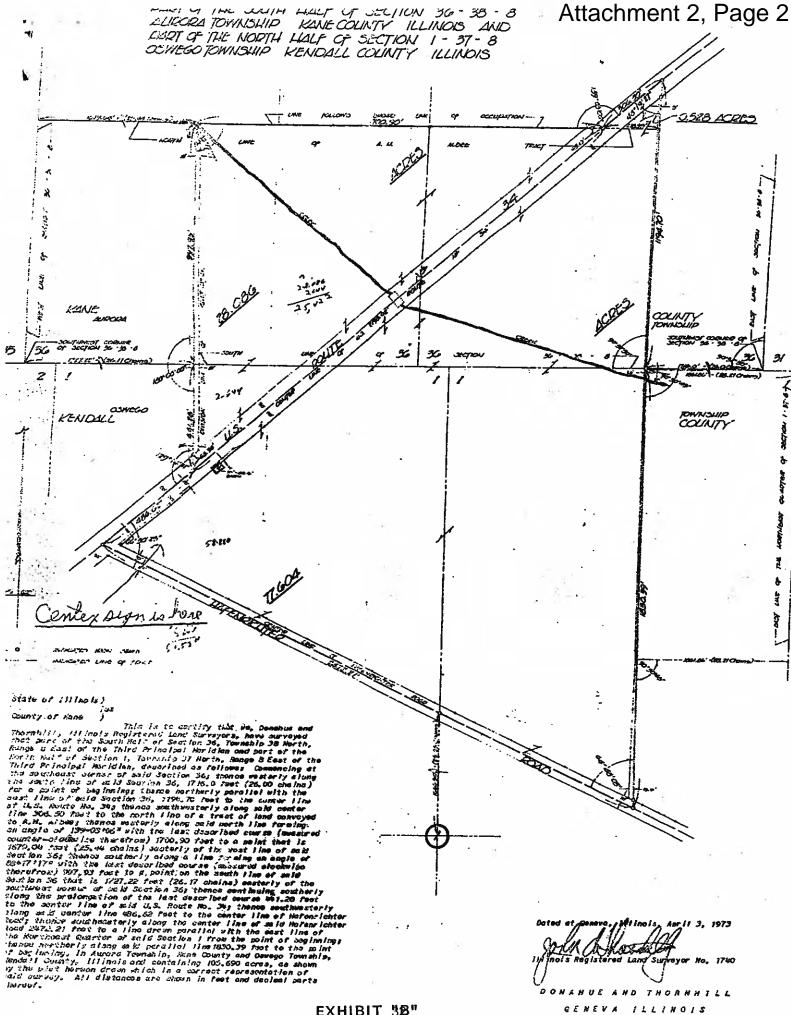
Attest:

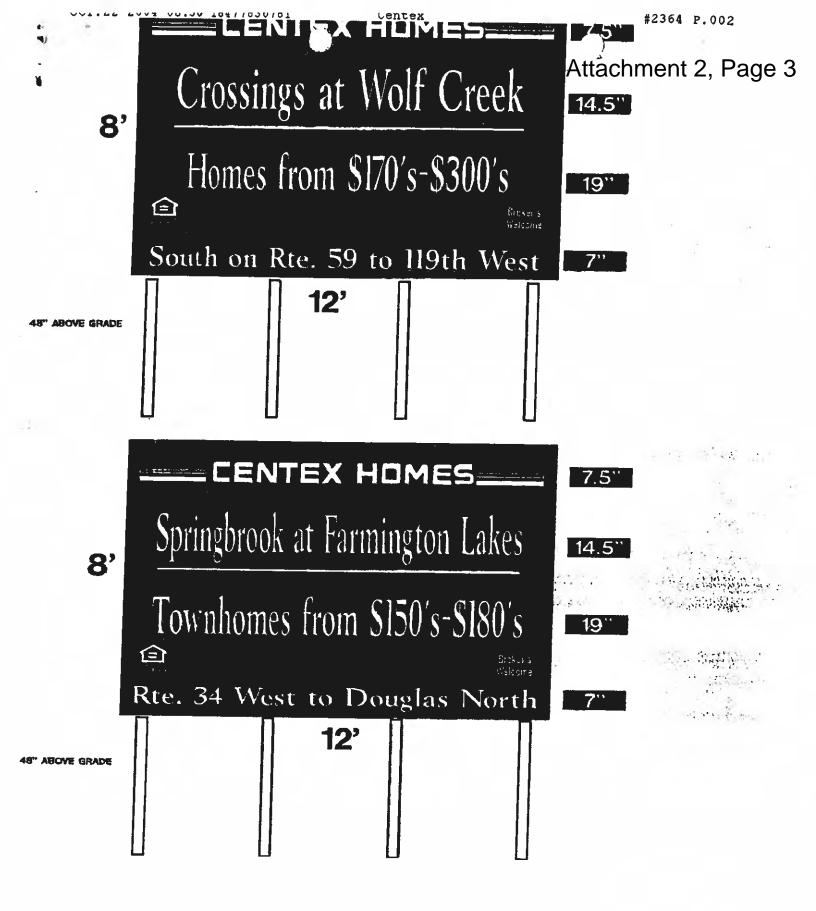
John A Church

Kendall County Board Chairman

Paul Anderson

Kendall County Clerk





State of Illinois County of Kendall Zoning Petition #17-19

## ORDINANCE NUMBER 2017 - 14

#### GRANTING A SPECIAL USE PERMIT FOR

THE RENEWAL OF A SPECIAL USE PERMIT FOR A COMMERCIAL OFF-PREMISE ADVERTISING STRUCTURE (BILLBOARD) ON THE PARCEL IDENTIFIED AS 03-01-127-006 AND REVOKING THE SPECIAL USE PERMIT FOR A COMMERCIAL OFF-PREMISE ADVERTISING STRUCTURE (BILLBOARD) ON THE PARCEL IDENTIFIED AS 03-01-127-004 LOCATED AT THE CORNER OF ROUTE 34 AND HAFENRICHTER (FARNSWORTH) IN OSWEGO TOWNSHIP

<u>WHEREAS</u>, the Kendall County Board granted a special use permit for a commercial off-premise advertising structure at the corner of Route 34 and Hafenrichter (Farnsworth) by Ordinance 2004-43 on December 21, 2004; and

<u>WHEREAS</u>, Ordinance 2004-43 granted a special use permit for the properties identified by Parcel Identification Numbers 03-01-127-006 and 03-01-127-004; and

WHEREAS, Ordinance 2004-43 required that the special use be renewed every three years; and

<u>WHEREAS</u>, the Pulte Group representing Dave Hamman petitioned for the renewal of the special use permit allowed by Ordinance 2004-43; and

<u>WHEREAS</u>, the petitioners propose to retain the sign on the parcel identified by Parcel Identification Number 03-01-127-006 and to revoke the special use permit on the parcel identified by Parcel Identification Number 03-01-127-004; and

<u>WHEREAS</u>, said property is currently zoned M-2 Heavy Industrial District with a special use permit for a commercial off-premise advertising structure; and

WHEREAS, said property is legally described as:

PART OF THE NORTH HALF OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN IN OSWEGO TOWNSHIP KENDALL COUNTY, ILLINOIS

<u>WHEREAS</u>, all procedures required by the Kendall County Zoning Ordinance were followed including notice for public hearing, preparation of the findings of fact in accordance with Section 13.08.J of the Zoning Ordinance, and recommendation for approval by the Special Use Hearing Officer on August 28, 2017; and

WHEREAS, the Findings of Fact were approved as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided that the sign is placed in a location in compliance with Section 12 of the Kendall County Zoning Ordinance, the special use will not be detrimental to or endanger the public

State of Illinois County of Kendall Zoning Petition #17-19

#### health, safety, morals, comfort, or general welfare of the public.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. True, the proposed special use will not negatively impact adjoining properties.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. This requirement is not applicable because the proposed special use does not require utilities, access roads, points of ingress and egress, drainage or other facilities.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Hearing Officer. True, the proposed special use shall conform to the applicable regulations of the district.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed special use is consistent with the purposes and objectives of the Land Resource Management Plan.

<u>WHEREAS</u>, the Kendall County Board has considered the findings and recommendation of the Hearing Officer and finds that said petition is in conformance with the provisions and intent of the Kendall County Zoning Ordinance; and

<u>WHEREAS</u>, this special use shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property; and

<u>NOW, THEREFORE, BE IT ORDAINED</u>, the Kendall County Board hereby grants approval of a special use zoning permit to for the placement of a commercial off-premise advertising structure on the parcel identified by Parcel Identification Number 03-01-127-006 in accordance to the submitted Site Plan included as "Exhibit A and Exhibit B" attached hereto and incorporated herein subject to the following conditions:

- 1. The sign will be removed or Pulte Group (or their successors) will apply to renew their special use in two (2) years from the date of approval of this ordinance by the County Board.
- 2. The sign will not be illuminated.

State of Illinois County of Kendall Zoning Petition #17-19

- 3. The advertising on the sign is restricted to Pulte Group's residential development.
- 4. The special use permit awarded by Ordinance 2004-43 to the property identified by Parcel ID Number 03-01-127-004 for an off-premise advertising structure is revoked with the adoption of this ordinance.
- 5. The owners of the off-premise advertising structure allowed by this special use permit shall obtain a building permit for the structure.
- 6. The off-premise advertising structure allowed by this special use permit shall follow all applicable Federal, State and Local laws related to this type of use including, but not limited to, the distance from property line requirements of the Kendall County Zoning Ordinance.
- 7. Failure to comply with the above regulations and restrictions could result in the revocation of the special use permit.
- 8. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

IN WITNESS OF, this ordinance has been enacted on September 19, 2017.

Attest:

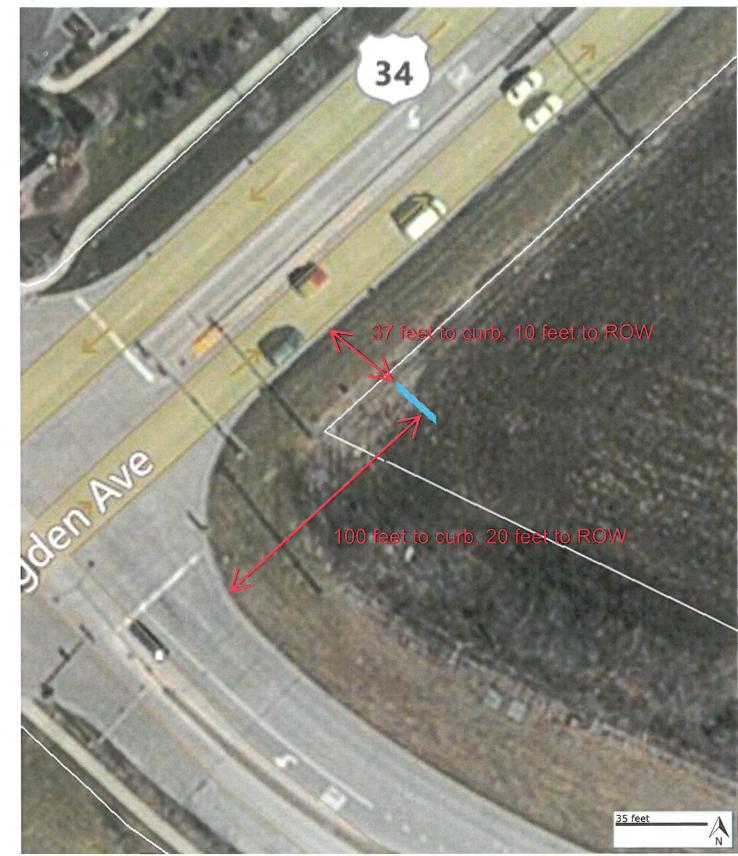
Debbie Gillette

Kendall County Clerk

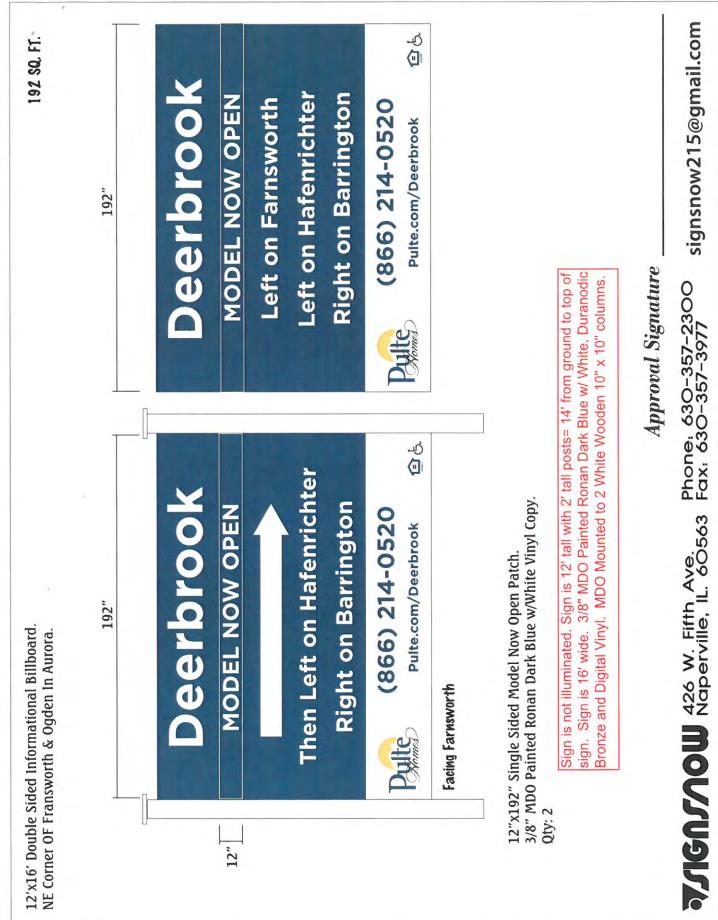
Scott R. Gryder

Kendall County Board Chairman

### Exhibit A







State of Illinois County of Kendall Zoning Petition #19-25

### ORDINANCE NUMBER 2019- 22

# ON PROPERTY ZONED M-2 HEAVY INDUSTRIAL DISTRICT FOR AN OUTDOOR ADVERTISING SIGN ON PROPERTY LOCATED AT THE SOUTHEAST CORNER OF U.S. ROUTE 34 AND HAFENRICHTER (FARNSWORTH) (PIN: 03-01-127-006) IN OSWEGO TOWNSHIP

<u>WHEREAS</u>. Section 13.08 of the Kendall County Zoning Ordinance permits the Kendall County Board to issue special use permits, make amendments to existing special use permits, and place conditions on special use permits and provides the procedure through which special use permits are issued and amended; and

<u>WHEREAS</u>, Section 12.12 of the Kendall County Zoning Ordinance permits the placement of outdoor advertising structures and off-premise advertising signs as a special use permit with certain restrictions in the M-2 Heavy Industrial Zoning District; and

<u>WHEREAS</u>, the property which is the subject of this Ordinance has been, at all relevant times, and remains currently located within the M-2 Heavy Industrial Zoning District and consists of approximately 42.93 acres located at the southeast corner of the intersection of U.S. Route 34 and Hafenrichter (Farnsworth) (PIN: 03-01-127-006) in Oswego Township. The legal description for the subject property is set forth in Exhibit A attached hereto and incorporated by reference, and this property shall hereinafter be referred to as "the subject property."; and

<u>WHEREAS</u>, the subject property is currently owned by KEKA Farms, LLC and is represented by Dave Hamman and the owner leases the property to Pulte Group and shall collectively hereinafter be referred to as "Petitioner"; and

<u>WHEREAS</u>, on December 21, 2004, the Kendall County Board approved Ordinance 2004-43 granting a special use permit for the placement of an outdoor advertising sign (billboard) on the subject property with conditions; and

<u>WHEREAS</u>, Condition #1 of Ordinance 2004-05 required that the special use granted by said ordinance be renewed every three years;

<u>WHEREAS</u>, on September 19, 2017, the Kendall County Board approved Ordinance 2017-14 granting a renewal of the special use permit for the placement of an outdoor advertising sign (billboard) on the subject property with conditions; and

<u>WHEREAS</u>, Condition #1 of Ordinance 2017-14 and Section 12.06.A.4 of the Kendall County Zoning Ordinance require special use permits for such signs to be renewed every two years; and

<u>WHEREAS</u>, on or about June 14, 2019, Petitioner filed a petition for renewal of the special use permit granted by Ordinance 2004-05 and renewed by Ordinance 2017-14; and

<u>WHEREAS</u>, following due and proper notice by publication in the Beacon-News on June 30, 2019, the Kendall County Zoning Board of Appeals conducted a public hearing on July 29, 2019, at 7:00 p.m. in the County Office Building at 111 W. Fox Street in Yorkville, at which evidence, testimony, and exhibits in support of the requested renewal to an existing special use permit was presented and zero members of the public testified in favor or in opposition to the request; and

State of Illinois County of Kendall Zoning Petition #19-25

<u>WHEREAS</u>, based on the evidence, testimony, and exhibits, the Kendall County Zoning Board of Appeals has made their Findings of Fact and recommended approval with conditions of the renewal to an existing special use permit as set forth in the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, dated July 29, 2019, a true and correct copy of which is attached hereto as Exhibit B; and

<u>WHEREAS</u>, the Kendall County Planning, Building and Zoning Committee of the Kendall County Board has reviewed the testimony presented at the aforementioned public hearing and has considered the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, and has forwarded to the Kendall County Board a recommendation of approval of the requested renewal to an existing special use permit with conditions; and

<u>WHEREAS</u>, the Kendall County Board has considered the recommendation of the Planning, Building and Zoning Committee and the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, and has determined that said petition is in conformance with the provisions and intent of the Kendall County Zoning Ordinance; and

<u>WHEREAS</u>, this renewal to an existing special use permit shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property; and

## NOW, THEREFORE, BE IT ORDAINED, BY THE COUNTY BOARD OF KENDALL COUNTY, ILLINOIS, as follows:

- The Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals attached hereto as Exhibit B is hereby accepted and the Findings of Fact set forth therein are hereby adopted as the Findings of Fact and Conclusions of this Kendall County Board.
- 2. The Kendall County Board hereby grants approval of Petitioner's petition for a renewal to an existing special use permit allowing the placement of an outdoor advertising structure (billboard) on the subject property subject to the following conditions:
  - A. The sign shall look substantially in the form as shown in Exhibit C attached hereto.
  - B. The sign shall be located substantially in the location depicted on the Site Plan attached hereto as Exhibit D.
  - C. The sign will be removed or Pulte Group (or their successors) will apply to renew their special use in two (2) years from the date of approval of this ordinance by the County Board.
  - D. The sign will not be illuminated.
  - E. The advertising on the sign is restricted to Pulte Group's residential development.
  - F. The off-premise advertising structure allowed by this special use permit shall follow all applicable Federal, State and Local laws related to this type of use including, but not limited to, the distance from property line requirements of the Kendall County Zoning Ordinance.
  - G. Failure to comply with the above regulations and restrictions could result in the revocation of the special use permit.

State of Illinois County of Kendall Zoning Petition #19-25

- H. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
- The Zoning Administrator and other appropriate County Officials are hereby authorized and directed
  to amend the Official Zoning Map of Kendall County to reflect this major amendment to an existing
  special use permit.

<u>IN WITNESS OF</u>, this ordinance has been enacted by a majority vote of the Kendall County Board and is effective this 27<sup>th</sup> day of August, 2019.

Attest:

Kendall County Clerk

Debbie Gillette

Kendall County Board Chairman

Scott R. Gryder

#### Exhibit A

#### Legal Description

THAT PART OF THE SOUTH 1/2 OF SECTION 36, TOWNSHIP 38 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN AND PART OF THE NORTH 1/2 OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALL DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 36; THENCE WEST ALONG THE SOUTH LINE OF SAID SECTION 36, 1716.0 FEET FOR THE POINT OF BEGINNING; THENCE NORTHERLY PARALLEL WITH THE EAST LINE OF SAID SECTION 36, 1194.70 FEET TO THE CENTER LINE OF U. S. ROUTE NO. 34; THENCE SOUTHWESTERLY ALONG SAID CENTER LINE 306.50 FEET; THENCE WEST ALONG A LINE FORMING AN ANGLE OF 139 DEGREES, 03 MINUTES, 06 SECONDS WITH THE LAST DESCRIBED COURSE, AS MEASURED COUNTERCLOCKWISE THEREFROM, 1700.90 FEET TO A POINT THAT IS 1679.04 FEET EASTERLY OF THE WEST LINE OF SAID SECTION 36: THENCE SOUTHERLY ALONG A LINE FORMING AN ANGLE OF 88 DEGREES, 17 MINUTES, 17 SECONDS WITH THE LAST DESCRIBED COURSE, AS MEASURED CLOCKWISE THEREFROM, 997.93 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 36 THAT IS 1727.22 FEET EASTERLY OF THE SOUTHWEST CORNER OF SAID SECTION 36; THENCE CONTINUING SOUTHERLY ALONG THE PROLONGATION OF THE LAST DESCRIBED COURSE 441.28 FEET TO THE CENTER LINE OF SAID U. S. ROUTE NO. 34; THENCE SOUTHWESTERLY ALONG SAID CENTER LINE 486.62 FEET TO THE CENTER LINE OF HAFENRICHTER ROAD; THENCE SOUTHEASTERLY ALONG THE CENTER LINE OF SAID HAFENRICHTER ROAD 2472.21 FEET TO A LINE DRAWN PARALLEL WITH THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 1 FROM THE POINT OF BEGINNING; THENCE NORTHERLY ALONG SAID PARALLEL LINE 1830.39 FEET TO THE POINT OF BEGINNING, EXCEPTING THEREFROM ALL THAT PART FALLING WITHIN THE SOUTHEAST 1/4 OF SECTION 36, TOWNSHIP 38 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND ALSO EXCEPTING THEREFROM THAT PART OF THE NORTH 1/2 OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN FALLING WITHIN THE FOLLOWING: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 36; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID SECTION 36, 1851.94 FEET; THENCE NORTHWESTERLY ALONG A LINE WHICH FORMS AN ANGLE OF 16 DEGREES 39 MINUTES 17 SECONDS WITH SAID SOUTH LINE, MEASURED FROM WEST TO NORTH, 482.53 FEET, THIS LINE HEREINAFTER REFERRED CALLED LINE "A", FOR THE POINT OF BEGINNING: THENCE SOUTHWESTERLY ALONG A LINE WHICH FORMS AN ANGLE OF 97 DEGREES 52 MINUTES 31 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED CLOCKWISE THEREFROM, 710.83 FEET; THENCE NORTHWESTERLY ALONG A LINE WHICH FORMS AN ANGLE OF 101 DEGREES 10 MINUTES 19 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTERCLOCKWISE THEREFROM, 327.11 FEET; THENCE NORTHWESTERLY ALONG A TANGENTIAL CURVE TO THE RIGHT HAVING A RADIUS OF 390.0 FEET, 244.0 FEET; THENCE NORTHWESTERLY ALONG A LINE WHICH IS TANGENT TO THE LAST DESCRIBED COURSE AT THE LAST DESCRIBED POINT, 200.0 FEET TO THE CENTER LINE OF U.S. ROUTE NO. 34; THENCE NORTHEASTERLY ALONG SAID CENTER LINE 653.09 FEET TO THE NORTHWESTERLY EXTENSION OF SAID LINE "A"; THENCE SOUTHEASTERLY ALONG SAID EXTENDED LINE "A" 470.73 FEET TO THE POINT OF BEGINNING, IN THE TOWNSHIP AURORA, KANE COUNTY, ILLINOIS AND THE TOWNSHIP OF OSWEGO, KENDALL COUNTY, ILLINOIS

AND ALSO EXCEPTING THEREFROM THAT PART OF THE NORTH 1/2 OF SECTION 1,TOWNSHIP 37 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, FALLING WITHIN THE FOLLOWING: COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST 1/4; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID SOUTHEAST 1/4, 1851.94 FEET TO THE POINT OF BEGINNING; THENCE

NORTHWESTERLY AT AN ANGLE OF 16 DEGREES 39 MINUTES 17 SECONDS, MEASURED CLOCKWISE FROM THE PROLONGATION OF THE LAST DESCRIBED COURSE, 667.53 FEET TO A POINT; THENCE SOUTHWESTERLY AT AN ANGLE OF 97 DEGREES 52 MINUTES 31 SECONDS, MEASURED CLOCKWISE FROM THE LAST DESCRIBED COURSE, 721.67 FEET; THENCE SOUTHEASTERLY AT AN ANGLE OF 78 DEGREES 49 MINUTES 41 SECONDS, MEASURED CLOCKWISE FROM THE LAST DESCRIBED COURSE, 426.88 FEET TO A POINT OF CURVE; THENCE SOUTHEASTERLY ALONG A CURVE TO THE RIGHT CONCAVE TO THE SOUTHWEST, THE CHORD OF WHICH FORMS AN ANGLE OF 163 DEGREES 10 MINUTES 57 SECONDS MEASURED COUNTERCLOCKWISE FROM THE LAST DESCRIBED COURSE HAVING A RADIUS OF 335.00 FEET, AN ARC DISTANCE OF 196.66 FEET AND A CHORD DISTANCE OF 193.85 FEET TO A POINT; THENCE NORTHEASTERLY AT AN ANGLE OF 84 DEGREES 21 MINUTES 17 SECONDS, MEASURED CLOCKWISE FROM THE CHORD OF THE LAST DESCRIBED COURSE, 727.61 FEET TO THE SOUTH LINE OF AFORESAID SOUTHEAST 1/4; THENCE EASTERLY ALONG THE SOUTH LINE OF THE AFORESAID SOUTHEAST 1/4 51.42 FEET TO THE POINT OF BEGINNING, IN THE TOWNSHIP OF AURORA, KANE COUNTY, ILLINOIS AND IN THE TOWNSHIP OF OSWEGO, KENDALL COUNTY, ILLINOIS, AND ALSO EXCEPT THAT PART OF THE LAND CONVEYED TO DEPARTMENT OF TRANSPORTATION, STATE OF ILLINOIS BY INSTRUMENT RECORDED APRIL 26, 2007 AS DOCUMENT 200700013871, IN THE TOWNSHIP OF OSWEGO, KENDALL COUNTY, ILLINOIS

AND ALSO EXCEPTING ALL THAT PART LYING NORTHERLY OF THE CENTERLINE OF U.S. 34

#### Exhibit B

#### FINDINGS OF FACT

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided that the sign remains at its current location, the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the public.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. True, the proposed special use will not negatively impact adjoining properties.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. This requirement is not applicable because the proposed special use does not require utilities, access roads, points of ingress and egress, drainage or other facilities.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. True, the proposed special use shall conform to the applicable regulations of the district.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed special use is consistent with the purposes and objectives of the Land Resource Management Plan.

#### Recommendation

The Kendall County Zoning Board of Appeals recommends approval of the requested renewal to an existing special use permit with the following conditions:

- The rendering of the sign and map depicting the location of the sign shall be Exhibits in the approval
  ordinance.
- 2. The sign will be removed or Pulte Group (or their successors) will apply to renew their special use in two (2) years from the date of approval of this ordinance by the County Board.
- 3. The sign will not be illuminated.
- 4. The advertising on the sign is restricted to Pulte Group's residential development.
- The off-premise advertising structure allowed by this special use permit shall follow all applicable Federal, State and Local laws related to this type of use including, but not limited to, the distance from property line requirements of the Kendall County Zoning Ordinance.
- Failure to comply with the above regulations and restrictions could result in the revocation of the special use permit.
- 7. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

#### Attachment 4, Page 7

The Kendall County Zoning Board of Appeals issues this recommendation by a vote of six (6) in favor, zero (0) opposed, and one (1) absent.

July 29, 2019

Exhibit C

Date

NEW

CONSTRUCTION

Visit Pulte.com/Illinois
for a complete list of communities

Sign is not illuminated. Sign is 12' tall with 2' tall posts = 14' from ground to top of sign. Sign is 16' wide. 3/8" MDO Painted Ronan Dark Blue w/ White, Duranodic Bronze and Digital Vinyl.

3/8" MDO Painted Ronan Dark Blue w/White, Light Grey & Digital. 12'x16' Double Sided Billboard Re-face.

Approval Signature

Phone, 630-357-2300 Signs@SignsNowNaperville.com WIGHTHOW 426 W. Fifth Ave. Naperville, IL. 60563







#### Attachment 6

#### **Matt Asselmeier**

From:

Alec Keenum <akeenum@oswegofire.com>

Sent:

Thursday, June 10, 2021 8:19 AM

To:

Matt Asselmeier John Cornish

Cc: Subject:

[External]RE: Kendall County Zoning Petition 21-24

Matt,

Thank you for the information. At this time, the Oswego Fire Protection District has no comments concerning this petition.

Regards,

Capt. Alec J Keenum Fire Marshal Oswego Fire Protection District

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#### Attachment 7

#### **Matt Asselmeier**

From: Sent:

Sieben, Ed <SiebenE@aurora.il.us>

Thursday, June 10, 2021 10:51 AM

To:

Matt Asselmeier; Captain Alec Keenum; Claude Ainsworth

(cainsworth@oswegotownship.com); Joe West (jwest@oswegotownship.com); John Cornish;

Kenneth Holmstrom; Vacek, Tracey; Morgan, Jill; City Clerk

Cc:

Scott Koeppel; Scott Gengler

Subject:

[External]RE: Kendall County Zoning Petition 21-24

Matt, no objection provided that the sign would need to be removed upon annexation of the property to Aurora. We are currently in negotiations for that.

#### **Edward T. Sieben**

Director/Zoning Administrator City of Aurora Zoning & Planning Division 77 S. Broadway, 2nd Flr. (630) 256-3080

## ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC) July 6, 2021 – Unapproved Meeting Minutes

PBZ Chairman Scott Gengler called the meeting to order at 9:00 a.m.

#### Present:

Matt Asselmeier – PBZ Department Scott Gengler – PBZ Committee Chair Brian Holdiman – PBZ Department Sgt. Scott Moran – Sheriff's Department Alyse Olson – Soil and Water Conservation District Aaron Rybski – Health Department

#### Absent:

Meagan Briganti – GIS Greg Chismark – WBK Engineering, LLC Fran Klaas – Highway Department David Guritz – Forest Preserve

#### Audience:

Boyd Ingemunson and JoAnn Bright-Theis

#### **PETITIONS**

## <u>Petition 21-24 Dave Hamman on Behalf of KEKA Farms, LLC (Property Owner) and Pulte Home Corporation (Billboard Owner)</u>

Mr. Asselmeier summarized the request.

In December 2004, through Ordinance 2004-43, the Kendall County Board approved a special use permit for the placement of an off-premise advertising sign at the subject property. The special use permit was renewed in 2017 through Ordinance 2017-14. The special use was renewed again in 2019 through Ordinance 2019-22. Restriction Number 2.C of the 2019 special use permit renewal and Section 12:06.A.4 require the owner to either remove the sign or to renew the special use permit every two (2) years. The site plan and picture of the sign were provided.

The property is located at the southeast corner of Route 34 and Hafenrichter (Farnsworth) in Oswego Township. The property is zoned M-2.

The Land Resource Management Plan calls for the property to be commercial and suburban residential. Aurora's Comprehensive Plan calls for the property to be commercial.

Route 34 is maintained by IDOT. Hafenrichter/Farnsworth is a Local Road Maintained by Oswego Township. Aurora has a trail planned along Hafenrichter.

There are no wetlands or floodplain on the property.

The adjacent land uses are agricultural, residential, commercial, and industrial.

The adjacent zoning districts are M-2 in the County and R-1 (S), R-5 (S), and B-2 (S) in Aurora.

Aurora's Future Land Use Map calls for the area to be Low- and Medium-Density Residential, Commercial, Light Industrial, and Industrial.

Nearby zoning districts include A-1, R-3, B-3, M-1 SU, M-2 SU, in Kendall County and various districts in Aurora, Kane County, Will County, and DuPage County.

EocCat and Natural Resource Inventory not required.

Petition information was sent to Oswego Township on June 10, 2021.

ZPAC Meeting Minutes 07.06.21

#### Attachment 8, Page 2

Petition information was sent to the City of Aurora on June 10, 2021. The property owner is in annexation negotiations with the City of Aurora. Aurora sent an email on June 10, 2021, expressing no objections, but the sign would be removed upon annexation into Aurora. This email was provided.

Petition information was sent to Oswego Fire Protection District on June 10, 2021. Oswego Fire Protection District submitted an email on June 10, 2021, stating they had no comments regarding the request. This email was provided.

The sign is twelve feet by sixteen feet (12' X 16') in size. There will be fourteen feet (14') from the ground to the top of the sign. Renderings of the sign and the petitioner's application (including lease, findings of fact, and site plan) were provided.

The petitioner desires to renew the special use permit awarded by Ordinance 2004-43 and renewed by Ordinance 2017-14 with no changes in restrictions. Ordinance 2004-43, Ordinance 2017-14, and Ordinance 2019-22 were provided.

The restrictions imposed by Ordinance 2019-22 include:

- 1. The sign shall look substantially in the form as shown in the attached Exhibit.
- 2. The sign shall be located substantially in the location depicted on the attached Site Plan.
- 3. The sign will be removed or Pulte Group (or their successors) will apply to renew their special use in two (2) years from the date of approval of this ordinance by the County Board.
- 4. The sign will not be illuminated.
- 5. The advertising on the sign is restricted to Pulte Group's residential development.
- 6. The off-premise advertising structure allowed by this special use permit shall follow all applicable Federal, State and Local laws related to this type of use including, but not limited to, the distance from property line requirements of the Kendall County Zoning Ordinance.
- Failure to comply with the above regulations and restrictions could result in the revocation of the special use permit.
- 8. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

The appearance of the signs was included as Exhibits C and D in Ordinance 2019-22.

Pursuant to Section 12:06.A.4, real estate and development signs may be located offsite for a period not to exceed two (2) years, provided a special use permit is issued.

A picture of the sign was provided.

Since the sign is pre-existing, a building permit would not be required.

There were no concerns regarding access.

A trail is planned along Hafenrichter. However, the City of Aurora has not previously requested a right-of-way dedication.

Parking and screening information was not applicable.

The sign will not be illuminated.

No portion of the property is in a flood area and no wetlands exist on the property. No stormwater issues are anticipated by the proposal.

No easements were believed to be impacted by the proposed sign.

The proposed Findings of Fact were as follows:

ZPAC Meeting Minutes 07.06.21

#### Attachment 8, Page 3

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided that the sign remains at its current location, the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the public.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. True, the proposed special use will not negatively impact adjoining properties.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. This requirement is not applicable because the proposed special use does not require utilities, access roads, points of ingress and egress, drainage or other facilities.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. True, the proposed special use shall conform to the applicable regulations of the district.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed special use is consistent with the purposes and objectives of the Land Resource Management Plan.

Staff recommended the following conditions be included in the approving special use ordinance:

- 1. The rendering of the sign and map depicting the location of the sign shall be Exhibits in the approval ordinance.
- 2. The sign will be removed or Pulte Home Corporation (or their successors) will apply to renew their special use in two (2) years from the date of approval of this ordinance by the County Board.
- 3. The sign will not be illuminated.
- 4. The advertising on the sign is restricted to Pulte Home Corporation's residential development.
- 5. The off-premise advertising structure allowed by this special use permit shall follow all applicable Federal, State and Local laws related to this type of use including, but not limited to, the distance from property line requirements of the Kendall County Zoning Ordinance.
- 6. Failure to comply with the above regulations and restrictions could result in the revocation of the special use permit.
- If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

Mr. Gengler asked if the special use permit had to be amended in order for the sign to be illuminated. Mr. Asselmeier responded yes.

Mr. Holdiman made a motion, seconded by Mr. Rybski, to recommend approval of the proposal.

The votes were as follows:

Yeas (6): Asselmeier, Gengler, Holdiman, Moran, Olson, and Rybski

Nays (0): None Abstain (0): None

Absent (4): Briganti, Chismark, Guritz, Klaas

The motion carried.

ZPAC Meeting Minutes 07.06.21

#### Attachment 8, Page 4

The proposal goes to the Kendall County Regional Planning Commission on July 28, 2021.

#### **PUBLIC COMMENT**

None

#### **ADJOURNMENT**

Mr. Holdiman made a motion, seconded by Mr. Rybski, to adjourn.

With a voice vote of six (6) ayes, the motion carried.

The ZPAC, at 9:18 a.m., adjourned.

Respectfully Submitted, Matthew H. Asselmeier, AICP, CFM Senior Planner

## Attachment 9, Page 1 KENDALL COUNTY REGIONAL PLANNING COMMISSION

#### Kendall County Office Building Rooms 209 and 210 111 W. Fox Street, Yorkville, Illinois

#### **Unapproved - Meeting Minutes of July 28, 2021 - 7:00 p.m.**

Chairman Ashton called the meeting to order at 7:00 p.m.

#### **ROLL CALL**

Members Present: Bill Ashton, Roger Bledsoe, Karin McCarthy-Lange, Larry Nelson, Ruben Rodriguez, Bob

Stewart, Claire Wilson, and Seth Wormley

Members Absent: Tom Casey and Dave Hamman

Staff Present: Matthew H. Asselmeier, Senior Planner

Others Present: Boyd Ingemunson, JoAnn Bright-Theis, Adam Theis, Steve Knutson, Kurt Buhle, Jeanette

Buhle, John Vogt, and Robert Bright

#### **PETITIONS**

## <u>Petition 21-24 Dave Hamman on Behalf of KEKA Farms, LLC (Property Owner) and Pulte Home Corporation (Billboard Owner)</u>

Mr. Asselmeier summarized the request.

In December 2004, through Ordinance 2004-43, the Kendall County Board approved a special use permit for the placement of an off-premise advertising sign at the subject property. The special use permit was renewed in 2017 through Ordinance 2017-14. The special use was renewed again in 2019 through Ordinance 2019-22. Restriction Number 2.C of the 2019 special use permit renewal and Section 12:06.A.4 require the owner to either remove the sign or to renew the special use permit every two (2) years. The site plan and picture of the sign were provided.

The property is located at the southeast corner of Route 34 and Hafenrichter (Farnsworth) in Oswego Township. The property is zoned M-2.

The Land Resource Management Plan calls for the property to be commercial and suburban residential. Aurora's Comprehensive Plan calls for the property to be commercial.

Route 34 is maintained by IDOT. Hafenrichter/Farnsworth is a Local Road Maintained by Oswego Township. Aurora has a trail planned along Hafenrichter.

There were no wetlands or floodplain on the property.

The adjacent land uses were agricultural, residential, commercial, and industrial.

The adjacent zoning districts were M-2 in the County and R-1 (S), R-5 (S), and B-2 (S) in Aurora.

Aurora's Future Land Use Map called for the area to be Low- and Medium-Density Residential, Commercial, Light Industrial, and Industrial.

Nearby zoning districts included A-1, R-3, B-3, M-1 SU, M-2 SU, in Kendall County and various districts in Aurora, Kane County, Will County, and DuPage County.

EocCat and Natural Resource Inventory not required.

Petition information was sent to Oswego Township on June 10, 2021.

Petition information was sent to the City of Aurora on June 10, 2021. The property owner was in annexation negotiations with the City of Aurora. Aurora sent an email on June 10, 2021, expressing no objections, but the sign would be removed upon annexation into Aurora. This email was provided.

Petition information was sent to Oswego Fire Protection District on June 10, 2021. Oswego Fire Protection District submitted an email on June 10, 2021, stating they had no comments regarding the request. This email was provided.

ZPAC reviewed this proposal at their meeting on July 6, 2021. ZPAC recommended approval of the request by vote of six (6) in favor and zero (0) in opposition with four (4) member absent. The minutes of the meeting were provided.

The sign is twelve feet by sixteen feet (12' X 16') in size. There will be fourteen feet (14') from the ground to the top of the sign. Renderings of the sign and the petitioner's application (including lease, findings of fact, and site plan) were provided.

The petitioner desires to renew the special use permit awarded by Ordinance 2004-43 and renewed by Ordinance 2017-14 with no changes in restrictions. These ordinances were provided.

The restrictions imposed by Ordinance 2019-22 include:

- 1. The sign shall look substantially in the form as shown in the attached Exhibit.
- 2. The sign shall be located substantially in the location depicted on the attached Site Plan.
- 3. The sign will be removed or Pulte Group (or their successors) will apply to renew their special use in two (2) years from the date of approval of this ordinance by the County Board.
- 4. The sign will not be illuminated.
- 5. The advertising on the sign is restricted to Pulte Group's residential development.
- 6. The off-premise advertising structure allowed by this special use permit shall follow all applicable Federal, State and Local laws related to this type of use including, but not limited to, the distance from property line requirements of the Kendall County Zoning Ordinance.
- 7. Failure to comply with the above regulations and restrictions could result in the revocation of the special use permit.
- 8. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

The appearance of the signs was included as Exhibits C and D in Ordinance 2019-22.

Pursuant to Section 12:06.A.4, real estate and development signs may be located offsite for a period not to exceed two (2) years, provided a special use permit is issued.

A picture of the sign was provided.

Since the sign was pre-existing, a building permit would not be required.

Access concerns, parking concerns, and screening concerns were not applicable.

A trail was planned along Hafenrichter. However, the City of Aurora has not previously requested a right-of-way dedication.

The sign will not be illuminated.

No portion of the property was in a flood area and no wetlands existed on the property. No stormwater issues were anticipated by the proposal.

No easements were believed to be impacted by the proposed sign.

The proposed Findings of Fact were as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided that the sign remains at its current location, the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the public.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. True, the proposed special use will not negatively impact adjoining properties.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. This requirement is not applicable because the proposed special use does not require utilities, access roads, points of ingress and egress, drainage or other facilities.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. True, the proposed special use shall conform to the applicable regulations of the district.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed special use is consistent with the purposes and objectives of the Land Resource Management Plan.

If approved, Staff recommended the following conditions be included in the approving special use ordinance:

#### Attachment 9, Page 4

- 1. The rendering of the sign and map depicting the location of the sign shall be Exhibits in the approval ordinance.
- 2. The sign will be removed or Pulte Home Corporation (or their successors) will apply to renew their special use in two (2) years from the date of approval of this ordinance by the County Board.
- 3. The sign will not be illuminated.
- 4. The advertising on the sign is restricted to Pulte Home Corporation's residential development.
- 5. The off-premise advertising structure allowed by this special use permit shall follow all applicable Federal, State and Local laws related to this type of use including, but not limited to, the distance from property line requirements of the Kendall County Zoning Ordinance.
- 6. Failure to comply with the above regulations and restrictions could result in the revocation of the special use permit.
- 7. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

Chairman Ashton asked if anyone had any comments or questions regarding the Petition. There were no comments or questions regarding the Petition.

Member Nelson made a motion, seconded by Member McCarthy-Lange, to recommend approval of the Petition.

The votes were as follows:

Ayes (8): Ashton, Bledsoe, McCarthy-Lange, Nelson, Rodriguez, Stewart, Wilson, and Wormley

Nays (0): None

Absent (2): Casey and Hamman

Abstain (0): None

The motion carried.

This proposal will go to the Kendall County Zoning Board of Appeals on August 2, 2021.

#### **ADJOURNMENT**

Member Rodriguez made a motion, seconded by Member Wilson, to adjourn. With a voice of eight (8) ayes, the motion carried.

The Kendall County Regional Planning Commission meeting adjourned at 8:10 p.m.

Respectfully submitted by, Matthew H. Asselmeier, AICP, CFM Senior Planner

Enc.

## KENDALL COUNTY REGIONAL PLANNING COMMISSION JULY 28, 2021

IF YOU WOULD LIKE TO BE CONTACTED ON FUTURE MEETINGS REGARDING THIS TOPIC, PLEASE PROVIDE YOUR ADDRESS OR EMAIL ADDRESS

NAME	ADDRESS (OPTIONAL)	EMAIL ADDRESS (OPTIONAL)
Bayd Ingeminsa		
ARW)		
STEVE KNUTSON		
KURT BUHLE		
Ahr Voyl		
Teams Buke		
Destar.		



#### **DEPARTMENT OF PLANNING, BUILDING & ZONING**

111 West Fox Street • Room 203
Yorkville, IL • 60560

(630) 553-4141

Fax (630) 553-4179

## Petition 21-26 Robert Bright on Behalf of the Madison Trust and Castle Bank N A and JoAnn Bright-Theis Major Amendment to A-1 Special Use for a Banquet Facility

#### INTRODUCTION

On August 27, 2019, the County Board adopted Ordinance 2019-23 which granted a special use permit for a banquet facility at 10978 Crimmin Road. The special use permit included seventeen (17) conditions. The Petitioners would like to change their use of the approximately nineteen thousand seven hundred (19,700) square foot building to allow for smaller events and allow for events throughout the year.

The application materials are included as Attachment 1. Ordinance 2019-23 is included as Attachment 2.

#### SITE INFORMATION

PETITIONER Robert Bright on Behalf of the Madison Trust and Castle Bank NA and JoAnn Bright

Theis

ADDRESS 10978 Crimmin Road, Newark

LOCATION Approximately 0.54 Miles South of the Intersection of Fox River Drive and Crimmin Road on the East Side of Crimmin Road



TOWNSHIP Fox

PARCEL #s 04-29-300-010, 04-29-300-012, 04-30-400-007, 04-30-400-012, 04-30-400-013, 04-30-400-018, 04-30-400-019, 04-31-200-013, 04-31-200-014, 04-32-100-006, and 04-32-100-008

LOT SIZE 38.34 +/- Acres

EXISTING LAND Agricultural/Farmstead/Banquet Facility

USE

ZONING A-1 Agricultural District with a Special Use Permit for a Banquet Facility

**LRMP** 

Future	Agricultural
Land Use	
Roads	Crimmin Road is a Major Collector Road and is also classified as a
	Scenic Route.
Trails	None
Floodplain/	A riverine wetland is located along the southwest edge of the subject
Wetlands	property.

REQUESTED ACTION

Major Amendment to A-1 Special Use to Operate a Banquet Facility

APPLICABLE REGULATIONS

§7:01 D.12 - A-1 Special Uses - Permits Banquet Facilities to be Located in the A-1 District with Approval of a Special Use Provided that the Facility Meets Certain Criteria

§ 13:08 – Special Use Procedures and Procedure for Approving Major Amendments to Existing Special Uses

#### **SURROUNDING LAND USE**

Location	Adjacent Land Use	Adjacent Zoning	Land Resource Management Plan	Zoning within ½ Mile
North	Agricultural/Wooded/ Millington Forest Preserve	A-1	Rural Residential (Max 0.65 DU/Acre) and Forest Preserve	A-1
South	Agricultural/Religious	A-1	Agricultural	A-1
East	Millington Forest Preserve	A-1	Forest Preserve	A-1
West	Agricultural/Farmstead	A-1	Rural Residential (Max 0.65 DU/Acre)	A-1, A-1 SU, R-2, and R-3

The special use permit to the west is for the operation of a fur-bearing animal farm.

Based on the aerial of the site, there are six (6) homes within a half mile of the subject property.

An aerial of the property is included as Attachment 3.

#### PHYSICAL DATA

#### **ENDANGERED SPECIES REPORT**

The Illinois Natural Heritage Database shows the following protected resources may be in the vicinity of the project location:

Millington Fen INAI Site

Millington Railroad Fen Natural Landmark Tucker-Millington Fen Natural Preserve River Redhorse (Moxostoma carinatum)

Consultation was terminated; EcoCat related materials are included as Attachment 1, Pages 39-41 and Page 43.

#### NATURAL RESOURCES INVENTORY

The LESA Score was 181 indicating a low level of protection. The NRI report is included as Attachment 1, Pages 28-38.

#### **ACTION SUMMARY**

#### **FOX TOWNSHIP**

The Fox Township Planning Commission reviewed this Petition at their meetings on July 6, 2021, and July 21, 2021. The Fox Township Planning Commission recommended in favor of divided the space and setting the maximum number of guests for Event Space A at two hundred eighty (280) and sixty (60) for Event Space B. They recommended against deleting the requirement that the barn doors close at 7:00 p.m. They recommended that weekday events conclude by 10:00 p.m. with guests allowed one (1) extra hour to vacate the property; weekend events concluded at 11:00 p.m. with allowed one (1) extra hour to vacate the property. They defined weekends as Fridays and Saturdays. recommended keeping the maximum number of large events at thirty (30) per year and the small event space be available to rent on weekends on an unlimited basis. The above recommendations were approved unanimously of the three (3) Commissioners in attendance on July 21st. The Commission also recommended that the smaller event space be available to rent on weekdays on an unlimited basis by a vote of two (2) in favor and one (1) in opposition; two (2) Commissioners were absent. The Commissioner that voted no felt that allowing an unlimited number of events at the property would transform the property from a primarily agricultural use to a primarily non-agricultural business use. The minutes of the July 6, 2021, meeting are included as Attachment 4. The summary of the July 21, 2021, meeting is included as Attachment 8.

The Fox Township Board reviewed this proposal at their meeting on July 12, 2021. The Township Board had concerns regarding whether or not the Petitioners were following the current restrictions, the direction of speakers, extending the hours of operation, extending the operating season, noise level, and traffic. The unapproved minutes of this meeting are included as Attachment 5.

#### **NEWARK FIRE PROTECTION DISTRICT**

Newark Fire Protection District was emailed information on June 24, 2021.

#### VILLAGE OF NEWARK

The Village of Newark was emailed information on June 24, 2021.

#### **ZPAC**

ZPAC reviewed this proposal at their meeting on July 6, 2021. The Health Department noted that the Petitioners were working with them to ensure that the septic system was sized appropriately. The septic system was severely undersized. There has not been a failure of the septic system. The septic system has been mapped and a design was proposed. The Health Department requested a condition in the special use permit stating that the Petitioners shall submit an application and secure a permit for the septic system renovation with the Kendall County Health Department before approval of the amendment by the County Board. A permit could be secured in one (1) or two (2) weeks. The Petitioners did not object to the condition be added to the list of conditions. The Health Department also noted that the well qualified as a non-community well and must follow the rules of that program. Discussion occurred regarding having live music events at the property. Live music events have occurred ancillary to other banquet center events and can occur inside the building. ZPAC recommended approval of the requested amendments by a vote of six (6) in favor and zero (0) in opposition; four (4) members were absent. The minutes of this meeting are included as Attachment 6. An email stating that the Petitioners applied for septic permit is included as Attachment 7.

#### **RPC**

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on July 28. 2021. The Petitioners agreed to change the end time of events from Midnight to 11:00 p.m. Guests would still have one (1) hour to leave the property. Steve Knutson, Fox Township Planning Commission Chairman, explained the Commission's opinion on the proposal. Kurt Buhle stated that he moved to the area for peace and quiet; the banquet facility was not a quiet operation. He stated that the north barn doors were currently not closed, events were occurring during the non-operating time of the year, and events were occurring after 10:00 p.m. John Vogt expressed concerns about noise and increase traffic. Robert Bright invited everyone, including his neighbors, onto the subject the property and that installing the sound system was on the priority list. Members Rodriguez and Wormley visited the subject property. Member Nelson suggested planting additional evergreen type trees in addition to the plantings required by the landscaping plan. The Petitioners were agreeable with this suggestion. Member Wilson suggested installing a fence in addition to the evergreens. The Kendall County Regional Planning Commission recommended approval of the Petition with the requirement that the Petitioners submit a landscaping plan with evergreen type trees planted and a timeframe for planting the evergreens. The landscaping plan should be submitted prior to the Kendall County Planning, Building and Zoning Committee meeting. The vote was eight (8) in favor and zero (0) in opposition with two (2) members absent. Member Wilson made a motion to add the fencing requirement, but that motion died for lack of second. The minutes of the meeting are included as Attachment 9.

#### **GENERAL**

As noted in Attachment 2, Ordinance 2019-23 placed the following restrictions on the special use permit for a banquet facility at the subject property:

- A. The site shall be developed substantially in accordance with the Site Plan attached hereto as Exhibit C, Landscaping Plan attached hereto as Exhibit D, and Parking Illumination Plan attached hereto as Exhibit E.
- B. Permanent restroom facilities shall be installed by 2021. When the permanent restroom facilities are installed, the portable bathrooms shown on the attached site plan shall be removed.
- C. A maximum of two hundred eighty (280) guests in attendance at a banquet center related event may be on the subject property at a given time.
- D. The subject parcel must follow the site plan configuration with the exception of the right-of-way dedication listed in condition L.
- E. Off-street parking, lighting and landscaping shall be provided in accordance with the provisions of Section 11 of the Zoning Ordinance.
- F. All signage shall comply with the provisions of Section 12 of the Kendall County Zoning Ordinance. The signage shall be developed in accordance to the attached site plan. Any signage provided will not be illuminated. The owners of the business allowed by this special use permit may install additional non-illuminated traffic directional signs not shown on the approved site plan within their property.
- G. Retail sales are permitted as long as the retail sales will be ancillary to the main operation.
- H. The noise regulations are as follows:

Day Hours: No person shall cause or allow the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential land which exceeds sixty-five (65) dBA when measured at any point within such receiving residential land, provided; however, that point of measurement shall be on the property line of the complainant.

Night Hours: No person shall cause or allow the emission of sound during nighttime hours (10:00 P.M. to 7:00 A.M.) from any noise source to any receiving residential land which exceeds fifty-five (55) dBA when measured at any point within such receiving residential land provided; however, that point of measurement shall be on the property line of the complainant.

**EXEMPTION:** Powered Equipment: Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted from the noise regulations between the hours of seven

o'clock (7:00) A.M. and ten o'clock (10:00) P.M.

- I. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings. For events with music, the north and south barn doors shall close by 7:00 p.m.
- J. Events shall be held on weekends only and shall conclude by 10:00 p.m. Only one (1) event per weekend may occur. For the purposes of this special use permit, weekends shall be Fridays, Saturdays, Sundays, Mondays, and any Federal or State Holiday falling on a Thursday or Tuesday. Tours of the facility for prospective customers shall be by appointment and could occur outside the listed hours of operation. Setup for events would start at 9:00 a.m. on the day prior to the event and 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. The facility would close on November 1st and reopen April 1st. The number of events per year shall be capped at thirty (30).
- K. A new certificate of occupancy must be issued for the barn.
- L. Within ninety (90) days of the approval of this special use permit ordinance, the owners of the subject property shall dedicate a strip of land along the entire western boundary of the property at a depth of forty-five feet (45') as measured from the centerline of Crimmin Road to Fox Township to be used as Crimmin Road right-of-way.
- M. No patron or other entity associated with the business allowed by this special use permit shall be allowed to park on Crimmin Road.
- N. The operator(s) of the banquet facility acknowledge and agree to follow Kendall County's Right to Farm Clause.
- O. The operator(s) of the banquet facility allowed by this special use permit shall follow all applicable Federal, State, and Local laws including, but not limited to Fox Township's laws, related to the operation of this type of business.
- P. Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permit.
- Q. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

As noted on Attachment 1, Page 5, the Petitioners would like to divide the nearly nineteen thousand seven hundred (19,700) square foot building into Event Space A with nine thousand six hundred (9,600) square feet, Event Space B with two thousand nine hundred (2,900) square feet, and the remaining seven thousand two hundred forty-two (7,242) square feet as non-project space. As noted on Attachment 1, Pages 3-4, the Petitioners would like to utilize Event Space B year-round for smaller events.

In order to accommodate this proposed change in business operations, the Petitioners are requesting the following changes to the special use permit (changes marked in red):

- C. A maximum of two hundred eighty (280) guests shall be allowed in attendance at a banquet center related event may be on the subject property at a given time. within Event Space A at a given time. A maximum of sixty (60) guests shall be allowed in attendance within Event Space B at a given time. There shall only be one (1) event taking place at a given time and the total allowable guests shall not exceed a total of two hundred eighty (280) guests.
- No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings. For events with music, the north and south barn doors shall close by 7:00 p.m.
- J. Events shall be held on weekends only and shall conclude by 10:00 p.m. Only one (1) event per weekend may occur. For the purposes of this special use permit, weekends

shall be Fridays, Saturdays, Sundays, Mondays, and any Federal or State Holiday falling on a Thursday or Tuesday. Tours of the facility for prospective customers shall be by appointment and could occur outside the listed hours of operation. Setup for events would start at 9:00 a.m. on the day prior to the event and 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. The facility would close on November 1<sup>st</sup> and reopen April 1<sup>st</sup>. The number of events per year shall be capped at thirty (30). Events in either event spaces shall conclude by 11:00 p.m. Tours of the facility for prospective customers shall be by appointment. Setup for events in either event spaces would start at 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. Event Space A would close on November 1<sup>st</sup> and reopen April 1<sup>st</sup>. Event Space B may operate year round.

The Petitioners provided a comparison of certain restrictions on banquet centers which can be found on Attachment 1, Page 6.

The Petitioners have no plans to change the site plan or parking illumination plan approved as part of Ordinance 2019-23. Also, other than Conditions C, I, J, and the landscaping plan to include more evergreen type trees, the Petitioners do not propose any other changes to the requirements of the special use permit.

#### **BUILDING CODES**

An updated Occupancy Permit will be required reflecting the change of use.

#### **ENVIRONMENTAL HEALTH**

The Petitioners were working with Environmental Health regarding the size of the septic system.

#### **ROAD ACCESS**

The property fronts Crimmin Road.

#### PARKING AND INTERNAL TRAFFIC CIRCULATION

According to the site plan approved with Ordinance 2019-23, patrons will enter the property through the driveway north of the existing house. Traffic will drive southeast along the one (1) way driveway to the existing barn, a distance of approximately seven hundred feet (700'). There are thirty-four (34) parking spaces and four (4) additional handicapped accessible parking spaces by the barn. An additional seventy-five (75) parking spaces are located east of the barn and will be accessible via a gravel driveway; these parking spaces will be served by shuttle. Traffic will exit the property through a one (1) way driveway leading to the north end of the property.

#### LIGHTING

Two (2) new lights were proposed for the site. According to the parking illumination plan approved with Ordinance 2019-23, no light will leave the property. All lights will be turned off within one (1) hour of the conclusion of events.

#### **SIGNAGE**

One entrance and one exit sign are shown on the site plan attached to Ordinance 2019-23. The signs will be approximately four hundred thirty-two (432) square inches. Neither sign will be illuminated.

#### **LANDSCAPING**

As shown on the site plan attached to Ordinance 2019-23, the site contains approximately one hundred sixty-six (166) trees of varying heights encircling the venue.

#### **NOISE CONTROL**

All music and noise shall originate inside the venue except for processionals and recessionals at weddings. The facility shall follow the noise regulations for banquet facilities. Speakers will face inside the building and speakers on the ceiling will be pointed downward. The Petitioners also require disc jockeys to plug into the venue's sound system so the Petitioners can control the noise level.

With the combination of distance, plantings, and control of the sound system, the Petitioners believe noise will not be an issue.

Since the issuance of the special use permit in 2019, the Kendall County Sheriff's Department has responded to one (1) noise complaint at the property. The Sheriff's Department responded to the complaint, but the decibel level was not confirmed to be in violation of the special use permit.

#### FINDINGS OF FACT

§ 13.08.J of the Zoning Ordinance outlines findings that the Zoning Board of Appeals must make in order to recommend in favor of the applicant on major amendments to existing special use permit applications. They are listed below in *italics*. Staff has provided findings in **bold** below based on the recommendation:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, or general welfare, provided that the site is developed in accordance with the site plan, landscaping plan, and lighting plan approved as part of Ordinance 2019-23.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. The proposed use could be injurious to the enjoyment of other property in the immediate vicinity due to noise, light created from the proposed use, and increased traffic. Some of the negative impacts of the proposed use on properties in the immediate vicinity could be mitigated by establishing restrictions related to the number of guests allowed on the property, the days and hours of operation, and buffering within the ordinance granting the special use permit and major amendment to the special use permit.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. True, the Petitioner's approved site plan from Ordinance 2019-23 addresses utilities, drainage, and points of ingress and egress.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. The site conforms to the regulations of the A-1 Agricultural Zoning District.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed use is consistent with an objective found on Page 3-6 of the Kendall County Land Resource Management Plan which states as an objective "Encourage Agriculture and Agribusiness."

#### **RECOMMENDATION**

Staff recommends approval of the requested major amendment to an existing special use permit subject to the following conditions and restrictions:

- 1. The approximately nineteen thousand seven hundred (19,700) square foot building shall be divided in substantial the way shown on Attachment 1, Page 5.
- 2. The landscaping plan referenced in Condition 2.A is amended to include the amended landscaping provided at the Zoning Board of Appeals hearing.
- 3. Condition 2.C of Ordinance 2019-23 shall be deleted and replaced with the following:
  - C. A maximum of two hundred eighty (280) guests shall be allowed in attendance within Event Space A at a given time. A maximum of sixty (60) guests shall be allowed in attendance within Event Space B at a given time. There shall only be one (1) event taking place at a given time and the total allowable guests shall not exceed a total of two hundred eighty (280) guests.

- 4. Condition 2.I of Ordinance 2019-23 shall be deleted and replaced with the following:
  - I. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings.
- 5. Condition 2.J of Ordinance 2019-23 shall be deleted and replaced with the following:
  - J. Events in either event spaces shall conclude by 11:00 p.m. Tours of the facility for prospective customers shall be by appointment. Setup for events in either event spaces would start at 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. Event Space A would close on November 1st and reopen April 1st. Event Space B may operate year round.
- 6. All other conditions and restrictions contained in Ordinance 2019-23 shall remain effective.
- 7. Failure to comply with one or more of the above conditions or restrictions or the conditions and restrictions contained in Ordinance 2019-23 could result in the amendment or revocation of the special use permit.
- 8. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

#### **ATTACHMENTS**

- 1. Application Materials
- 2. Ordinance 2019-23
- 3. Aerial
- 4. July 6, 2021 Fox Township Planning Commission Minutes
- 5. July 12, 2021 Fox Township Board Minutes
- 6. July 6, 2021 ZPAC Minutes (This Petition Only)
- 7. July 12, 2021 Email from the Kendall County Health Department
- 8. July 21, 2021 Fox Township Planning Commission Meeting Summary
- 9. July 28, 2021 Kendall County Regional Planning Commission Meeting Minutes (This Petition Only)



#### **DEPARTMENT OF PLANNING, BUILDING & ZONING**

111 West Fox Street • Yorkville, IL • 60560 (630) 553-4141 Fax (630) 553-4179

#### **APPLICATION**

	BALENCE BOLL FORCE	FILE #:21-21	1
ROJECT NAME	Brighter Daze Farms	FILE #:U1	۴

NAME OF APPLICANT		
Robert Bright and JoAr	nn Bright-Theis	
CURRENT LANDOWNER/NA Madison Trust and Cas		
	TE ADDRESS OR LOCATION 1978 Crimmins Rd. in Fox Township	ASSESSOR'S ID NUMBER (PIN) 04-29-300-010 and more
EXISTING LAND USE Agricultural	CURRENT ZONING A-1	LAND CLASSIFICATION ON LRMP Agricultural
REQUESTED ACTION (Chec	ck All That Apply):	
SPECIAL USE	MAP AMENDMENT (Rezone to	VARIANCE
ADMINISTRATIVE VAR	RIANCE A-1 CONDITIONAL USE for:_	SITE PLAN REVIEW
TEXT AMENDMENT	RPD (Cancept; Prelimin	nary; Final) ADMINISTRATIVE APPEAL
PRELIMINARY PLAT  X AMENDMENT TO A SE	FINAL PLAT PECIAL USE ( X Major; Minor)	OTHER PLAT (Vacation, Dedication, etc.)
PRIMARY CONTACT	PRIMARY CONTACT MAILING	ADDRESS PRIMARY CONTACT EMAIL
Boyd Ingemunson		
PRIMARY CONTACT PHONE	E# PRIMARY CONTACT FAX #	PRIMARY CONTACT OTHER #(Cell, etc.)
<sup>2</sup> ENGINEER CONTACT	ENGINEER MAILING ADDRESS	ENGINEER EMAIL
n/a	n/a	n/a
ENGINEER PHONE #	ENGINEER FAX#	ENGINEER OTHER # (Cell, etc.)
n/a	n/a	n/a
COUNTY STAFF & BO. THE PRIMARY CONTA COUNTY.	ARD/ COMMISSION MEMBERS THR ACT LISTED ABOVE WILL BE SUBJE	E PROPERTY IN QUESTION MAY BE VISITED BY OUGHOUT THE PETITION PROCESS AND THAT CT TO ALL CORRESPONDANCE ISSUED BY THE
	DGE AND THAT I AM TO FILE THIS	MITTED ARE TRUE AND CORRECT TO THE APPLICATION AND ACT ON BEHALF OF THE
SIGNATURE OF APPL	ICANT / /	DATE (2) 2/2/
	FEÉ PAID:\$ 1/J	5,00
	CHECK #:	

<sup>1</sup>Primary Contact will receive all correspondence from County

<sup>2</sup>Engineering Contact will receive all correspondence from the County's Engineering Consultants

JUN 2 2 2021

PLANNING, BUILDING & ZONING

#### PROPOSED AMENDMENTS TO SPECIAL USE

#### **Original Conditions**

- C. A maximum of two hundred eighty (280) guests in attendance at a banquet center related event may be on the subject property at a given time.
- I. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of the building. For events with music, the north and south barn doors shall close by 7:00 p.m.
- J. Events shall be held on weekends only and shall conclude by 10:00 p.m. Only one (1) event per weekend may occur. For the purposes of this special use permit, weekends shall be Fridays, Saturdays, Sundays, Mondays, and any Federal or State Holiday falling on a Thursday or Tuesday. Tours of the facility for prospective customers shall be by appointment and could occur outside the listed hours of operation. Setup for events would start at 9:00 a.m. on the day prior to the event and 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. The facility would close on November 1st and reopen April 1st. The number of events per year shall be capped at thirty (30).

#### Proposed Amended Conditions:

- C. A maximum of two hundred eighty (280) guests shall be allowed to be in attendance within event space A at a given time. A maximum of sixty (60) guests shall be allowed to be in attendance within event space B at a given time. There shall only be one event taking place at a given time and the total allowable guests shall not exceed a total of two hundred (280) guests.
- I. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of the building.
- J. Events in either event spaces shall conclude by Midnight. Tours of the facility for prospective customers shall be by appointment. Setup for events in either event spaces would start at 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. Event space A would close on November 1<sup>st</sup> and reopen April 1<sup>st</sup>. Event space B may operate year round.



#### Mission Statement (Event Space "B")

BrighterDaze Farm is committed to offering an exclusive and memorable experience for our customer's event. BrighterDaze is the ideal setting for anyone looking for a beautiful, private and spacious venue. We provide an 2,900 square foot event space that can accommodate intimate weddings of approximately (60) people. We understand that everyone has a different idea of perfect; that's why we allow our customers the opportunity to customize the finest details of their event.

#### **Business Plan**

Hours of Operation:

Monday - Thursday: 9:00 AM - 10:00 PM

Friday - Saturday: 9:00 AM - 12:00 PM

Holiday Schedule: Open on the Eve and Day of all Federal Holidays

Open Year Round

Event Tours scheduled by appointment by appointment only outside hours of operation

Event Setup begins at 9:00 AM CST the day of event

Customers are to "vacate" the property 1 hour after conclusion of event

# of Employees: 1

Event Setup & Cleanup Plans: BDF to utilize local sub-contracting services for all

applicable trades to include but not limited to: Table(s), chair(s), linens, decorations (flowers, center-pieces, etc),

food, beverage(s), bathrooms and cleanup services.

NO CASH BARS allowed

Bathrooms: Onsite.

Max Occupancy: 60 people

Venue Information: 2,900 sq ft Intimate Event Space

#### Attachment 1, Page 4

Noise Control: All music/noise to originate from within venue at all times with the exception of processional(s)/recessional(s).

Sound not to exceed 65 dB (7:00 AM - 10:00 PM)

Sound not to exceed 55 dB (10:00 PM -7:00 AM)

BrighterDaze Farm has mature trees located on the property to facilitate dampening the sound.

Distance from Venue to Crimmin Rd = 700'

Setback from Crimmin Rd to neighbors residence = 200'

Parking Plan: One-Way Traffic Pattern to be utilized during business hours

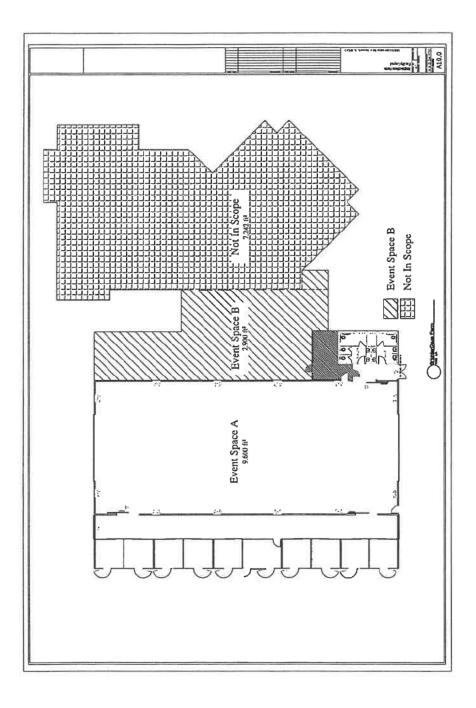
34 Regular Parking Spaces + 4 Handicapped Spaces (Venue)

75 Regular Parking Spaces (Remote)

Lighting to be "off" 1 hour after conclusion of event

Sale of Ancillary Items

BDF reserves the right to sell ancillary items such as sweaters, shirts, cups/glasses, etc





## Attachment 1, Page 6

## Comparison A-1 Special Uses for Banquet Facilities

	Brighter Daze	Northfork	Ashley Farms	Mathre 1916	Harvest Moon
operation calendar	April 1 <sup>st</sup> - November 30	May 1 <sup>st</sup> - November 15	year round	May thru 2 <sup>nd</sup> full week of November	May 1 <sup>st</sup> - October 31st
# of Events	30	No limit	60	No limit	No more than 4 events in a 7 day period
Days of Operation	Friday - Monday Mon or Thurs if federal holiday	No limit	No limit	No limit	No limit
Music Restrictions	- No music outside building - Barn Doors closed by 7 p.m.	No Restriction	No music outside building	No Restriction	- No music outside building - No bands
Event end time	10:00 p.m	No Restriction	12:00 a.m.	11:30 p.m.	12:00 a.m.

# Exhibit A LEGAL DESCRIPTION OF ROBERT BRIGHT TRACT (38.3391 Acres):

That part of the Southwest Quarter of Section 29, that part of the Southeast Quarter of Section 30, that part of the Northeast Quarter of Section 31 and that part of the Northwest Quarter of Section 32, Township 36 North, Range 6 East of the Third Principal Meridian described as follows: Commencing at the Northeast Corner of said Northeast Quarter of Section 31; thence Southerly, along the East Line of said Northeast Quarter, 412.50 feet for a point of beginning; thence West, along a line which is parallel with the North Line of said Northeast Quarter and which forms an angle of 88°55'20" with the last described course, measured counter-clockwise therefrom, 628.98 feet; thence Northwesterly, along a line which forms an angle of 136°30'40" with the last described course, measured counter-clockwise therefrom, 506.73 feet to the centerline of Crimmins Road; thence Northeasterly, along said centerline which forms an angle of 105°18'51" with the last described course, measured counter-clockwise therefrom, 50.50 feet; thence Northeasterly, along said centerline being a tangential curve to the right with a radius of 2300.0 feet, an arc distance of 1058.74 feet; thence Northeasterly, along said centerline which is tangent to the last described curve at the last described point, 299.42 feet; thence Northeasterly, along said centerline being a curve to the left with a radius of 730.0 feet, an arc distance of 8.76 feet to the West Line of said Southwest Quarter of Section 29: thence Southerly, along said West Line, 22.82 feet; thence Southeasterly, along a line which forms an angle of 136°53'45" with the last described course, measured clockwise therefrom, 1066.40 feet; thence Southeasterly, along a line which forms an angle of 148°16'44" with the last described course, measured counter-clockwise therefrom, 889.54 feet to a point on a Southerly Line of a Tract conveyed to Robert A. Bright as Trustee of the Robert A. Bright Declaration of Trust by Trustee's Deed recorded as Document 9801248 on February 4, 1998; thence Southwesterly along said Southerly Line which forms an angle of 89°59'40" with the last described course, measured counter-clockwise therefrom, 197.0 feet to a Southerly Corner of said Bright Tract; thence Northwesterly, along a line which forms an angle of 95°37'45" with the last described course, measured counter-clockwise therefrom, 359.61 feet to a point on a line drawn Easterly, parallel with the North Line of said Northwest Quarter of Section 32, from the point of beginning and which is 607.20 feet from the point of beginning; thence Westerly, along said parallel line which forms an angle of 107°48'12" with the last described course, measured clockwise therefrom, 607.20 feet to the point of beginning in Fox Township, Kendall County, Illinois and containing 38.3391 acres.

## COMMITMENT NO.

AGO TITLE INSURANCE COMPANT	FOR SETTLEMENT INQUIRIES, CONTACT:
ORIGINATING OFFICE:	Chicago Title and Trust Company
Chicago Title Company, LLC 2000 West Galena, Suite 105 Aurora, IL 60506 Main Phone: (630)892-3775 Email: auroraescrow@ctt.com	2000 West Galena, Suite 105 Aurora, IL 60506 Main Phone: (630)892-3775 Main Fax: (630)892-924

Issued By: Daniel J. Kramer

1107A S. Bridge St. Yorkville, IL 60560

#### SCHEDULE A

ORDER NO.

Property Ref.: Vacant land, Newark, IL 60541

1. Effective Date: September 20, 2017

Policy or Policies to be issued:

a. ALTA Owner's Policy 2006

Madison Trust Company, Custodian FBO Robert A. Bright M1507085 Proposed Insured:

\$250,000.00 Policy Amount:

b. ALTA Loan Policy 2006

First National Bank, its successors and/or assigns as their respective interests may appear Proposed Insured:

\$390,000.00 Policy Amount:

3. The estate or interest in the land described or referred to in this Commitment is:

Fee Simple

Title to the estate or interest in the land is at the Effective Date vested in:

First National Bank of Omaha, DeKalb Illinois, (formerly known as Castle Bank, a division of First National Bank of Omaha) as Trustee under Trust Agreement dated November 15, 2006 and known as Trust Nuber 2526, as to parcels 1 and 2

Madison Trust Company, Custodian FBO Robert A. Bright M1507085 as to parcel 3

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COMMITMENT NO.

#### SCHEDULE A

(continued)

5. The land referred to in this Commitment is described as follows:

#### PARCEL 1:

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 29, THAT PART OF THE SOUTHEAST QUARTER OF SECTION 30, THAT PART OF THE NORTHEAST QUARTER OF SECTION 31 AND THAT PART OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 36 NORTH, RANGE 6 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER OF SECTION 31; THENCE SOUTHERLY, ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, 412.50 FEET FOR A POINT OF BEGINNING; THENCE WEST, ALONG A LINE WHICH IS PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST QUARTER AND WHICH FORMS AN ANGLE OF 88 DEGREES 55 MINUTES 20 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 628.98 FEET; THENCE NORTHWESTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 136 DEGREES 30 MINUTES 40 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 506.73 FEET TO THE CENTERLINE OF CRIMMINS ROAD; THENCE NORTHEASTERLY, ALONG SAID CENTERLINE WHICH FORMS AN ANGLE OF 105 DEGREES 18 MINUTES 51 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 50.50 FEET; THENCE NORTHEASTERLY, ALONG SAID CENTERLINE BEING A TANGENTIAL CURVE TO THE RIGHT WITH A RADIUS OF 2300.0 FEET, AN ARC DISTANCE OF 1058.74 FEET; THENCE NORTHEASTERLY, ALONG SAID CENTERLINE WHICH IS TANGENT TO THE LAST DESCRIBED CURVE AT THE LAST DESCRIBED POINT, 299.42 FEET; THENCE NORTHEASTERLY, ALONG SAID CENTERLINE BEING A CURVE TO THE LEFT WITH A RADIUS OF 730.0 FEET, AN ARC DISTANCE OF 8.76 FEET TO THE WEST LINE OF SAID SOUTHWEST QUARTER OF SECTION 29; THENCE SOUTHERLY, ALONG SAID WEST LINE, 22.82 FEET; THENCE SOUTHEASTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 136 DEGREES 53 MINUTES 45 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED CLOCKWISE THEREFROM, 1066.40 FEET; THENCE SOUTH SOUTHEASTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 148 DEGREES 16 MINUTES 44 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 889.54 FEET TO A POINT ON A SOUTHERLY LINE OF A TRACT CONVEYED TO ROBERT A BRIGHT, AS TRUSTEE OF THE ROBERT A BRIGHT DECLARATION OF TRUST BY TRUSTEE'S DEED RECORDED AS DOCUMENT 9801248 ON FEBRUARY 4, 1998; THENCE SOUTHWESTERLY ALONG SAID SOUTHERLY LINE WHICH FORMS AN ANGLE OF 89 DEGREES 59 MINUTES 40 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 197.0 FEET TO A SOUTHERLY CORNER OF SAID BRIGHT TRACT; THENCE NORTHWESTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 95 DEGREES 37 MINUTES 45 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 359.61 FEET TO A POINT ON A LINE DRAWN EASTERLY, PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST QUARTER OF SECTION 32, FROM THE POINT OF BEGINNING AND WHICH IS 607.20 FEET FROM THE POINT OF BEGINNING; THENCE WESTERLY, ALONG SAID PARALLEL LINE WHICH FORMS AN ANGLE OF 107 DEGREES 48 MINUTES 12 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED CLOCKWISE THEREFROM, 607.20 FEET TO THE POINT OF BEGINNING;

EXCEPT THAT PART DESCRIBED AS FOLLOWS: THAT PART OF THE SOUTHEAST QUARTER OF SECTION 30 AND THAT PART OF THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 36 NORTH, RANGE 6 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER OF SECTION 31; THENCE SOUTHERLY, ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, 233.54 FEET

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ALTA Commitment (06/17/2006)

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COMMITMENT NO.

#### SCHEDULE A

(continued)

FOR A POINT OF BEGINNING; THENCE CONTINUING SOUTHERLY, ALONG SAID EAST LINE, 178.96 FEET; THENCE WESTERLY, ALONG A LINE WHICH IS PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST QUARTER AND WHICH FORMS AN ANGLE OF 88 DEGREES 55 MINUTES 20 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 628.98 FEET; THENCE NORTHWESTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 136 DEGREES 30 MINUTES 40 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 506.73 FEET TO THE CENTERLINE OF CRIMMINS ROAD; THENCE NORTHEASTERLY, ALONG SAID CENTERLINE WHICH FORMS AN ANGLE OF 105 DEGREES 18 MINUTES 51 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 50.50 FEET; THENCE NORTHEASTERLY, ALONG SAID CENTERLINE BEING A TANGENTIAL CURVE TO THE RIGHT WITH A RADIUS OF 2300.0 FEET, AN ARC DISTANCE OF 500.21 FEET; THENCE SOUTHEASTERLY, ALONG A LINE WHICH IS RADIAL TO SAID LAST DESCRIBED CURVE, 575.07 FEET; THENCE SOUTHWESTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 109 DEGREES 41 MINUTES 44 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 140.52 FEET; THENCE SOUTHEASTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 100 DEGREES 39 MINUTES 04 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED CLOCKWISE THEREFROM, 230.0 FEET; THENCE EASTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 148 DEGREES 24 MINUTES 34 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED CLOCKWISE THEREFROM, 105.22 FEET TO THE POINT OF BEGINNING;

AND ALSO EXCEPT THAT PART OF THE SOUTHEAST QUARTER OF SECTION 30 AND THAT PART OF THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 36 NORTH, RANGE 6 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER OF SECTION 31; THENCE SOUTHERLY, ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, 412.50 FEET; THENCE WESTERLY, ALONG A LINE WICH IS PARALLEL WITH TEH NORTH LINE OF SAID NORTHEAST QUARTER AND WHICH FORMS AN ANGLE OF 88 DEGREES 55 MINUTES 20 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 628.98 FEET; THENCE NORTHWESTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 136 DEGREES 30 MINUTES 40 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 506.73 FEET TO THE CENTERLINE OF CRIMMINS ROAD; THENCE NORTHEASTERLY, ALONG SAID CENTERLINE WHICH FORMS AN ANGLE OF 105 DEGREES 18 MINUTES 51 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 50.50 FEET; THENCE NORTHEASTERLY, ALONG SAID CENTERLINE BEING A TANGENTIAL CURVE TO THE RIGHT WITH A RADIUS OF 2300.0 FEET, AN ARC DISTANCE OF 500.21 FEET FOR A POINT OF BEGINNING; THENCE SOUTHEASTERLY, ALONG A LINE WHICH IS RADIAL TO SAID LAST DESCRIBED CURVE, 575.07 FEET; THENCE SOUTHWESTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 109 DEGREES 41 MINUTES 44 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 140.52 FEET; THENCE SOUTHEASTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 100 DEGREES 39 MINUTES 04 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED CLOCKWISE THEREFROM, 230.0 FEET; THENCE EASTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 148 DEGREES 24 MINUTES 34 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED CLOCKWISE THEREFROM, 105.22 FEET TO A POINT ON THE EAST LINE OF SAID NORTHEAST QUARTER OF SECTION 31, WHICH IS 233.54 FEET SOUTHERLY OF THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE NORTHERLY, ALONG SAID EAST LINE, 233.54 FEET TO SAID NORTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE NORTHWESTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 112 DEGREES 15 MINUTES 30 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED CLOCKWISE THEREFROM, 341.46 FEET; THENCE NORTHWESTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 160 DEGREES 32 MINUTES 46 SECONDS WITH THE LAST

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AMERICAN LAND TITLE

ALTA Commitment (06/17/2006)

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COMMITMENT NO.

#### SCHEDULE A

(continued)

DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 451.82 FEET TO SAID CENTERLINE OF CRIMMINS ROAD; THENCE SOUTHWESTERLY, ALONG SAID CENTERLINE, BEING A NON-TANGENTIAL CURVE TO THE LEFT WITH A RADIUS OF 2300.0 FEET, AN ARC DISTANCE OF 33.0 FEET TO THE POINT OF BEGINNING; ALL IN FOX TOWNSHIP, KENDALL COUNTY, ILLINOIS.

#### PARCEL 2:

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 30 AND THAT PART OF THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 36 NORTH, RANGE 6 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER OF SECTION 31; THENCE SOUTHERLY, ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, 412.50 FEET; THENCE WEST, ALONG A LINE WHICH IS PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST QUARTER AND WHICH FORMS AN ANGLE OF 88 DEGREES 55 MINUTES 20 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 628.98 FEET, THENCE NORTHWESTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 136 DEGREES 30 MINUTES 40 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 506. 73 FEET TO THE CENTERLINE OF CRIMMINS ROAD; THENCE NORTHEASTERLY, ALONG SAID CENTERLINE WHICH FORMS AN ANGLE OF 105 DEGREES 18 MINUTES 51 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 50.50 FEET; THENCE NORTHEASTERLY, ALONG SAID CENTERLINE BEING A TANGENTIAL CURVE TO THE RIGHT WITH A RADIUS OF 2300.0 FEET, AN ARC DISTANCE OF 500.21 FEET FOR A POINT OF BEGINNING; THENCE SOUTHEASTERLY, ALONG A LINE WHICH IS RADIAL TO SAID LAST DESCRIBED CURVE, 575.07 FEET, THENCE SOUTHWESTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 109 DEGREES 41 MINUTES 44 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 140.52 FEET; THENCE SOUTHEASTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 100 DEGREES 39 MINUTES 04 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED CLOCKWISE THEREFROM, 230.0 FEET; THENCE EASTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 148 DEGREES 24 MINUTES 34 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED CLOCKWISE THEREFROM, 105.22 FEET TO A POINT ON THE EAST LINE OF SAID NORTHEAST QUARTER OF SECTION 31 WHICH IS 233.54 FEET SOUTHERLY OF THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE NORTHERLY, ALONG SAID EAST LINE, 233.54 FEET TO SAID NORTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE NORTHWESTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 112 DEGREES 15 MINUTES 30 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED CLOCKWISE THEREFROM, 341.46 FEET; THENCE NORTHWESTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 160 DEGREES 32 MINUTES 46 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 451.82 FEET TO SAID CENTERLINE OF CRIMMINS ROAD; THENCE SOUTHWESTERLY, ALONG SAID CENTERLINE, BEING A NON-TANGENTIAL CURVE TO THE LEFT WITH A RADIUS OF 2300.0 FEET, AN ARC DISTANCE OF

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COMMITMENT NO.

#### SCHEDULE A

(continued)

33.0 FEET TO THE POINT OF BEGINNING IN FOX TOWNSHIP, KENDALL COUNTY, ILLINOIS.

#### PARCEL 3:

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 30 AND THAT PART OF THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 36 NORTH, RANGE 6 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER OF SECTION 31; THENCE SOUTHERLY, ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, 412.50 FEET; THENCE WEST, ALONG A LINE WHICH IS PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST QUARTER AND WHICH FORMS AN ANGLE OF 88 DEGREES 55 MINUTES 20 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 628.98 FEET; THENCE NORTHWESTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 136 DEGREES 30 MINUTES 40 SECONDS WITH THE LAST DESCRIBED COURSE. MEASURED COUNTER-CLOCKWISE THEREFROM, 506.73 FEET TO THE CENTERLINE OF CRIMMINS ROAD; THENCE NORTHEASTERLY, ALONG SAID CENTERLINE WHICH FORMS AN ANGLE OF 105 DEGREES 18 MINUTES 51 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 50.50 FEET; THENCE NORTHEASTERLY, ALONG SAID CENTERLINE BEING A TANGENTIAL CURVE TO THE RIGHT WITH A RADIUS OF2300.0 FEET, AN ARC DISTANCE OF 96.90 FEET; THENCE CONTINUING ALONG SAID CENTERLINE AND THE LAST DESCRIBED COURSE BEING A CURVE TO THE RIGHT WITH A RADIUS OF2300.0 FEET, AN ARC DISTANCE OF 279,87 FEET FOR THE POINT OF BEGINNING; THENCE SOUTHEASTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 85 DEGREES 16 MINUTES 45 SECONDS WITH THE CHORD OF THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 336.0 FEET; THENCE SOUTHWESTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 99 DEGREES 38 MINUTES 52 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 64.05 FEET; THENCE SOUTHEASTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 92 DEGREES 26 MINUTES 37 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED CLOCKWISE THEREFROM, 273.94 FEET; THENCE NORTHEASTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 79 DEGREES 20 MINUTES 56 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED CLOCKWISE THEREFROM, 33.58 FEET; THENCE NORTHWESTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 79 DEGREES 20 MINUTES 56 SECONDS WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 239.11 FEET; THENCE NORTHEASTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 92 DEGREES 26 MINUTES 37 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED COUNTER-CLOCKWISE THEREFROM, 57.63 FEET; THENCE NORTHWESTERLY, ALONG A LINE WHICH FORMS AN ANGLE OF 99 DEGREES 38 MINUTES 52 SECONDS WITH THE LAST DESCRIBED COURSE, MEASURED CLOCKWISE THEREFROM, 361.78 FEET TO SAID CENTERLINE OF CRIMMINS ROAD; THENCE SOUTHEASTERLY, ALONG SAID CENTERLINE, BEING A NON-TANGENTIAL CURVE TO THE LEFT WITH A RADIUS OF 2300.0 FEET, AN ARC DISTANCE OF 30.0 FEET TO THE POINT OF BEGINNING

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ALTA Commitment (06/17/2006)

COMMITMENT NO.

#### SCHEDULE A

(continued)

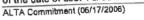
IN FOX TOWNSHIP, KENDALL COUNTY, ILLINOIS.

END OF SCHEDULE A

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ASSOCIATION



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Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

#### General Exceptions

- Rights or claims of parties in possession not shown by Public Records. 1.
- Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the Land. 2.
- Easements, or claims of easements, not shown by the Public Records. 3.
- Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, 4. imposed by law and not shown by the Public Records.
- Taxes or special assessments which are not shown as existing liens by the Public Records. 5.
- We should be furnished a properly executed ALTA statement and, unless the land insured is a condominium unit, a survey if available. Matters disclosed by the above documentation will be 6. shown specifically.
- Note for Information: The coverage afforded by this commitment and any policy issued pursuant hereto shall not commence prior to the date on which all charges properly billed by the company 7. have been fully paid.
- Notice: Please be aware that due to the conflict between federal and state laws concerning the cultivation, distribution, manufacture or sale of marijuana, the Company is not able to close or Α insure any transaction involving Land that is associated with these activities.
- Taxes for the years 2017. 8. В

Taxes for the years 2017 are not yet due or payable.

Permanent Tax No.: 04-29-300-007-0000 (1 of 12)

Due to the \$150 exclusion law, 35 ILCS 200/18-40, there is no amount due for the 2016 tax year.

(affects part of parcel 1)

(continued)

Taxes for the years 2017. 9. C

Taxes for the years 2017 are not yet due or payable.

Permanent Tax No.: 04-29-300-010-0000 (2 of 12)

Due to the \$150 exclusion law, 35 ILCS 200/18-40, there is no amount due for the 2016 tax year.

(affects part of parcel 1)

Taxes for the years 2017. 10. D

Taxes for the years 2017 are not yet due or payable.

Permanent Tax No.: 04-29-300-012-0000 (3 of 12)

Note: Taxes for the year 2016 amounting to \$2,033.16 are paid of record.

(affects part of parcel 1)

Taxes for the years 100. 11. Ε

Taxes for the years 2017 are not yet due or payable.

Permanent Tax No.: 04-30-400-007-0000 (4 of 12)

Note: Taxes for the year 2016 amounting to \$89.30 are paid of record.

(affects part of parcel 1)

Taxes for the years 2017. 12. F

Taxes for the years 2017 are not yet due or payable.

Permanent Tax No.: 04-30-400-011-0000 (5 of 12)

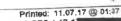
Due to the \$150 exclusion law, 35 ILCS 200/18-40, there is no amount due for the 2016 tax year.

(affects part of parcel 1)

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(continued)

Taxes for the years 2017. 13. G

Taxes for the years 2017 are not yet due or payable.

Permanent Tax No.: 04-32-100-006-0000 (6 of 12)

Due to the \$150 exclusion law, 35 ILCS 200/18-40, there is no amount due for the 2016 tax year.

(affects part of parcel 1)

Taxes for the years 2017. 14. Н

Taxes for the years 2017 are not yet due or payable.

Permanent Tax No.: 04-32-100-008-0000 (7 of 12)

Due to the \$150 exclusion law, 35 ILCS 200/18-40, there is no amount due for the 2016 tax year.

(affects part of parcel 1)

Taxes for the years 2017. 1 15.

Taxes for the years 2017 are not yet due or payable.

Permanent Tax No.: 04-30-400-012-0000 (8 of 12)

Due to the \$150 exclusion law, 35 ILCS 200/18-40, there is no amount due for the 2016 tax year.

(affects parts of parcels 2 and 3)

Taxes for the years 2017. 16. J

Taxes for the years 2017 are not yet due or payable.

Permanent Tax No.: 04-30-400-013-0000 (9 of 12)

Note: Taxes for the year 2016 amounting to \$5952.78 are paid of record.

(affects parts of parcels 2 and part of parcel 3)

(continued)

Taxes for the years 2017. 17. Κ

Taxes for the years 2017 are not yet due or payable.

Permanent Tax No.: 04-30-400-014-0000 (10 of 12)

Due to the \$150 exclusion law, 35 ILCS 200/18-40, there is no amount due for the 2016 tax year.

(affects part of parcel 2)

Taxes for the years 2017. 18. L

Taxes for the years 2017 are not yet due or payable.

Permanent Tax No.: 04-31-200-013-0000 (11 of 12)

Note: Taxes for the year 2016 amounting to \$18.20 are paid of record.

(affects part of parcel 3)

Taxes for the years 2017. 19. M

Taxes for the years 2017 are not yet due or payable.

Permanent Tax No.: 04-31-200-014-0000 (12 of 12)

Note: Taxes for the year 2016 amounting to \$6,973.78 are paid of record.

(affects part of parcel 2)

Mortgage dated December 20, 2011 and recorded January 12, 2012 as Document No. 201200000710 made by Castle Bank, a Division of First National Bank of Omaha as Trustee under Trust Agreement 20. Ν dated November 15, 2006 and known as Trust Number 2526 to First National Bank of Omaha to secure an indebtedness in the amount of \$900,000.00.

Modification of Mortgage recorded April 25, 2013 as Document No. 201300008721.

(affects parcels 1 and 2)

Assignment of Rents recorded January 12, 2012 as Document No. 201200000711 made by Castle Bank, a Division of First National Bank of Omaha as Trustee under Trust Agreement dated November 15, 2006 21. 0 and known as Trust Number 2526 to First National Bank of Omaha.

(affects parcels 1 and 2)

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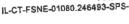
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ALTA Commitment (08/17/2006)

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ASSOCIATION



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(continued)

Mortgage dated December 20, 2011 and recorded January 12, 2012 as Document No. 201200000712 made by Castle Bank, a division of First National Bank of Omaha as Trustee under Trust Agreement 22. P dated November 15, 2006 and known as Trust Number 2526 to First National Bank of Omaha to secure an indebtedness in the amount of \$500,000.00.

(affects parcel 2)

Assignment of Rents recorded January 12, 2012 as Document No. 201200000713 made by Castle Bank, a division of First National Bank of Omaha as Trustee under Trust Agreement dated November 15, 2006 23. Q and known as Trust Number 2526 to First National Bank of Omaha.

(affects parcel 2)

If work has been performed on the Land within the last six months which may subject the Land to liens under the mechanics lien laws, the Company should be furnished satisfactory evidence that those who 24. AE have performed such work have been fully paid and have waived their rights to a lien. If evidence is not provided or is unsatisfactory, this commitment/policy will be subject to the following exception:

Any lien, or right to a lien, for services, labor or material, heretofore or hereafter furnished, imposed by law, and not shown by the Public Records.

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

Information should be furnished establishing whether any written agreement has been entered into by and between any party and a broker for the purposes of buying, selling, leasing or otherwise conveying any 25. AB interest in the Land described herein. If such an agreement has been entered into, satisfactory evidence should be furnished establishing that the compensation agreed upon in such agreement has been paid and the broker's lien, or right to a lien, for such amount has been extinguished. In the event said evidence is not furnished, our policy(ies), when issued, will be subject to the following exception:

Any lien, or right to a lien, imposed by law under the provisions of the Commercial Real Estate Broker Lien Act for compensation agreed upon by a broker and the broker's client or customer under the terms of a written agreement entered into for the purposes of buying, selling, leasing, or otherwise conveying any interest in the Land described in Schedule A.

The Company should be furnished a statement that there is no property manager employed to manage the Land, or, in the alternative, a final lien waiver from any such property manager. 26. AC

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(continued)

- The Company should be furnished the following: 27. AF
  - A Certification of Trust executed by the trustee in accordance with 760 ILCS 5/8.5, together with excerpts of the trust agreement and amendments thereto relating to the designation of trustees and the power of the trustee to act in the current transaction, or
  - In the alternative, the trustee, in his or her sole discretion, may deliver to the Company a full copy of the trust agreement together with all amendments thereto.

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

- Terms, powers, provisions, and limitations of the Trust under which title to the Land is held. 28. S
- The Land described in Schedule A either is unsubdivided property or constitutes part of a subdivided lot. As a result, a Plat Act Affidavit should accompany any conveyance to be recorded. In the alternative, 29. Т compliance should be had with the provisions of the Plat Act (765 ILCS 205/1 et seq.)
- Existing unrecorded leases and all rights thereunder of the lessees and of any person or party claiming by, 30. AD through or under the lessees.
- Rights of the public, the state of Illinois and the municipality in and to that part of the land, if any, taken or used for road purposes. Affects part of the land lying in Crimmin Road in survey dated Jan 5, 1998 by 31. U James M. Olson, surveyor no. 2253.
- Rights of way for drainage tiles, ditches, feeders, laterals and underground pipes, if any. 32.
- Rights of owners of land bordering on the streams in respect to the water and use of the surface of said 33. W body of water.
- Easement granted June 9, 1964 and recorded July 21, 1964 as document 145640 by Crimmins, et al to Illinois Power Company, its successors and assigns, the right and easement for public utilities purposes 34. Х as described therein, together with the right of ingress and egress thereto for said purposes. Said easement was assigned to Northern Illinois Gas Company, its successors and assigns, by instrument recorded March 3, 1966 as document 151253.
- Encroachment of the fence located mainly on the land onto the property North and adjoining by approximately 3.2 feet and along the West line measuring 255.45 feet by approximately 1.3 feet in section 35. Y 30, land onto the property Southwesterly and adjoining by approximately 16.4 feet and the property Southerly and adjoining by Approximtely 19.4 feet in section 31 and onto the property South and adjoining by approximate 8.5 feet and onto the property East and adjoining by approximate 7.5 feet in section 28; onto property North and adjoining by approximate 20.5 feet in section 29; as shown on plat of survey number 2253 prepared by Illinois Professional Land Surveyer dated January 5, 1998.

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COMMITMENT NO.

#### SCHEDULE B

(continued)

- Easement in favor of Nicor Gas, and its/their respective successors and assigns, to install, operate and maintain all equipment necessary for the purpose of serving the land and other property, together with the right of access to said equipment, and the provisions relating thereto contained in the grant recorded/filed Ż 36. as document no. 2000004172. (see instrument for affects)
- Terms and provisions of a Kendall County Health Department Well Variance recorded October 19, 2004 37. AA as Document No. 200400029156.

(For further particulars, see record.)

- All endorsement requests should be made prior to closing to allow ample time for the company to examine 38. AG required documentation. (This note will be waived for policy).
- Note for additional information: the "Kendall" county recorder requires that any documents presented for 39. recording contain the following information: AH
  - A. The name and address of the party who prepared the document;
  - B. The name and address of the party to whom the document should be mailed after recording;
  - C. All permanent real estate tax index numbers of any property legally described in the document;
  - The address of any property legally described in the document;
  - E. All deeds should contain the address of the grantee and should also note the name and address of the party to whom the tax bills should be sent.
  - F. Any deeds conveying unsubdivided land, or, portions of subdivided land, may need to be accompanied by a properly executed "plat act affidavit."
  - For residential property only: 40. ΑI

A provision for inflation coverage will be added to the owner's policy. This enhancement can automatically increase the amount of the owner's policy. For additional information, please contact your local underwriter.

#### END OF SCHEDULE B

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COMMITMENT NO.

#### SCHEDULE B

(continued)

#### Title Insurance Agent:

Daniel J. Kramer 1107A S. Bridge St. Yorkville, IL 60560 Phone: (630)553-9500 (630)553-5764 Fax:

**Authorized Signatory** 

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ALTA Commitment (08/17/2008)

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COMMITMENT NO.

#### CONDITIONS

- The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.
- If the proposed insured has or acquired actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability
- Liability of the Company under this Commitment shall be only to the named proposed insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and Conditions and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed insured which are hereby incorporated by reference and are made a part of this Commitment except as
- This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed insured may have or may bring against the Company arising out of the status of the title to the estate or Interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this
- The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be erbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. You may review a copy of the arbitration rules at http://www.alta.org.

## END OF CONDITIONS

## 1031 EXCHANGE SERVICES

If your transaction involves a tax deferred exchange, we offer this service through our 1031 division, IPX1031. As the nation's largest 1031 company, IPX1031 offers guidance and expertise. Security for Exchange funds includes segregated bank accounts and a 100 million dollar Fidelity Bond. Fidelity National Title Group also provides a 50 million dollar Performance Guaranty for each Exchange. For additional information, or to set-up an Exchange, please call Scott Nathanson at (312)223-2178 or Anna Barsky at (312)223-2169.

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# KENDALL COUNTY DISCLOSURE OF BENEFICIARIES FORM

	Applicant M	adison Trus	t Company	FBO Robe	t Bright M15070	085.			
	Address 401 Ea	ast 8th Stre	et Suite 200	Р					
	City Sioux Falls				State SD	Z	Zip 57	103	
	Nature of Benefit	Sought	Special U	se Permit					
	Corpora Land Tr Trust/Tr Partners	Person (a) tion (b) ust/Trustee ustee (d)							
	applicant:	entity other		bed in Sect	ion 3, briefly sta	ate the	nature	and characteristics o	f the
	person or entity v	who is a 5% ure in the ca	shareholder ase of a joint control such	r in case of t venture, c	a corporation, a	bene	ficiary in proprieta	me and address each in the case of a trust of any interest, interest in INTEREST	or lar
	Robert Bright		AUI	JKE-55		_		100%	_
	Name, address, a	nd capacity	of person ir	naking this	disclosure on be	chalfo	of the ap	plicant.	
	Shaine Timmins, 46	) East 8th Str	eet. Suite 200P.	Sioux Falls, S	D 57103, Authorized	d Mgne	r for Mad	ison Trust Company	
king abov	naine Timmins this disclosure on we and foregoing D ce and fact.	behalf of th	e applicant, l' Beneficiari	that I am c	being first duly uly authorized to	o mak	e the di	oath that I am the pe sclosure, that I have rein are true in both	
oscril	bed and sworn to b	efore me th	is 19th	day of M	arch			A.D. 2019	
al)					_ <		Notary P	ublic	
					NOTA	RY PL	JBLIC-S No. 01Si	VA SLATER TATE OF NEW YOR L6348808	K

My Commission Expires 10-03-2020



## **CORPORATE RESOLUTION**

This resolution remains in effect until you receive notice that it has been revoked or receive a new form.

- Organization Information
  - a. Name of Organization: Madison Trust Company, Inc.
  - b. Organization Type: Trust Company serving as IRA Custodian
  - c. Corporate Headquarters: 401 E. 8<sup>th</sup> Street, Suite 200P, Sioux Falls, SD 57103
  - d. Telephone Number: 800-721-4900
- This resolution is an authorization to act on behalf of Madison Trust Company's accounts.
- III. Authorized Signatories:

The Individuals who sign below are authorized to:

- a. Sign any documents related to assets held by Madison Trust Company's accounts.
- b. Invest and redeem the assets held by Madison Trust Company's accounts.
- c. Obtain account information and give instructions for the purchase, sale, exchange, transfer or assets or securities held by Madison Trust Company's accounts.
- d. Establish access to Madison Trust Company's accounts online or through any other electronic or telephonic system.
- e. Engage in any other action regarding the assets held by Madison Trust Company's accounts.

Name of authorized signatories:

E. Brian Finkelstein, Chairman

Mervyn Klein, CEO

Dated: 02/20/2018

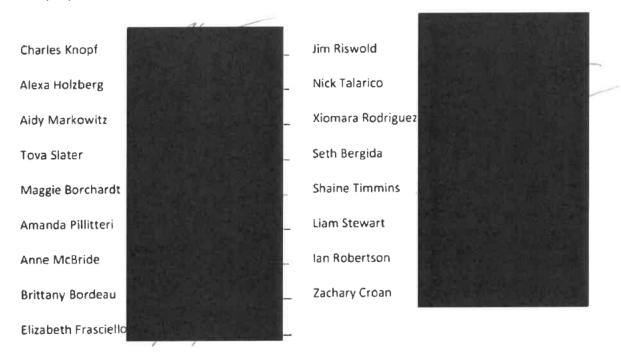
Dated: 02/20/2018

Dated: 02/20/2018



#### Additional Persons who can conduct transactions:

The individuals listed below are authorized to sign Transfer Authorizations, Re-registration Confirmations, Assignment of Notes, and any documents related to assets on behalf of Madison Trust Company's accounts.



The individuals listed below are authorized to sign IRA LLC Operating Agreements on behalf of Madison Trust Company's accounts. Joel Galkin Charles Knopf Mark Weissman Alexa Holzberg Kathleen Christman Aidy Markowitz Laurah Boswell Tova Slater Anne McBride Maggie Borchardt Liam Stewart Amanda Pillitteri Brittany Bordeau Shaine Timmins Zachary Croan Ian Robertson Elizabeth Frasciello

Corporate Headquarters, Madison Trust Company Inc., 401 East B" Street, Suite 200P, Stoux Falls, South Davota 57103 800-721-4900 www.MadisonTrust.com



#### Certification and Indemnification:

The undersigned signatories of Madison Trust Company hereby certify that:

- Each of the authorized signatories listed below is authorized by resolution of the board of directors to act on behalf of the organization in connection with any of the Madison Trust Company accounts.
- Madison Trust Company agrees to indemnify and hold harmless any investment company, its officers, employees and agents from and against all losses, claims and expenses (including attorney's fees) incurred by the investment company for relying in good faith upon the information provided in this resolution and for action on instructions believed by the investment company to have originated from any authorized signatory or additional authorized person listed above.
- This resolution remains in full force and effect until revoked by an authorized signatory of Madison Trust Company. Any revocation will not affect any liability resulting from transactions initiated before the investment company has had a reasonable amount of time to act upon the revocation.

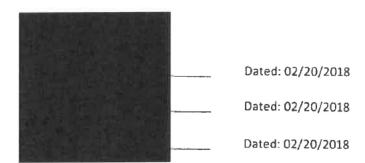
The undersigned are authorized to certify this information on behalf of Madison Trust Company and confirm that these provisions conform to the charter or other organizing document of Madison Trust Company.

#### Authorized Signatories:

E. Brian Finkelstein, Chairman

Mervyn Klein, CEO

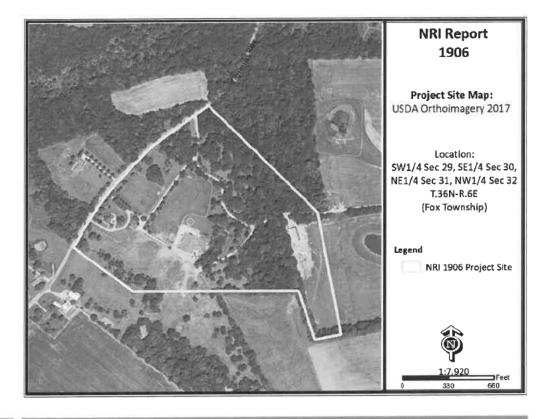
Daniel Gleich, President



# KENDALL COUNTY DISCLOSURE OF BENEFICIARIES FORM

1.	Applicant Bright & Entheising Events			
	Address 10978 Crimmin Rd			
	City Newark, IL 60541	State IL	Zip <u>60541</u>	
2.	Nature of Benefit Sought Special Use Pe	ermit		
3.	Nature of Applicant: (Please check one)  Natural Person (a)  Corporation (b)  Land Trust/Trustee(c)  Trust/Trustee (d)  Partnership (e)  Joint Venture (f)			
4.	If applicant is an entity other than describe applicant:	d in Section 3, briefly sta	te the nature and characteristics	of the
	Event Venue			
5.:	If your answer to Section 3 you have check person or entity who is a 5% shareholder in trust, a joint venture in the case of	n case of a corporation, a renture, or who otherwise ntity:	beneficiary in the case of a trust	or land
	JoAnn Bright-Theis		25%	
	Adan Theis		25%	
	Nicola Bright		25%	
	Robert Bright		25%	
6.	Name, address, and capacity of person mail  JoAnn Bright-Theis 10978 Crimi	king this disclosure on be mins Rd Newark, IL 60		
the abo	V	ERIFICATION, being first duly nat I am duly authorized t	sworn under oath that I am the po	e red
Subscr	ribed and sworn to before me this de	ay of	, A.D	
(seal)			Notary Public	

# NATURAL RESOURCE INFORMATION (NRI) EXECUTIVE SUMMARY REPORT: 1906



April 2019

Petitioner: Robert Bright Contact: JoAnn Bright-Theis

Prepared by:



Kendall County Soil & Water Conservation District

7775A Route 47 • Yorkville, Illinois 60560 Phone: (630)553-5821 x3 • Fax: (630)553-7442

www.kendallswcd.org

1906 Executive Summary April 8, 2019

Petitioner: Robert Bright

Contact Person: JoAnn Bright-Theis

County or Municipality the petition is filled with: Kendall County

Location of Parcel: SW¼ Section 29, SE ¼ Section 30, NE ¼ Section 31 & NW ¼ Section 32 T.36N.-R.6E. (Fox

Township), 3<sup>rd</sup> Principal Meridian in Kendall Co., IL <u>Project or Subdivision Name:</u> Not Provided

Existing Zoning & Land Use: A-1; Residential, Barn with Paddock areas, Wooded

Proposed Zoning & Land Use: A-1 Special Use; Banquet Center

Proposed Water Source: Well

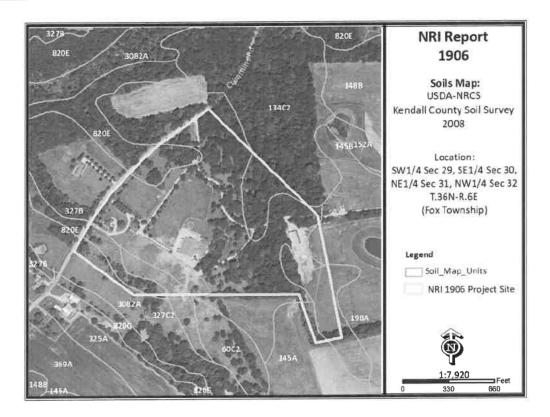
<u>Proposed Type of Sewage Disposal System:</u> Septic <u>Proposed Type of Storm Water Management:</u> N/A

Size of Site: 38.3acres

Land Evaluation Site Assessment Score: 181 (Land Evaluation: 78; Site Assessment: 103)

#### **Natural Resource Considerations**

#### Soil Map:



#### **SOIL INFORMATION:**

Based on information from the United States Department of Agriculture-Natural Resources Conservation Service (USDA-NRCS) 2008 Kendall County Soil Survey, this parcel is shown to contain the following soil types (please note this does not replace the need for or results of onsite soil testing; please refer to onsite soil test results for planning/engineering purposes):

Table 1:

Map Unit	Soil Name	Drainage Class	Hydrologic Group	Hydric Designation	Farmland Designation
134C2	Camden silt loam, 5- 10% slopes, eroded	Well drained	В	Non-hydric	Statewide Importance
145A	Saybrook silt loam, 0- 2% slopes	Moderately well drained	С	Non-hydric	Prime Farmland
145B	Saybrook silt loam, 2- 5% slopes	Moderately well drained	С	Non-hydric	Prime Farmland
198A	Elburn silt loam, 0-2% slopes	Somewhat poorly drained	B/D	Non-hydric Hydric Inclusions likely	Prime Farmland
327B	Fox silt loam, 2-4% slopes	Well drained	В	Non-hydric	Prime Farmland
327C2	Fox silt loam, 4-6% slopes, eroded	Well drained	В	Non-hydric	Prime Farmland
820E	Hennepin-Casco complex, 12-30% slopes	Hennepin: Well drained Casco: Somewhat Excessively drained	Hennepin: C Casco: B	Non-hydric	Non-prime
3082A	Millington silt loam, 0- 2% slopes, frequently flooded	Poorly drained	B/D	Hydric	Prime Farmland (if drained and protected from flooding or not frequently flooded during growing season

<u>Hydrologic Soil Groups</u>: Soils have been classified into four (A, B, C, D) hydrologic groups based on runoff characteristics due to rainfall. If a soil is assigned to a dual hydrologic group (A/D, B/D or C/D), the first letter is for drained areas and the second letter is for undrained areas.

- Hydrologic group A: Soils have a high infiltration rate (low runoff potential) when thoroughly wet. These consist mainly of deep, well drained to excessively drained sands or gravelly sands. These soils have a high rate of water transmission.
- ✓ Hydrologic group B: Soils have a moderate infiltration rate when thoroughly wet, consist chiefly of moderately deep to deep, moderately well drained to well drained soils that have a moderately fine to moderately coarse texture. These soils have a moderate rate of water transmission.
- ✓ Hydrologic group C: Soils having a slow infiltration rate when thoroughly wet. These consist chiefly of soils having a layer that impedes the downward movement of water or soils of moderately fine texture or fine texture. These soils have a slow rate of water transmission.
- ✓ Hydrologic group D: Soils having a very slow infiltration rate (high runoff potential) when thoroughly wet. These consist chiefly of clays that have a high shrink-swell potential, soils that have a high water table, have a claypan or clay layer at or near the surface, and soils that are shallow over nearly impervious material. These soils have a very slow rate of water transmission.

<u>Hydric Soils</u>: A soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile. Of the soils found onsite, 3082A Millington silt loam is identified as a hydric soil and, 198A Elburn silt loam is denoted as having the potential for hydric inclusions.

<u>Prime Farmland</u>: Prime farmland is land that has the best combination of physical and chemical characteristics for agricultural production. Prime farmland soils are an important resource to Kendall County and some of the most productive soils in the United States occur locally. Of the soils found onsite, six are designated as prime farmland one is classified as being of statewide importance.

Table 2:

Map Unit	Surface Runoff	Water Table	Ponding	Flooding
134C2	Medium	January - Dec Upper Limit: Lower Limit:	January - Dec Surface Water Depth & Duration: Frequency: None	January - Dec None
145A	Low	February - April Upper Limit: 2.0'-3.5' Lower Limit: 2.2'-3.8'	January - Dec Surface Water Depth & Duration: — Frequency: None	January – Dec None
145B	Low	January - Dec Upper Limit: Lower Limit:	January - Dec Surface Water Depth & Duration: Frequency: None	January - Dec None
198A	Low	January - May Upper Limit: 1.0'-2.0' Lower Limit: >6.0'	January - Dec Surface Water Depth & Duration: — Frequency: None	January – Dec None
327B	Low	January - Dec Upper Limit: Lower Limit:	January - Dec Surface Water Depth & Duration: Frequency: None	January - Dec None
327C2	Medium	January - Dec Upper Limit: Lower Limit:	January - Dec Surface Water Depth & Duration: Frequency: None	January - Dec None
820E	Hennepin: Very High Casco: High	January - Dec Upper Limit: Lower Limit:	January - Dec Surface Water Depth & Duration: Frequency: None	January - Dec None
3082A	Negligible	January - May Upper Limit: 0.0'-1.0' Lower Limit: >6.0' June, Nov, Dec: Upper Limit: Lower Limit:	January - May Surface Water Depth & Duration: 0.0'-0.5'; Brief Frequency: Frequent June, Nov, Dec: Surface Water Depth & Duration: - Frequency: None	January - May Brief, Frequent June, Nov, Dec Brief, Frequent

<u>Surface Runoff</u>: Refers to the loss of water from an area by flow over the land surface. Surface runoff classes are based upon slope, climate and vegetative cover. Indicates relative runoff for very specific conditions (it is assumed that the surface of the soil is bare and that the retention of surface water resulting from irregularities in the ground surface is minimal).

<u>Ponding</u>: Ponding is standing water in a closed depression. Unless a drainage system is installed, the water is removed only by percolation, transpiration or evaporation. Duration is expressed as very brief (less than 2 days), brief (2 to 7 days), long (7 to 30 days), very long (more than 30 days). Frequency is expressed as none (ponding is not probable), rare (unlikely but possible under unusual weather conditions), occasional (occurs, on average, once or less in 2 years) and frequent (occurs, on average, more than once in 2 years).

<u>Flooding</u>: Temporary inundation of an area caused by overflowing streams, by runoff from adjacent slopes, or by tides. Water standing for short periods after rainfall or snowmelt is not considered flooding, and water standing in swamps and marshes is considered ponding rather than flooding. Duration expressed as brief is 2 to 7 days and a frequent frequency means that it is likely to occur often under normal weather conditions.

#### **SOIL LIMITATIONS:**

According to the USDA-NRCS, soil properties influence the development of building sites, including the selection of the site, the design of the structure, construction, performance after construction and maintenance. This report gives ratings for proposed uses in terms of limitations and restrictive features. The tables list only the most restrictive features. Ratings are based on the soil in an undisturbed state, that is, no unusual modification occurs other than that which is considered normal practice for the rated use. Even though soils may have limitations, an engineer may alter soil features or adjust building plans for a structure to compensate for most degrees of limitations. The final decision in selecting a site for a particular use generally involves weighing the costs for site preparation and maintenance.

- Not Limited: Indicates that the soil has features that are very favorable for the specified use; good performance and low maintenance can be expected.
- ✓ <u>Somewhat Limited</u>: Indicates that the soil has features that are moderately favorable for the specified use. The limitations can be overcome or minimized by special planning, design or installation; fair performance and moderate maintenance can be expected.
- ✓ <u>Very Limited</u>: Indicates that the soil has one or more features that are unfavorable for the specified use. The limitations generally cannot be overcome without major soil reclamation, special design, or expensive installation procedures; poor performance and high maintenance can be expected.

#### Conventional Septic System Rating Criteria:

The factors considered are the characteristics and qualities of the soil that affect the limitations for absorbing waste from domestic sewage disposal systems. Soils that are deemed unsuitable for installation of an on-site sewage disposal system per the Kendall County Subdivision Control Ordinance may necessitate the installation of a non-conventional onsite sewage disposal system. For more information please contact: Kendall County Health Department located at 811 W. John Street, Yorkville, IL; (630)553-9100 ext. 8026.

Limitations are listed below for dwellings with basements, dwellings without basements, small commercial building, shallow excavations, lawns/landscaping and onsite conventional sewage disposal systems. Please note this information is based on soils in an undisturbed state as compiled for the USDA-NRCS 2008 Soil Survey of Kendall County, IL and the Kendall County Subdivision Control Ordinance; this does not replace the need for site specific soil testing or results of onsite soil testing.

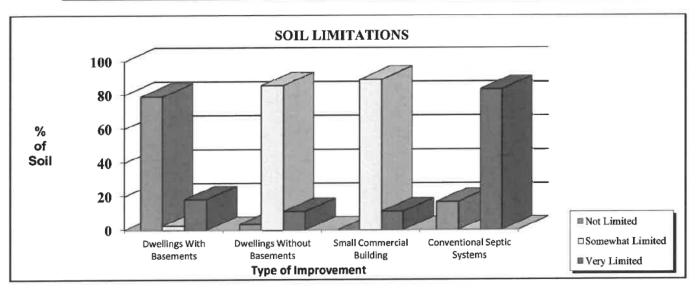
**Table 3a: Building Limitations** 

Soil Type	Dwellings without Basements	Dwellings with Basements	Small Commercial Building	Onsite Conventional Sewage Disposal System
134C2	Somewhat Limited: Shrink-swell	Not Limited	Somewhat Limited: Slope, Shrink-swell	Suitable
145A	Somewhat Limited: Shrink-swell	Somewhat Limited: Depth to saturated zone	Somewhat Limited: Shrink-swell	Suitable
145B	Somewhat Limited: Shrink-swell	Somewhat Limited: Depth to saturated zone	Somewhat Limited: Shrink-swell	Suitable
198A	Somewhat Limited: Depth to saturated zone; Shrink-swell	Very Limited: Depth to saturated zone; Shrink-swell	Somewhat Limited: Depth to saturated zone; Shrink-swell	Suitable
327B	Somewhat Limited: Shrink-swell	Not Limited	Somewhat Limited: Shrink-swell	Unsuitable: Gravel
327C2	Not Limited	Not Limited	Somewhat Limited: Slope	Unsuitable: Gravel
820E	Very Limited: Slope	Very Limited: Slope	Very Limited: Slope	Unsuitable: Gravel
3082A	Very Limited: Ponding; Flooding; Depth to saturated zone	Very Limited: Ponding; Flooding; Depth to saturated zone; Shrink-swell	Very Limited: Ponding; Flooding; Depth to saturated zone	Unsuitable: Frequently Flooded

**Table 3b: Building Limitations** 

Soil Type	Shallow Excavations	Lawns & Landscaping
134C2	Somewhat Limited:	Somewhat Limited:
	Dusty, Unstable excavation walls	Dusty
145A	Somewhat Limited:	Somewhat Limited:
	Depth to saturated zone; Dusty; Unstable	Dusty
	excavation walls	
145B	Somewhat Limited:	Somewhat Limited:
	Depth to saturated zone; Dusty, Unstable	Dusty
	excavation walls	
198A	Somewhat Limited:	Somewhat Limited:
	Depth to saturated zone; Dusty; Unstable excavation walls	Depth to saturated zone; Dusty
327B	Somewhat Limited:	Somewhat Limited:

	Dusty; Unstable excavation walls	Dusty
327C2	Somewhat Limited:	Somewhat Limited:
	Dusty; Unstable excavation walls	Dusty
820E	Hennepin:	Hennepin:
	Very Limited:	Very Limited:
	Slope; Dusty; Unstable excavation walls	Slope; Low exchange capacity; Dusty
	Casco:	Casco:
	Very Limited:	Very Limited:
	Slope; Unstable excavation walls; Dusty	Slope; Dusty; Droughty
3082A	Very Limited:	Very Limited:
	Ponding; Depth to saturated zone; Flooding; Dusty;	Ponding; Flooding; Depth to saturated zone;
	Unstable excavation walls	Dusty



#### **Building Limitations Maps:**

Figure 2a: Dwellings With Basements

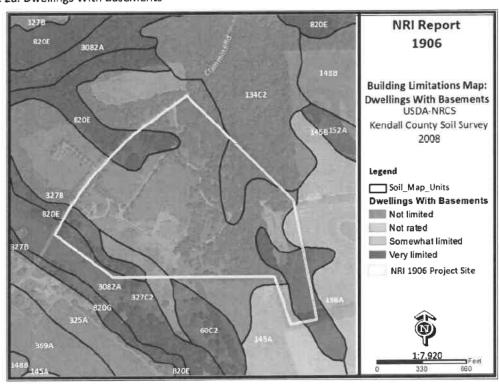


Figure 2b: Dwellings Without Basements

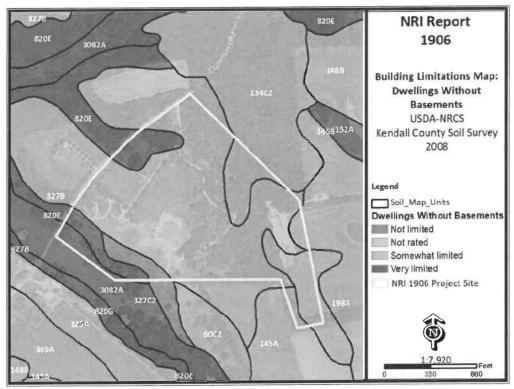


Figure 2c: Small Commercial Building

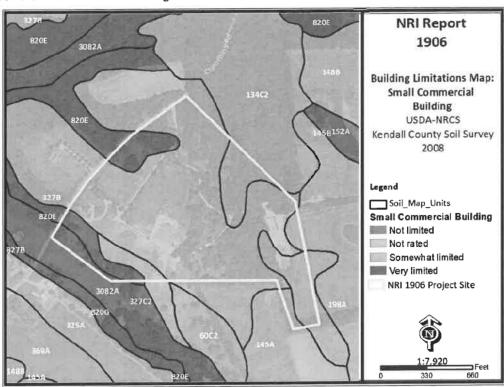


Figure 2d: Shallow Excavations

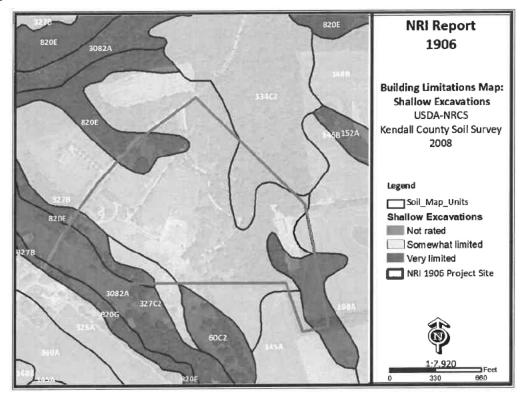
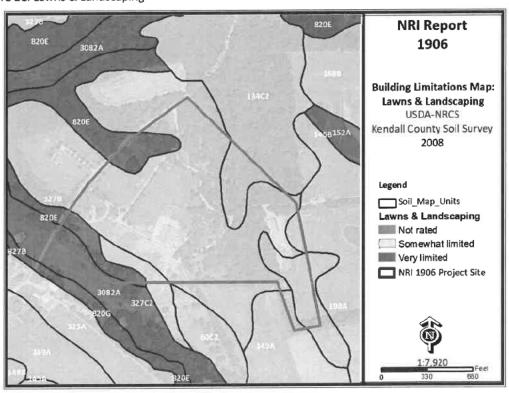


Figure 2e: Lawns & Landscaping



#### Kendall County Land Evaluation and Site Assessment (LESA):

Decision-makers in Kendall County use the Land Evaluation and Site Assessment (LESA) system to determine the suitability of a land use change and/or a zoning request as it relates to agricultural land. The LESA system was developed by the United States Department of Agriculture-Natural Resources Conservation Service (USDA-NRCS) and takes into consideration local conditions such as physical characteristics of the land, compatibility of surrounding land-uses, and urban growth factors. The LESA system is a two-step procedure that includes:

- ➤ LAND EVALUATION (LE) The soils of a given area are rated and placed in groups ranging from the best to worst suited for a stated agriculture use, cropland or forestland. The best group is assigned a value of 100 and all other groups are assigned lower values. The Land Evaluation is based on data from the Kendall County Soil Survey. The Kendall County Soil and Water Conservation District is responsible for this portion of the LESA system.
- > SITE ASSESSMENT (SA) The site is numerically evaluated according to important factors that contribute to the quality of the site. Each factor selected is assigned values in accordance with the local needs and objectives. The Kendall County LESA Committee is responsible for this portion of the LESA system.

Table 4a: Land	Evaluation	Computation
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Soil Type	Value Group	Relative Value	Acres	Product (Relative Value x Acres)
134C2	5	82	2.6	213.2
145A	2	94	0.4	37.6
145B	2	94	0.6	56.4
198A	1	100	2.8	280.0
327B	4	79	26.4	2085.6
327C2	4	79	1.3	102.7
820E	7	47	3.7	173.9
3082A	4	79	0.5	39.5
Totals			38.3	2988.9
LE Score		LE= 2988.9/38.3		LE = 78

The Land Evaluation score for this site is **78**, indicating that this site is not predominately prime farmland well suited for agricultural production.

Table 4b: Site Assessment Computation

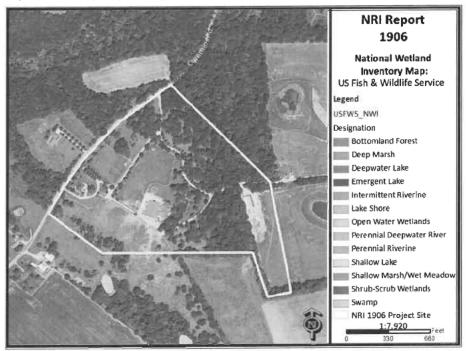
A.	Agricultural Land Uses	Points		
	1. Percentage of area in agricultural uses within 1.5 miles of site. (20-10-5-0)	20		
	2. Current use adjacent to site. (30-20-15-10-0)	20		
	3. Percentage of site in agricultural production in any of the last 5 years. (20-15-10-5-0)	0		
	4. Size of site. (30-15-10-0)	10		
В.	Compatibility / Impact on Uses			
	1. Distance from city or village limits. (20-10-0)	10		
	2. Consistency of proposed use with County Land Resource Management Concept Plan and/or	10		
	municipal comprehensive land use plan. (20-10-0)			
	3. Compatibility of agricultural and non-agricultural uses. (15-7-0)	0		
C.	Existence of Infrastructure			
	1. Availability of public sewage system. (10-8-6-0)	10		
	2. Availability of public water system. (10-8-6-0)	10		
	3. Transportation systems. (15-7-0)	7		
	4. Distance from fire protection service. (10-8-6-2-0)	6		
	Site Assessment Score:	103		

Land Evaluation Value: 78 + Site Assessment Value: 103 = LESA Score: 181

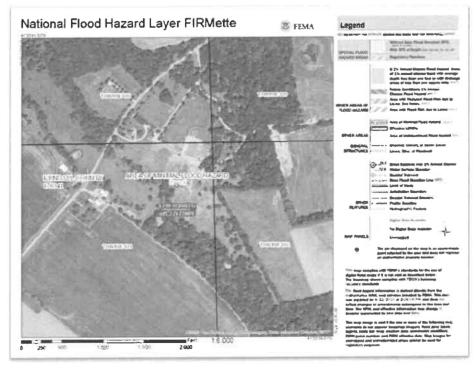
LESA SCORE	LEVEL OF PROTECTION
0-200	Low
201-225	Medium
226-250	High
251-300	Very High

The LESA Score for this site is 181 which indicates a low level of protection for the proposed project site. Note: Selecting the project site with the lowest total points will generally protect the best farmland located in the most viable areas and maintain and promote the agricultural industry in Kendall County.

Wetlands: The U.S. Fish & Wildlife Service's National Wetland Inventory map does and indicate the potential presence of a wetland on the project site. If a wetland is present and will be impacted by the project, a wetland delineation specialist, who is recognized by the U.S. Army Corps of Engineers, should determine the exact boundaries and value of the wetlands.



Floodplain: The parcel is not located within the floodplain.



Sediment and Erosion Control: Development on this site should include an erosion and sediment control plan in accordance with local, state and federal regulations. Soil erosion on construction sites is a resource concern because suspended sediment from areas undergoing development is a primary nonpoint source of water pollution. Please consult the Illinois Urban Manual (http://www.aiswcd.org/illinois-urban-manual/) for appropriate best management practices.

#### LAND USE OPINION:

The Kendall County Soil and Water Conservation District (SWCD) Board has reviewed the proposed development plans for Petitioner Robert Bright at the request of their contact JoAnn Bright-Theis for the proposed A-1 Special Use petition project. This parcel is located in portions of Sections 29, 30, 31 & 32 in Fox Township (T.36N.-R.6E. of the 3<sup>rd</sup> Principal Meridian) in Kendall County. Based on the information provided by the petitioner and a review of natural resource related data available to the Kendall County SWCD, the SWCD Board has the following opinions and recommendations.

The Kendall County SWCD has always had the opinion that Prime Farmland should be preserved whenever feasible. A land evaluation, which is a part of the Land Evaluation and Site Assessment (LESA) was conducted on this parcel. The soils on this parcel scored an 78 out of a possible 100 points indicating the soils found on the project site are not predominately prime farmland well suited for agricultural production. The overall LESA Score for this site is 181 which indicates a low level of protection for the proposed project site. Prime farmland is land that has the best combination of physical and chemical characteristics for agricultural production and is an important resource to Kendall County; of the eight soil types identified onsite, six are designated as prime farmland, one is designated as farmland of statewide importance and one is not indicated as either. A hydric soil is one that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile; one soil type found onsite, 3082A Millington silt loam is designated as a hydric soil and one soil type, 198A Elburn silt loam has the potential to have hydric inclusions.

For proposed land uses, soils can have potential limitations. This report indicates, if the following uses were to be included as part of future site development or expansion, that for soils located on the parcel, 83.3% are unsuitable for onsite conventional septic systems80.1% of the soils are very limited for shallow excavations, 78.8% are very limited for onsite conventional septic systems, 18.3% are very limited for dwellings with basements and shallow excavations, and 11% are very limited for dwellings without basements, small commercial building and lawns/landscaping. This information is based on the soil in an undisturbed state and does not replace the need for site specific soil testing. Some soil reclamation, special design, or maintenance may be required to obtain suitable soil conditions to support development with significant limitations. Additionally, since the scope of the project includes the use of onsite septic systems, please consult with the Kendall County Health Department.

This site is located within the Fox River Watershed and Clear Creek subwatershed.

This development should include a soil erosion sediment control plan to be implemented during construction. Sediment may become a primary non-point source of pollution. Eroded soils during the construction phase can create unsafe conditions on roadways, degrade water quality and destroy aquatic ecosystems lower in the watershed.

For intense project uses it may be necessary to have a drainage tile survey completed on the parcel to locate any subsurface drainage tile if suspected onsite. Drainage tile expedites drainage and facilitates farming. It is imperative that these drainage tiles remain undisturbed. Impaired tile may affect a few acres or hundreds of acres of drainage.

The information that is included in this Natural Resources Information Report is to assure the Land Developers take into full consideration the limitations of that land that they wish to develop. Guidelines and recommendations are also a part of this report and should be considered in the planning process. The Natural Resource Information Report is required by the Illinois Soil and Water Conservation District Act (III. Complied Statues, Ch. 70, Par 405/22.02a).





Applicant:

Robert Bright

IDNR Project Number: 2114879

Contact:

JoAnn Bright-Theis

Date:

06/16/2021

Address:

10978 Crimmin Rd

Newark , IL 60541

Project:

Major Amendment to Existing Special Use Permit

Address: 10978 Crimmins Rd., Newark

Description: Applicant is seeking an expansion of the allowed number of events and operating days

#### Natural Resource Review Results

#### Consultation for Endangered Species Protection and Natural Areas Preservation (Part 1075)

The Illinois Natural Heritage Database shows the following protected resources may be in the vicinity of the project location:

Millington Fen INAI Site

Millington Railroad Fen Natural Heritage Landmark

Tucker-Millington Fen Nature Preserve

River Redhorse (Moxostoma carinatum)

An IDNR staff member will evaluate this information and contact you to request additional information or to terminate consultation if adverse effects are unlikely.

#### Location

The applicant is responsible for the accuracy of the location submitted for the project,

County: Kendall

Township, Range, Section:

36N, 6E, 30 36N, 6E, 31 36N, 6E, 32

IL Department of Natural Resources Contact

Adam Rawe 217-785-5500

Division of Ecosystems & Environment



Government Jurisdiction

Kendall County Board Matt Asselmeier 111 W. Fox St.

Yorkville IL, Illinois 60560

#### Disclaimer

The Illinois Natural Heritage Database cannot provide a conclusive statement on the presence, absence, or condition of natural resources in Illinois. This review reflects the information existing in the Database at the time of this inquiry, and should not be regarded as a final statement on the site being considered, nor should it be a substitute for detailed site surveys or field surveys required for environmental assessments. If additional protected resources are encountered during the project's implementation, compliance with applicable statutes and regulations is required.

IDNR Project Number: 2114879

#### Terms of Use

By using this website, you acknowledge that you have read and agree to these terms. These terms may be revised by IDNR as necessary. If you continue to use the EcoCAT application after we post changes to these terms, it will mean that you accept such changes. If at any time you do not accept the Terms of Use, you may not continue to use the website.

- 1. The IDNR EcoCAT website was developed so that units of local government, state agencies and the public could request information or begin natural resource consultations on-line for the Illinois Endangered Species Protection Act, Illinois Natural Areas Preservation Act, and Illinois Interagency Wetland Policy Act. EcoCAT uses databases, Geographic Information System mapping, and a set of programmed decision rules to determine if proposed actions are in the vicinity of protected natural resources. By indicating your agreement to the Terms of Use for this application, you warrant that you will not use this web site for any other purpose.
- 2. Unauthorized attempts to upload, download, or change information on this website are strictly prohibited and may be punishable under the Computer Fraud and Abuse Act of 1986 and/or the National Information Infrastructure Protection Act.
- 3. IDNR reserves the right to enhance, modify, alter, or suspend the website at any time without notice, or to terminate or restrict access.

#### Security

EcoCAT operates on a state of Illinois computer system. We may use software to monitor traffic and to identify unauthorized attempts to upload, download, or change information, to cause harm or otherwise to damage this site. Unauthorized attempts to upload, download, or change information on this server is strictly prohibited by law.

Unauthorized use, tampering with or modification of this system, including supporting hardware or software, may subject the violator to criminal and civil penalties. In the event of unauthorized intrusion, all relevant information regarding possible violation of law may be provided to law enforcement officials.

#### Privacy

EcoCAT generates a public record subject to disclosure under the Freedom of Information Act. Otherwise, IDNR uses the information submitted to EcoCAT solely for internal tracking purposes.





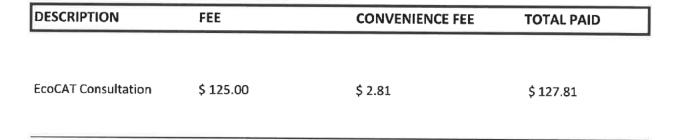
# **EcoCAT Receipt**

Project Code 2114879

APPLICANT	DATE

Robert Bright JoAnn Bright-Theis

6/16/2021



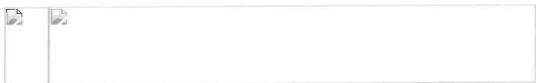
TOTAL PAID

\$127.81

Illinois Department of Natural Resources One Natural Resources Way Springfield, IL 62702 217-785-5500 dnr.ecocat@illinois.gov Please fill out the following findings of fact to the best of your capabilities. §13:08.J of the Zoning Ordinance outlines findings that the Zoning Board of Appeals shall consider in rendering a decision, but is not required to make an affirmative finding on all items in order to grant a **special use**. They are as follows:

That the establishment, maintenance, and operation of the special use will not be detrimental to, or endanger, the public health, safety, morals, comfort, or general welfare. the amendment to the special use will not be detrimental to or endanger the public health,
safety, morals, comfort, or general welfare
That the special use will not be substantially injurious to the use and enjoyment of other properties in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole.
The amendment to the special use will not be substantially injurious to the use of other properties in the
immediate vicinity. All provisions provided in the original special use ordinance shall continue in full force
and effect to ensure that the use does not adversely impact adjacent uses and is compatible with the
sorrounding area
That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided.  All necessary utilties, roads, drainage, and necessary facilities have previously been provided
That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals The amendment to the special use conforms to the applicable regulations for an Agricultural District
That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. The amendment to the special use is consistent with the purpose and objectives of the Land Resource Management Plan

Attachment 1, Pg 43



#### **Search EcoCAT Consultations**

**Clear Selections** 

Search by County-TRS

Search by City

Project Number	Project Name	Date Received	Applicant	Jurisdiction	File Status	Results	Measures Adopted	City *	County	TRS **
2114879	Major Amendment to Existing Special Use Permit	6/16/2021	Robert Bright	Kendall County Board	Closed	Consultation Termination Terminated Closed		Newark	Kendall	36N6E30 36N6E31 36N6E32

<sup>\*</sup> Information in the city field was entered by applicants and has not been proofed or validated by IDNR. The existence of mis-spelled city names may reduce the number of projects found when you search by city.

<sup>\*\*</sup> Sorting by this field may list repeats for projects that fall into more than one TRS.

State of Illinois County of Kendall Zoning Petition #19-12

## ORDINANCE NUMBER 2019-23

GRANTING A SPECIAL USE PERMIT ON PROPERTY ZONED A-1 AGRICULTURAL FOR A BANQUET FACILITY ON A 38.34 ACRE +/- PARCEL LOCATED AT 10978 CRIMMIN ROAD ON THE PROPERTY IDENTIFIED BY PARCEL IDENTIFICATION NUMBERS 04-29-300-010, 04-29-300-012, 04-30-400-007, 04-30-400-012, 04-30-400-013, 04-30-400-018, 04-30-400-019, 04-31-200-013, 04-32-100-006, AND 04-32-100-008 IN FOX TOWNSHIP

<u>WHEREAS</u>. Section 13.08 of the Kendall County Zoning Ordinance permits the Kendall County Board to issue special use permits and place conditions on special use permits and provides the procedure through which special use permits are granted; and

<u>WHEREAS</u>, Section 7.01.D.10 of the Kendall County Zoning Ordinance permits the operation of banquet facilities as a special use with certain restrictions in the A-1 Agricultural Zoning District; and

<u>WHEREAS</u>, the property which is the subject of this Ordinance has been, at all relevant times, and remains currently located within the A-1 Agricultural Zoning District and consists of approximately 38.34 acres located at 10978 Crimmin Road (PINs: 04-29-300-010, 04-29-300-012, 04-30-400-007, 04-30-400-012, 04-30-400-013, 04-30-400-018, 04-30-400-019, 04-31-200-013, 04-32-100-006, and 04-32-100-008) in Fox Township. The legal description for the subject property is set forth in Exhibit A attached hereto and incorporated by reference, and this property shall hereinafter be referred to as "the subject property."; and

<u>WHEREAS</u>, the subject property is currently owned by Madison Trust and Castle Bank N A as represented by Robert Bright and JoAnn Bright-Theis has permission to operate a banquet facility on the subject property and shall hereinafter be referred to as "Petitioner"; and

<u>WHEREAS</u>, on or about March 19, 2019, Petitioner filed a petition for a special use permit allowing the operation of a banquet facility at the subject property; and

<u>WHEREAS</u>, following due and proper notice by publication in the Kendall County Record on June 6, 2019, the Kendall County Zoning Board of Appeals conducted a public hearing on July 1, 2019, at 7:00 p.m., in the County Office Building at 111 W. Fox Street in Yorkville, at which the Petitioner and their representative presented evidence, testimony, and exhibits in support of the requested special use permit and zero members of the public testified in favor, one member of the public testified in opposition, and two members of the public expressed concerns regarding the petition; and

<u>WHEREAS</u>, based on the evidence, testimony, and exhibits, the Kendall County Zoning Board of Appeals has made their Findings of Fact and recommended approval of the special use permit with conditions as set forth in the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, dated July 1, 2019, a true and correct copy of which is attached hereto as Exhibit B; and

<u>WHEREAS</u>, the Kendall County Planning, Building and Zoning Committee of the Kendall County Board has reviewed the testimony presented at the aforementioned public hearing and has considered the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, and has forwarded to the Kendall County Board a recommendation of approval of the requested special use permit with conditions; and

<u>WHEREAS</u>, the Kendall County Board has considered the recommendation of the Planning, Building and Zoning Committee and the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, and has determined that said petition is in conformance with the provisions and intent of the Kendall

State of Illinois County of Kendall County Zoning Ordinance; and Zoning Petition #19-12

<u>WHEREAS</u>, this special use permit shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property; and

## NOW, THEREFORE, BE IT ORDAINED, BY THE COUNTY BOARD OF KENDALL COUNTY, ILLINOIS, as follows:

- The Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals attached hereto as Exhibit B is hereby accepted and the Findings of Fact set forth therein are hereby adopted as the Findings of Fact and Conclusions of this Kendall County Board.
- 2. The Kendall County Board hereby grants approval of Petitioner's petition for a special use permit allowing the operation of a banquet facility on the subject property subject to the following conditions:
  - A. The site shall be developed substantially in accordance with the Site Plan attached hereto as Exhibit C, Landscaping Plan attached hereto as Exhibit D, and Parking Illumination Plan attached hereto as Exhibit E.
  - B. Permanent restroom facilities shall be installed by 2021. When the permanent restroom facilities are installed, the portable bathrooms shown on the attached site plan shall be removed.
  - C. A maximum of two hundred eighty (280) guests in attendance at a banquet center related event may be on the subject property at a given time.
  - The subject parcel must follow the site plan configuration with the exception of the right-of-way dedication listed in condition L.
  - E. Off-street parking, lighting and landscaping shall be provided in accordance with the provisions of Section 11 of the Zoning Ordinance.
  - F. All signage shall comply with the provisions of Section 12 of the Kendall County Zoning Ordinance. The signage shall be developed in accordance to the attached site plan. Any signage provided will not be illuminated. The owners of the business allowed by this special use permit may install additional non-illuminated traffic directional signs not shown on the approved site plan within their property.
  - G. Retail sales are permitted as long as the retail sales will be ancillary to the main operation.
  - H. The noise regulations are as follows:

Day Hours: No person shall cause or allow the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential land which exceeds sixty-five (65) dBA when measured at any point within such receiving residential land, provided; however, that point of measurement shall be on the property line of the complainant.

Night Hours: No person shall cause or allow the emission of sound during nighttime hours (10:00 P.M. to 7:00 A.M.) from any noise source to any receiving residential land which exceeds fifty-five (55) dBA when measured at any point within such receiving residential land provided; however, that point of measurement shall be on the property line of the complainant.

**EXEMPTION:** Powered Equipment: Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted from the noise regulations between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.

State of Illinois County of Kendall Zoning Petition #19-12

- I. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings. For events with music, the north and south barn doors shall close by 7:00 p.m.
- J. Events shall be held on weekends only and shall conclude by 10:00 p.m. Only one (1) event per weekend may occur. For the purposes of this special use permit, weekends shall be Fridays, Saturdays, Sundays, Mondays, and any Federal or State Holiday falling on a Thursday or Tuesday. Tours of the facility for prospective customers shall be by appointment and could occur outside the listed hours of operation. Setup for events would start at 9:00 a.m. on the day prior to the event and 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. The facility would close on November 1st and reopen April 1st. The number of events per year shall be capped at thirty (30).
- K. A new certificate of occupancy must be issued for the barn.
- L. Within ninety (90) days of the approval of this special use permit ordinance, the owners of the subject property shall dedicate a strip of land along the entire western boundary of the property at a depth of forty-five feet (45') as measured from the centerline of Crimmin Road to Fox Township to be used as Crimmin Road right-of-way.
- M. No patron or other entity associated with the business allowed by this special use permit shall be allowed to park on Crimmin Road.
- N. The operator(s) of the banquet facility acknowledge and agree to follow Kendall County's Right to Farm Clause.
- O. The operator(s) of the banquet facility allowed by this special use permit shall follow all applicable Federal, State, and Local laws including, but not limited to Fox Township's laws, related to the operation of this type of business.
- P. Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permit.
- Q. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
- The Zoning Administrator and other appropriate County Officials are hereby authorized and directed to amend the Official Zoning Map of Kendall County to reflect this special use permit.

<u>IN WITNESS OF</u>, this ordinance has been enacted by a majority vote of the Kendall County Board and is effective this 27<sup>th</sup> day of August, 2019.

Attest:

Kendall County Clerk

Debbie Gillette

Kendall County Board Chairman

Scott R. Gryder

## Exhibit A LEGAL DESCRIPTION OF ROBERT BRIGHT TRACT (38.3391 Acres):

That part of the Southwest Quarter of Section 29, that part of the Southeast Quarter of Section 30, that part of the Northeast Quarter of Section 31 and that part of the Northwest Quarter of Section 32, Township 36 North, Range 6 East of the Third Principal Meridian described as follows: Commencing at the Northeast Corner of said Northeast Quarter of Section 31; thence Southerly, along the East Line of said Northeast Quarter, 412.50 feet for a point of beginning; thence West, along a line which is parallel with the North Line of said Northeast Quarter and which forms an angle of 88°55'20" with the last described course, measured counter-clockwise therefrom, 628.98 feet; thence Northwesterly, along a line which forms an angle of 136°30'40" with the last described course, measured counter-clockwise therefrom, 506.73 feet to the centerline of Crimmins Road; thence Northeasterly, along said centerline which forms an angle of 105°18'51" with the last described course, measured counter-clockwise therefrom, 50.50 feet; thence Northeasterly, along said centerline being a tangential curve to the right with a radius of 2300.0 feet, an arc distance of 1058.74 feet; thence Northeasterly, along said centerline which is tangent to the last described curve at the last described point, 299.42 feet; thence Northeasterly, along said centerline being a curve to the left with a radius of 730.0 feet, an arc distance of 8.76 feet to the West Line of said Southwest Quarter of Section 29; thence Southerly, along said West Line, 22.82 feet; thence Southeasterly, along a line which forms an angle of 136°53'45" with the last described course, measured clockwise therefrom, 1066.40 feet; thence Southeasterly, along a line which forms an angle of 148°16'44" with the last described course, measured counter-clockwise therefrom, 889.54 feet to a point on a Southerly Line of a Tract conveyed to Robert A. Bright as Trustee of the Robert A. Bright Declaration of Trust by Trustee's Deed recorded as Document 9801248 on February 4, 1998; thence Southwesterly along said Southerly Line which forms an angle of 89°59'40" with the last described course, measured counter-clockwise therefrom, 197.0 feet to a Southerly Corner of said Bright Tract; thence Northwesterly, along a line which forms an angle of 95°37'45" with the last described course, measured counter-clockwise therefrom, 359.61 feet to a point on a line drawn Easterly, parallel with the North Line of said Northwest Quarter of Section 32, from the point of beginning and which is 607.20 feet from the point of beginning; thence Westerly, along said parallel line which forms an angle of 107°48'12" with the last described course, measured clockwise therefrom, 607.20 feet to the point of beginning in Fox Township, Kendall County, Illinois and containing 38.3391 acres.

#### Exhibit B

#### FINDINGS OF FACT

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, or general welfare, provided that the site is developed in accordance with an approved site plan, landscaping plan, and lighting plan. Proper buffering and noise controls will be necessary to prevent noise from negatively impacting neighboring properties. The Kendall County Sheriff's Department has not submitted comments expressing concerns for public health and safety, based on the information provided by the Petitioners.

Member Clementi dissented with the above Finding and stated that the proposed special use permit would be detrimental and will endanger the public health.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. The proposed use could be injurious to the enjoyment of other property in the immediate vicinity due to noise, light created from the proposed use, and increased traffic. Some of the negative impacts of the proposed use on properties in the immediate vicinity could be mitigated by restrictions related to hours and days of operation, and buffering within the ordinance granting the special use permit.

Chairman Mohr and Member Clementi dissented with the above Finding.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. True, the Petitioner's site plan addresses utilities, drainage, and points of ingress and egress.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. The site conforms to the regulations of the A-1 Agricultural Zoning District.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed use in consistent with an objective found on Page 3-6 of the Kendall County Land Resource Management Plan which states as an objective "Encourage Agriculture and Agribusiness."

#### Recommendation

The Kendall County Zoning Board of Appeals recommends approval of the requested special use permit with the conditions:

- A. The site shall be developed substantially in accordance with the attached Site Plan, Landscaping Plan, and Parking Illumination Plan.
- B. Permanent restroom facilities shall be installed by 2021. When the permanent restroom facilities are installed, the portable bathrooms shown on the attached site plan shall be removed.

- C. A maximum of two hundred eighty (280) guests in attendance at a banquet center related event may be on the subject property at a given time.
- D. The subject parcel must maintain a minimum of five (5) acres.
- E. The use of this property shall be in compliance with all applicable ordinances. The banquet facility shall conform to the regulations of the Kendall County Health Department and the Kendall County Liquor Control Ordinance. (Ord. 99-34)
- F. Off-street parking, lighting and landscaping shall be provided in accordance with the provisions of Section 11 of the Zoning Ordinance.
- G. All signage shall comply with the provisions of Section 12 of the Kendall County Zoning Ordinance. The signage shall be developed in accordance to the attached site plan. Any signage provided will not be illuminated. The owners of the business allowed by this special use permit may install additional non-illuminated traffic directional signs not shown on the approved site plan within their property.
- H. Retail sales are permitted as long as the retail sales will be ancillary to the main operation.
- I. The noise regulations are as follows:

Day Hours: No person shall cause or allow the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential land which exceeds sixty-five (65) dBA when measured at any point within such receiving residential land, provided; however, that point of measurement shall be on the property line of the complainant.

Night Hours: No person shall cause or allow the emission of sound during nighttime hours (10:00 P.M. to 7:00 A.M.) from any noise source to any receiving residential land which exceeds fifty-five (55) dBA when measured at any point within such receiving residential land provided; however, that point of measurement shall be on the property line of the complainant.

**EXEMPTION:** Powered Equipment: Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted from the noise regulations between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.

- J. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings. For events with music, barn doors shall close by 7:00 p.m.
- K. Events shall be held on weekends only and shall conclude by 10:00 p.m. Only one (1) event per weekend may occur. For the purposes of this special use permit, weekends shall be Fridays, Saturdays, Sundays, Mondays, and any Federal or State Holiday falling on a Thursday or Tuesday. Tours of the facility for prospective customers shall be by appointment and could occur outside the listed hours of operation. Setup for events would start at 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. The facility would close on November 1st and reopen April 1st. The number of events per year shall be capped at thirty (30).
- L. A new certificate of occupancy must be issued for the barn.
- M. Within ninety (90) days of the approval of this special use permit ordinance, the owners of the subject property shall dedicate a strip of land along the entire western boundary of the property at a depth of forty-five feet (45') as measured from the centerline of Crimmin Road to Fox Township to be used as Crimmin Road right-of-way.
- N. No patron or other entity associated with the business allowed by this special use permit shall

#### Attachment 2, Page 7

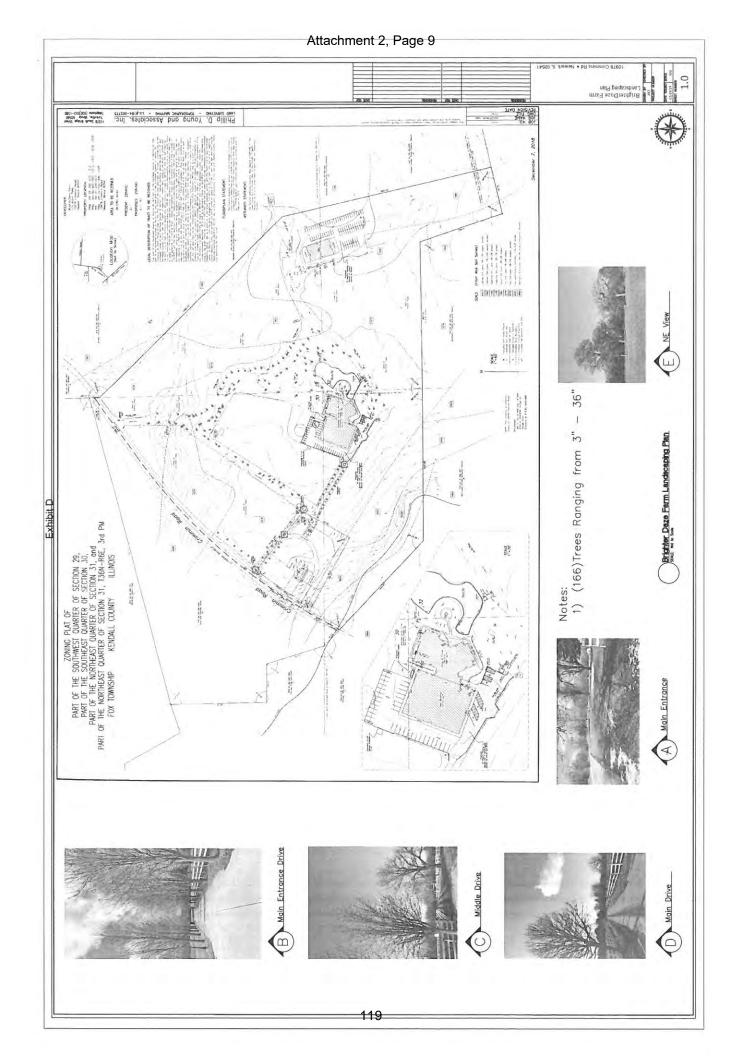
be allowed to park on Crimmin Road.

- O. The operator(s) of the banquet facility acknowledge and agree to follow Kendall County's Right to Farm Clause.
- P. The operator(s) of the banquet facility allowed by this special use permit shall follow all applicable Federal, State, and Local laws including, but not limited to Fox Township's laws, related to the operation of this type of business.
- Q. Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permit.
- R. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

The Kendall County Zoning Board of Appeals issues this recommendation by a vote of four (4) in favor, one (1) opposed, and two (2) absent.

July 1, 2019

24663



Attachment 2, Page 10 DB Lighting Consultation 407-924-4113 Date: 03/14/2019 24" x 36" Page 1 of 1 Project ID Number: 2019-151 Prepared by: M BrighterDaze Farms Parking Brittany Willer сисядо гідикмогкя Calculation Values
Label
Handicap Spaces (Orange)
Parking Spaces (Blue)
Preperty Line (Green)
Traffic Lanes (Black)
All Hardicape 
 Lum. Lumens
 I.I.F
 Lum. Watts

 23936
 0.850
 208.9

 6910
 0.850
 70.5
 The calculated results of this lighting simulation represent a prediction of system performance and are not quarantee.

2. Retain measured results may vary from the anticipated performance and are subject to means and conditions which are beyoned the control of DB Laghing Consultation.

3. Illumination values frown; (in foot-candings) are horizontal at grade level based on Mounting Height marked MH=??

4. Calculation points are on an 8. 8. 8 specified. ExhibitE 4.0 3.8 3.5 3.4 3.4 3.5 3.4 3.4 3.5 3.3 2.6 1.9 1.4 1.0 Scale: 1 inch=20 Ft.

Bit sping consumes no responsibly for any area in the ES flex, background images, or other information provided to DBLC to be used in these calculations.

Bit sping consumed results may ray date to manufacturat followers component malknothers, obstructions, susping surface reflectances and other field conditions.

The owner assumes all responsibility for compliance with federal, state and/or local codes and regulations. 16 18 20 22 24 25 23 20 14 17 18 19 18 1.4 1.5 1.5 32 31 23 19 00 00 00 01 01 01 01 02 03 04 06 08 10 11 11 10 09 08 08 08 07 06 04 03 11 14 17 21 25 29 30 32 32 29 31 30 32 34 38 40 43 48 49 45 39 29 SHA SHA 24.7 5.6 5.6 (1) 10 12 16 21 27 33 41 49 51 1.0 13 17 2.2 28 3.4 4.0 4.1 19 21 23 26 31 38 45 WHI 25 24 25 27 39 34 41 48 53 53 47 Description ECF-S-64L-1A-NW-G2-3 LPW32-7 11 15 19 21 1.7 19 21 2.6 33 38 44 54 5.8 10 14 19 22 39 44 47 47 47 2.8 34 4.9 6.2 21 26 34 47 62 18 21 24 28 30 31 Manufacture PHILIPS GARDCO PHILIPS STONCO 22 27 34 44 52 14 20 23 27 33 39 36 34 26 30 38 42 14 16 17 21 30 32 35 38 38 36 40 40 42 41 £ 52 52 54 55 52 53 55 63 3.1 48 50 53 63 1.2 1.6 2.3 3.0 3.5 3.9 27 34 40 42 47 54 13 21 27 34 36 40 1.1 1.6 2.0 2.8 42 5.1 Symbol 

## Attachment 3



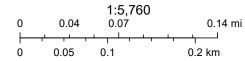
June 22, 2021

Parcels

♠ Kendall County Address Points

Kendall County Forest Preserves

Ownership Parcel



Map data @ OpenStreetMap contributors, Microsoft, Esri Community Maps contributors, Map layer by Esri

# Fox Township Planning Commission Special Meeting Minutes

July 6, 2021

Fox Township Planning Commission was called to order by Meeting Facilitator Chair Stephen Knutson at 7:00 P.M. Committees present were Vice Chair Gayle Roberts, and Members Jeff Christensen, John Jurca, and Terry Luxmore. Also Present Boyd Ingemunson Lawyer Repesting the Bright Family.

Call to order was opened by Knutson.

Knutson open the meeting by having Ingemunson giving a presentation about the Amendments that the Brights are requesting to be changed. Currently the Event Space is only allowed 30 events per year. The Following is info on the current Events both past and present requested by the committee.

- There were 8 Weddings for 2020
- There has been 6 Weddings already for 2021 and 18 More are Booked for the Rest of the Current year.
- Standard Wedding ends at 10 P.M. If this Amendment is passed the Bright family said they would charge an additional \$2000 to their customers to extend the party past 10 P.M.
- The Bright family said their goal was to have 60 events as their goal using both the bigger and smaller space.
- 12-15 Events were lost in revenue due to their current restrictions.

Knutson then opened the floor to the neighbors.

Neighbor John opened by saying he was concerned about the Noise. The Barn doors are not being closed. The music in increasingly becoming louder. The is concerned about is property value in that the reason they moved out to the country was for the quiet. He also is concerned that if the amendment is approved in this short amount of time that they will request more again soon and ask when does it stop.

Neighbors Kurt and Jeanette are also concerned. Their comments were the current rules are not being followed. They said that the barn doors are never shut. The music can be heard inside their house. They are concerned about having events during the week because of this. Police were called and the Police informed them that there is nothing they can do but inform the Zoning Committee. They also commented that the current hours are not being enforced and that they were already going 1 to 2 hours after the current time. They were also concerned with safety because many cars are getting lost and turning around in their driveway.

Attachment 4, Page 2

The comments from the Planning Commission were as followed.

They want to double check to see what the current rules are for the other Venues in Fox Township.

They wanted to know if we could specify maybe having the smaller venue with 40 people or less allowed during the week and the larger one on the Weekend nights.

They would also still want to put a limit of events allowed per year.

The extend hours were also questioned on when the cut off our is given then how long after that are they allowed to be open for cleanup. Also, could there be earlier hours for weekdays or later for weekends.

There was also question on how the ordinance are going to be self-enforced.

Ingemunson commented afterward that the family is willing to change and admen some of the Petition in order to help with the decision. He would make some changes and forward them to us.

Meeting adjourned at 9:19 P.M.

Respectfully Submitted.

Rachel Toftoy

Fox Township Clerk

The next Fox Township Planning me is scheduled for Tuesday August 17<sup>th</sup> at 7:00 P.M.

The Kendall County Zoning Board meeting is at the Assessors Office in Yorkville on August 2<sup>nd</sup>.

### Attachment 5

## **Fox Township Board Meeting**

July 12, 2021

Fox Township Board was called to order by Township Supervisor Randy Seggebruch at 7:00 P.M. Seggebruch led the Pledge of Allegiance. Trustee's present were Supervisor Seggebruch, Township Clerk Rachel Toftoy, and Township Trustees Tim Hoots, Sarah Spang, Bruce Monkemeyer, Jennifer Henze. Also, present was Township Road Commissioner Brad Mathre, and Fox Township Assessor Richard Whitefield. A quorum was established.

Motion to approve the agenda for the July12, 2021, motion was made Monkemeyer and was seconded by Spang. Motion Carried.

Motion for approve the minutes from the June14, 2021, motion was made by Henze, and was seconded by Hoots. Motion Carried.

Motion to approve the minutes for the June 28, 2021 Special Meeting, motion was made by Henze, and was seconded by Spang. Motion Carried.

Deputy Briars from The Kendall County Sheriff's Department reported they are having a National Night Out on 8/3/2021 from 6-9pm in Yorkville, IL.

Public Comments followed. Jackie Kowalski from the Village of Millbrook introduced herself. Boyd Ingemunson the Lawyer representing Brighter Days, introduced himself and incourgaged the Board to ask him questions regarding the new changes.

Board Comments followed. The Board Concerns were for the Brighter Days Changes were as followed.

Are the Current Rules Being Followed?

Likes that the speakers and being pointed downward.

They were concerned with the extended times requested.

They were concerned with the Number of Days they would have Guest in the Larger Building, but no concerns with more days available for guest in the Smaller Building.

They were concerned that they keep the noise the level previously approved.

They also were concerned about the traffic of guest getting lost and turning around in neighbor's driveways. Ingemunson says that Brighter Days is working on clear signage to help with this.

A motion to approve payment of all bills presented by Hoots and Seconded by Monkemeyer. Roll Call- Spang YES, Henze YES, and Seggebruch YES, Motion Passed.

The next meeting of The Fox Township Board will be held August 9, 2021, at 7:00 P.M.

A motion to adjourn the meeting was made by Hoots and seconded by Spang.

Meeting adjourned at 7:43 P.M.

Respectfully Submitted.

Rachel Toftoy

Fox Township Clerk

## ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC) July 6, 2021 – Unapproved Meeting Minutes

PBZ Chairman Scott Gengler called the meeting to order at 9:00 a.m.

#### Present:

Matt Asselmeier – PBZ Department Scott Gengler – PBZ Committee Chair Brian Holdiman – PBZ Department Sgt. Scott Moran – Sheriff's Department Alyse Olson – Soil and Water Conservation District Aaron Rybski – Health Department

#### Absent:

Meagan Briganti – GIS Greg Chismark – WBK Engineering, LLC Fran Klaas – Highway Department David Guritz – Forest Preserve

#### Audience:

Boyd Ingemunson and JoAnn Bright-Theis

#### **PETITIONS**

#### Petition 21-26 Robert Bright on Behalf of Castle Bank NA and JoAnn Bright-Theis

Mr. Asselmeier summarized the request.

On August 27, 2019, the County Board adopted Ordinance 2019-23 which granted a special use permit for a banquet facility at 10978 Crimmin Road. The special use permit included seventeen (17) conditions. The Petitioners would like to change their use of the approximately nineteen thousand seven hundred (19,700) square foot building to allow for smaller events and allow for events throughout the year.

The application materials and Ordinance 2019-23 were provided.

The property was approximately thirty-eight (38) acres in size.

Crimmin Road was a Major Collector Road and is also classified as a Scenic Route. There were no trails planned in the area.

A riverine wetland was located along the southwest edge of the subject property.

The adjacent land uses were agricultural, religious, and the Millington Forest Preserve.

The adjacent zoning districts were A-1.

The Future Land Use Map called for the area to be Rural Residential, Agricultural, and Forest Preserve.

The nearby zoning districts were A-1, A-1 SU, R-2, and R-3.

The special use permit is for the operation of a fur-bearing animal farm.

Based on the aerial of the site, there are six (6) homes within a half mile of the subject property.

An aerial of the property was provided.

The Illinois Natural Heritage Database shows the following protected resources may be in the vicinity of the project location:

Millington Fen INAI Site Millington Railroad Fen Natural Landmark

Tucker-Millington Fen Natural Preserve River Redhorse (Moxostoma carinatum)

EcoCat related materials were provided.

The LESA Score was 181 indicating a low level of protection. The NRI report was provided

Fox Township was emailed information on June 24, 2021.

Newark Fire Protection District was emailed information on June 24, 2021.

The Village of Newark was emailed information on June 24, 2021.

Ordinance 2019-23 placed the following restrictions on the special use permit for a banquet facility at the subject property:

- A. The site shall be developed substantially in accordance with the Site Plan attached hereto as Exhibit C, Landscaping Plan attached hereto as Exhibit D, and Parking Illumination Plan attached hereto as Exhibit E.
- B. Permanent restroom facilities shall be installed by 2021. When the permanent restroom facilities are installed, the portable bathrooms shown on the attached site plan shall be removed.
- C. A maximum of two hundred eighty (280) guests in attendance at a banquet center related event may be on the subject property at a given time.
- D. The subject parcel must follow the site plan configuration with the exception of the right-of-way dedication listed in condition L.
- E. Off-street parking, lighting and landscaping shall be provided in accordance with the provisions of Section 11 of the Zoning Ordinance.
- F. All signage shall comply with the provisions of Section 12 of the Kendall County Zoning Ordinance. The signage shall be developed in accordance to the attached site plan. Any signage provided will not be illuminated. The owners of the business allowed by this special use permit may install additional non-illuminated traffic directional signs not shown on the approved site plan within their property.
- G. Retail sales are permitted as long as the retail sales will be ancillary to the main operation.
- H. The noise regulations are as follows:

Day Hours: No person shall cause or allow the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential land which exceeds sixty-five (65) dBA when measured at any point within such receiving residential land, provided; however, that point of measurement shall be on the property line of the complainant.

Night Hours: No person shall cause or allow the emission of sound during nighttime hours (10:00 P.M. to 7:00 A.M.) from any noise source to any receiving residential land which exceeds fifty-five (55) dBA when measured at any point within such receiving residential land provided; however, that point of measurement shall be on the property line of the complainant.

**EXEMPTION:** Powered Equipment: Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted from the noise regulations between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.

- I. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings. For events with music, the north and south barn doors shall close by 7:00 p.m.
- J. Events shall be held on weekends only and shall conclude by 10:00 p.m. Only one (1) event per weekend may occur. For the purposes of this special use permit, weekends shall be Fridays, Saturdays, Sundays, Mondays, and any Federal or State Holiday falling on a Thursday or Tuesday. Tours of the facility for prospective customers shall be by appointment and could occur outside the listed hours of operation. Setup for events would start at 9:00 a.m. on the day prior to the event and 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. The facility

would close on November 1<sup>st</sup> and reopen April 1<sup>st</sup>. The number of events per year shall be capped at thirty (30).

- K. A new certificate of occupancy must be issued for the barn.
- L. Within ninety (90) days of the approval of this special use permit ordinance, the owners of the subject property shall dedicate a strip of land along the entire western boundary of the property at a depth of forty-five feet (45') as measured from the centerline of Crimmin Road to Fox Township to be used as Crimmin Road right-of-way.
- M. No patron or other entity associated with the business allowed by this special use permit shall be allowed to park on Crimmin Road.
- N. The operator(s) of the banquet facility acknowledge and agree to follow Kendall County's Right to Farm Clause.
- O. The operator(s) of the banquet facility allowed by this special use permit shall follow all applicable Federal, State, and Local laws including, but not limited to Fox Township's laws, related to the operation of this type of business.
- P. Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permit.
- Q. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

As noted in the application materials, the Petitioners would like to divide the nearly nineteen thousand seven hundred (19,700) square foot building into Event Space A with nine thousand six hundred (9,600) square feet, Event Space B with two thousand nine hundred (2,900) square feet, and the remaining seven thousand two hundred forty-two (7,242) square feet as non-project space. The Petitioners would like to utilize Event Space B year-round for smaller events.

In order to accommodate this proposed change in business operations, the Petitioners are requesting the following changes to the special use permit (changes marked in red):

- C. A maximum of two hundred eighty (280) guests shall be allowed in attendance at a banquet center related event may be on the subject property at a given time. within Event Space A at a given time. A maximum of sixty (60) guests shall be allowed in attendance within Event Space B at a given time. There shall only be one (1) event taking place at a given time and the total allowable guests shall not exceed a total of two hundred eighty (280) guests.
- I. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings. For events with music, the north and south barn doors shall close by 7:00 p.m.
- J. Events shall be held on weekends only and shall conclude by 10:00 p.m. Only one (1) event per weekend may occur. For the purposes of this special use permit, weekends shall be Fridays, Saturdays, Sundays, Mondays, and any Federal or State Holiday falling on a Thursday or Tuesday. Tours of the facility for prospective customers shall be by appointment and could occur outside the listed hours of operation. Setup for events would start at 9:00 a.m. on the day prior to the event and 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. The facility would close on November 1st and reopen April 1st. The number of events per year shall be capped at thirty (30). Events in either event spaces shall conclude by Midnight. Tours of the facility for prospective customers shall be by appointment. Setup for events in either event spaces would start at 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. Event Space A would close on November 1st and reopen April 1st. Event Space B may operate year round.

The Petitioners provided a comparison of certain restrictions on banquet centers.

The Petitioners have no plans to change the site plan, landscaping plan, or parking illumination plan approved as part of Ordinance 2019-23. Also, other than Conditions C, I, and J, the Petitioners do not propose any other changes to the requirements of the special use permit.

An updated Occupancy Permit will be required reflecting the change of use.

#### Attachment 6, Page 4

The Petitioners were working with Environmental Health regarding the size of the septic system.

The property fronts Crimmin Road.

According to the site plan approved with Ordinance 2019-23, patrons will enter the property through the driveway north of the existing house. Traffic will drive southeast along the one (1) way driveway to the existing barn, a distance of approximately seven hundred feet (700'). There are thirty-four (34) parking spaces and four (4) additional handicapped accessible parking spaces by the barn. An additional seventy-five (75) parking spaces are located east of the barn and will be accessible via a gravel driveway; these parking spaces will be served by shuttle. Traffic will exit the property through a one (1) way driveway leading to the north end of the property.

Two (2) new lights were proposed for the site. According to the parking illumination plan approved with Ordinance 2019-23, no light will leave the property. All lights will be turned off within one (1) hour of the conclusion of events.

One entrance and one exit sign are shown on the site plan attached to Ordinance 2019-23. The signs will be approximately four hundred thirty-two (432) square inches. Neither sign will be illuminated.

As shown on the site plan attached to Ordinance 2019-23, the site contains approximately one hundred sixty-six (166) trees of varying heights encircling the venue.

All music and noise shall originate inside the venue except for processionals and recessionals at weddings. The facility shall follow the noise regulations for banquet facilities. Speakers will face inside the building.

With the combination of distance and plantings, the Petitioners believe noise will not be an issue.

Since the issuance of the special use permit in 2019, the Kendall County Sheriff's Department has responded to one (1) noise complaint at the property. The Sheriff's Department responded to the complaint, but the decibel level was not confirmed to be in violation of the special use permit.

The proposed Findings of Fact were as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, or general welfare, provided that the site is developed in accordance with the site plan, landscaping plan, and lighting plan approved as part of Ordinance 2019-23.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. The proposed use could be injurious to the enjoyment of other property in the immediate vicinity due to noise, light created from the proposed use, and increased traffic. Some of the negative impacts of the proposed use on properties in the immediate vicinity could be mitigated by establishing restrictions related to the number of guests allowed on the property, the days and hours of operation, and buffering within the ordinance granting the special use permit and major amendment to the special use permit.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. True, the Petitioner's approved site plan from Ordinance 2019-23 addresses utilities, drainage, and points of ingress and egress.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. The site conforms to the regulations of the A-1 Agricultural Zoning District.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed use in consistent with an objective found on Page 3-6

of the Kendall County Land Resource Management Plan which states as an objective "Encourage Agriculture and Agribusiness."

Staff recommended approval of the requested major amendment to an existing special use permit subject to the following conditions and restrictions:

- 1. The approximately nineteen thousand seven hundred (19,700) square foot building shall be divided in substantial the way shown on Attachment 1, Page 5.
- 2. Condition 2.C of Ordinance 2019-23 shall be deleted and replaced with the following:
  - C. A maximum of two hundred eighty (280) guests shall be allowed in attendance within Event Space A at a given time. A maximum of sixty (60) guests shall be allowed in attendance within Event Space B at a given time. There shall only be one (1) event taking place at a given time and the total allowable guests shall not exceed a total of two hundred eighty (280) guests.
- 3. Condition 2.I of Ordinance 2019-23 shall be deleted and replaced with the following:
  - I. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings.
- 4. Condition 2.J of Ordinance 2019-23 shall be deleted and replaced with the following:
  - J. Events in either event spaces shall conclude by Midnight. Tours of the facility for prospective customers shall be by appointment. Setup for events in either event spaces would start at 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. Event Space A would close on November 1st and reopen April 1st. Event Space B may operate year round.
- 5. All other conditions and restrictions contained in Ordinance 2019-23 shall remain effective.
- 6. Failure to comply with one or more of the above conditions or restrictions or the conditions and restrictions contained in Ordinance 2019-23 could result in the amendment or revocation of the special use permit.
- 7. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

Mr. Rybski noted that the Petitioners were working with the Kendall County Health Department to ensure that the septic system was sized appropriately. The septic system was severely undersized. There has not been a failure of the septic system. The septic system has been mapped and a design was proposed. Mr. Rybski requested a condition in the special use permit stating that the Petitioners shall submit an application and secure a permit for the septic system renovation with the Kendall County Health Department before approval of the amendment by the County Board. A permit could be secured in one (1) or two (2) weeks. Mr. Ingemunson did not object to the condition be added to the list of conditions.

Mr. Gengler asked if the Petitioners wanted to have live music events at the property. Boyd Ingemunson, Attorney for the Petitioners, responded that live music events occur ancillary to banquet center events. The Petitioners have no intention of having stand-alone live music events. Live music events could occur inside the building.

Mr. Ingemunson noted that the Petitioners wanted to have events year-round at the property.

Mr. Rybski noted that the well qualified as a non-community well and must follow the rules of that program.

Mr. Rybski made a motion, seconded by Ms. Olson, to recommend approval of the proposal.

The votes were as follows:

Yeas (6): Asselmeier, Gengler, Holdiman, Moran, Olson, and Rybski

Nays (0): None Abstain (0): None

Absent (4): Briganti, Chismark, Guritz, Klaas

The motion carried.

#### Attachment 6, Page 6

The proposal goes to the Kendall County Regional Planning Commission on July 28, 2021.

#### **PUBLIC COMMENT**

None

#### **ADJOURNMENT**

Mr. Holdiman made a motion, seconded by Mr. Rybski, to adjourn.

With a voice vote of six (6) ayes, the motion carried.

The ZPAC, at 9:18 a.m., adjourned.

Respectfully Submitted, Matthew H. Asselmeier, AICP, CFM Senior Planner

#### Attachment 7

#### **Matt Asselmeier**

From: Aaron Rybski

**Sent:** Monday, July 12, 2021 10:34 AM

To: Matt Asselmeier

Subject: Petition 21-26 Brighter Daze

Hello,

I am passing along word that a permit to repair the septic system for Brighter Daze has been secured. As such, they have met the condition that we were putting in as part of their approval/recommendation from ZPAC. They are settling in on a contractor and they likely will be completing the repair in the coming weeks.

If you have any questions, please let me know.

A.R.

### Proposed Amendments to Special Use Brighter Daze Banquet Facility 1097 Crimmins Road, Newark, Illinois Fox Township Plan Commission Report

July 12, 2012

The Fox Township Plan Commission met in Millbrook to review the Bright family request for their Special Use Amendment. This is a report from that meeting, prepared for the Fox Township Board of Trustees.

A Special Use Permit for a Banquet Facility at this property was granted August 27, 2019.

1. Petitioners ask to create a new indoor SPACE B for year around use. Maximum number of guests will be 60.

Plan Commission recommends approval of indoor facility request. SPACE B may be used on weekends and week days. There shall be no limit on the number of events per year in the small indoor space. Existing Special Use Ordinance limits the number of events on the property to one event per day.

2. Petitioners ask that the two pair of large barn doors be allowed to be open during large events (280 guests) after 7:00 pm. When large doors are closed there are two smaller doors that may remain open. The point of closing the barn doors is to reduce the sound of music. Neighbors present at the meeting, report noncompliance of door closing at prior events.

Plan Commission recommends that large barn doors be closed at 7:00 pm on large event nights.

3. Petitioners ask that event conclusion time be changed from 10:00 pm to midnight.

Neighbors present at the meeting, report noncompliance of prior closing time.

Plan Commission recommends that week night events of only 60 guests be concluded by 10:00 pm, and that all guest leave the property before 11:00pm. (The Plan Commission understands conclusion means the bar is closed and the music stops.)

Plan Commission recommends that large weekend events be concluded by 11:00 pm, and that guests leave the property before midnight. (Weekends include holidays and the evening before a holiday.)

4. Petitioners ask that limit of one large event per weekend be changed to permit two large events per weekend. Petitioners ask to increase number of large events.

Plan Commission recommends that large events (280 guests) remain limited to one per weekend. Existing Special Use Permit limits season for large events from April 1 to November 1. There are 30 weekends during this season.

5. Plan Commission, and neighbors present at the meeting, had questions about Special Use Ordinance enforcement. The single time one of the neighbors had called the Sheriff, the event in question was over before the Sheriff arrived.

Matt Asselmeier, Kendall County Planner, was present at the meeting and reviewed Special Use Ordinance enforcement. The first step is to call the Sherriff, who makes a report to the County. Non compliance may result in Citations. Repeated violations over a period of time could cause the Special Use Permit to be revoked by the County Board. Of the 238 Special Use Permits issued in recent history, only two Permits have been revoked.

6. Plan Commission Chairman, Steve Knutson, acknowledges that the Petitioners desire to maximize the economic return on their property, and the neighbors concern about property values are in conflict. A banquet facility is a permitted Special Use within Agriculture zoning. Adjoining neighbors expect to enjoy the rural quality of their property. The petitioners want to grow their business. Compromise is never comfortable.

## Attachment 9, Page 1 KENDALL COUNTY REGIONAL PLANNING COMMISSION

#### Kendall County Office Building Rooms 209 and 210 111 W. Fox Street, Yorkville, Illinois

#### **Unapproved - Meeting Minutes of July 28, 2021 - 7:00 p.m.**

Chairman Ashton called the meeting to order at 7:00 p.m.

#### **ROLL CALL**

Members Present: Bill Ashton, Roger Bledsoe, Karin McCarthy-Lange, Larry Nelson, Ruben Rodriguez, Bob

Stewart, Claire Wilson, and Seth Wormley

Members Absent: Tom Casey and Dave Hamman

Staff Present: Matthew H. Asselmeier, Senior Planner

Others Present: Boyd Ingemunson, JoAnn Bright-Theis, Adam Theis, Steve Knutson, Kurt Buhle, Jeanette

Buhle, John Vogt, and Robert Bright

#### **PETITIONS**

#### <u>Petition 21-26 Robert Bright on Behalf of the Madison Trust and Castle Bank N A and Jo-Ann Bright-</u> Theis

Mr. Asselmeier summarized the request.

On August 27, 2019, the County Board adopted Ordinance 2019-23 which granted a special use permit for a banquet facility at 10978 Crimmin Road. The special use permit included seventeen (17) conditions. The Petitioners would like to change their use of the approximately nineteen thousand seven hundred (19,700) square foot building to allow for smaller events and allow for events throughout the year.

The application materials and Ordinance 2019-23 were provided.

The property was approximately thirty-eight (38) acres in size.

Crimmin Road was a Major Collector Road and is also classified as a Scenic Route. There were no trails planned in the area.

A riverine wetland was located along the southwest edge of the subject property.

The adjacent land uses were agricultural, religious, and the Millington Forest Preserve.

The adjacent zoning districts were A-1.

The Future Land Use Map called for the area to be Rural Residential, Agricultural, and Forest Preserve.

The nearby zoning districts were A-1, A-1 SU, R-2, and R-3.

The special use permit to the west is for the operation of a fur-bearing animal farm.

Based on the aerial of the site, there are six (6) homes within a half mile of the subject property.

An aerial of the property was provided.

KCRPC Meeting Minutes 7.28.21

The Illinois Natural Heritage Database shows the following protected resources may be in the vicinity of the project location:

Millington Fen INAI Site

Millington Railroad Fen Natural Landmark

Tucker-Millington Fen Natural Preserve

River Redhorse (Moxostoma carinatum)

EcoCat related materials were provided, including notice of consultation termination.

The LESA Score was 181 indicating a low level of protection. The NRI report was provided.

The Fox Township Planning Commission reviewed this Petition at their meetings on July 6, 2021, and July 21, 2021. The Fox Township Planning Commission recommended in favor of divided the space and setting the maximum number of guests for Event Space A at two hundred eighty (280) and sixty (60) for Event Space B. They recommended against deleting the requirement that the barn doors close at 7:00 p.m. They recommended that weekday events conclude by 10:00 p.m. with guests allowed one (1) extra hour to vacate the property; weekend events concluded at 11:00 p.m. with allowed one (1) extra hour to vacate the property. They defined weekends as Fridays and Saturdays. They recommended keeping the maximum number of large events at thirty (30) per year and the small event space be available to rent on weekends on an unlimited basis. The above recommendations were approved unanimously of the three (3) Commissioners in attendance on July 21st. The Commission also recommended that the smaller event space be available to rent on weekdays on an unlimited basis by a vote of two (2) in favor and one (1) in opposition; two (2) Commissioners were absent. The Commissioner that voted no felt that allowing an unlimited number of events at the property would transform the property from a primarily agricultural use to a primarily non-agricultural business use. The minutes of the July 6, 2021, meeting were provided.

The Fox Township Board reviewed this proposal at their meeting on July 12, 2021. The Township Board had concerns regarding whether or not the Petitioners were following the current restrictions, the direction of speakers, extending the hours of operation, extending the operating season, noise level, and traffic. The unapproved minutes of this meeting were provided.

Newark Fire Protection District was emailed information on June 24, 2021.

The Village of Newark was emailed information on June 24, 2021.

ZPAC reviewed this proposal at their meeting on July 6, 2021. The Health Department noted that the Petitioners were working with them to ensure that the septic system was sized appropriately. The septic system was severely undersized. There has not been a failure of the septic system. The septic system has been mapped and a design was proposed. The Health Department requested a condition in the special use permit stating that the Petitioners shall submit an application and secure a permit for the septic system renovation with the Kendall County Health Department before approval of the amendment by the County Board. A permit could be secured in one (1) or two (2) weeks. The Petitioners did not object to the condition be added to the list of conditions. The Health Department also noted that the well qualified as a non-community well and must follow the rules of that program. Discussion occurred regarding having live music events at the property. Live music events have

occurred ancillary to other banquet center events and can occur inside the building. ZPAC recommended approval of the requested amendments by a vote of six (6) in favor and zero (0) in opposition; four (4) members were absent. The minutes of this meeting and an email stating that the Petitioners applied for septic permit was provided.

Ordinance 2019-23 placed the following restrictions on the special use permit for a banquet facility at the subject property:

- A. The site shall be developed substantially in accordance with the Site Plan attached hereto as Exhibit C, Landscaping Plan attached hereto as Exhibit D, and Parking Illumination Plan attached hereto as Exhibit E.
- B. Permanent restroom facilities shall be installed by 2021. When the permanent restroom facilities are installed, the portable bathrooms shown on the attached site plan shall be removed.
- C. A maximum of two hundred eighty (280) guests in attendance at a banquet center related event may be on the subject property at a given time.
- D. The subject parcel must follow the site plan configuration with the exception of the right-of-way dedication listed in condition L.
- E. Off-street parking, lighting and landscaping shall be provided in accordance with the provisions of Section 11 of the Zoning Ordinance.
- F. All signage shall comply with the provisions of Section 12 of the Kendall County Zoning Ordinance. The signage shall be developed in accordance to the attached site plan. Any signage provided will not be illuminated. The owners of the business allowed by this special use permit may install additional non-illuminated traffic directional signs not shown on the approved site plan within their property.
- G. Retail sales are permitted as long as the retail sales will be ancillary to the main operation.
- H. The noise regulations are as follows:

Day Hours: No person shall cause or allow the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential land which exceeds sixty-five (65) dBA when measured at any point within such receiving residential land, provided; however, that point of measurement shall be on the property line of the complainant.

Night Hours: No person shall cause or allow the emission of sound during nighttime hours (10:00 P.M. to 7:00 A.M.) from any noise source to any receiving residential land which exceeds fifty-five (55) dBA when measured at any point within such receiving residential land provided; however, that point of measurement shall be on the property line of the complainant.

**EXEMPTION:** Powered Equipment: Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted from the noise regulations between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.

- I. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings. For events with music, the north and south barn doors shall close by 7:00 p.m.
- J. Events shall be held on weekends only and shall conclude by 10:00 p.m. Only one (1) event per weekend may occur. For the purposes of this special use permit, weekends shall be Fridays,

#### Attachment 9, Page 4

Saturdays, Sundays, Mondays, and any Federal or State Holiday falling on a Thursday or Tuesday. Tours of the facility for prospective customers shall be by appointment and could occur outside the listed hours of operation. Setup for events would start at 9:00 a.m. on the day prior to the event and 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. The facility would close on November 1<sup>st</sup> and reopen April 1<sup>st</sup>. The number of events per year shall be capped at thirty (30).

- K. A new certificate of occupancy must be issued for the barn.
- L. Within ninety (90) days of the approval of this special use permit ordinance, the owners of the subject property shall dedicate a strip of land along the entire western boundary of the property at a depth of forty-five feet (45') as measured from the centerline of Crimmin Road to Fox Township to be used as Crimmin Road right-of-way.
- M. No patron or other entity associated with the business allowed by this special use permit shall be allowed to park on Crimmin Road.
- N. The operator(s) of the banquet facility acknowledge and agree to follow Kendall County's Right to Farm Clause.
- O. The operator(s) of the banquet facility allowed by this special use permit shall follow all applicable Federal, State, and Local laws including, but not limited to Fox Township's laws, related to the operation of this type of business.
- P. Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permit.
- Q. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

As noted in the application materials, the Petitioners would like to divide the nearly nineteen thousand seven hundred (19,700) square foot building into Event Space A with nine thousand six hundred (9,600) square feet, Event Space B with two thousand nine hundred (2,900) square feet, and the remaining seven thousand two hundred forty-two (7,242) square feet as non-project space. The Petitioners would like to utilize Event Space B year-round for smaller events.

In order to accommodate this proposed change in business operations, the Petitioners were requesting the following changes to the special use permit (changes marked in red):

- C. A maximum of two hundred eighty (280) guests shall be allowed in attendance at a banquet center related event may be on the subject property at a given time. within Event Space A at a given time. A maximum of sixty (60) guests shall be allowed in attendance within Event Space B at a given time. There shall only be one (1) event taking place at a given time and the total allowable guests shall not exceed a total of two hundred eighty (280) guests.
- I. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings. For events with music, the north and south barn doors shall close by 7:00 p.m.
- J. Events shall be held on weekends only and shall conclude by 10:00 p.m. Only one (1) event per weekend may occur. For the purposes of this special use permit, weekends shall be Fridays, Saturdays, Sundays, Mondays, and any Federal or State Holiday falling on a Thursday or Tuesday. Tours of the facility for prospective customers shall be by

appointment and could occur outside the listed hours of operation. Setup for events would start at 9:00 a.m. on the day prior to the event and 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. The facility would close on November 1<sup>st</sup> and reopen April 1<sup>st</sup>. The number of events per year shall be capped at thirty (30). Events in either event spaces shall conclude by Midnight. Tours of the facility for prospective customers shall be by appointment. Setup for events in either event spaces would start at 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. Event Space A would close on November 1<sup>st</sup> and reopen April 1<sup>st</sup>. Event Space B may operate year round.

The Petitioners provided a comparison of certain restrictions on banquet centers.

The Petitioners have no plans to change the site plan, landscaping plan, or parking illumination plan approved as part of Ordinance 2019-23. Also, other than Conditions C, I, and J, the Petitioners do not propose any other changes to the requirements of the special use permit.

An updated Occupancy Permit will be required reflecting the change of use.

The Petitioners were working with Environmental Health regarding the size of the septic system.

The property fronts Crimmin Road.

According to the site plan approved with Ordinance 2019-23, patrons will enter the property through the driveway north of the existing house. Traffic will drive southeast along the one (1) way driveway to the existing barn, a distance of approximately seven hundred feet (700'). There are thirty-four (34) parking spaces and four (4) additional handicapped accessible parking spaces by the barn. An additional seventy-five (75) parking spaces are located east of the barn and will be accessible via a gravel driveway; these parking spaces will be served by shuttle. Traffic will exit the property through a one (1) way driveway leading to the north end of the property.

Two (2) new lights were proposed for the site. According to the parking illumination plan approved with Ordinance 2019-23, no light will leave the property. All lights will be turned off within one (1) hour of the conclusion of events.

One entrance and one exit sign are shown on the site plan attached to Ordinance 2019-23. The signs will be approximately four hundred thirty-two (432) square inches. Neither sign will be illuminated.

As shown on the site plan attached to Ordinance 2019-23, the site contains approximately one hundred sixty-six (166) trees of varying heights encircling the venue.

All music and noise shall originate inside the venue except for processionals and recessionals at weddings. The facility shall follow the noise regulations for banquet facilities. Speakers will face inside the building and speakers on the ceiling will be pointed downward. The Petitioners will also require disc jockeys to plug into the venue's sound system so the Petitioners can control the noise level.

With the combination of distance, plantings and control of the sound system, the Petitioners believed noise will not be an issue.

Since the issuance of the special use permit in 2019, the Kendall County Sheriff's Department has responded to one (1) noise complaint at the property. The Sheriff's Department responded to the complaint, but the decibel level was not confirmed to be in violation of the special use permit.

The proposed Findings of Fact were as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, or general welfare, provided that the site is developed in accordance with the site plan, landscaping plan, and lighting plan approved as part of Ordinance 2019-23.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. The proposed use could be injurious to the enjoyment of other property in the immediate vicinity due to noise, light created from the proposed use, and increased traffic. Some of the negative impacts of the proposed use on properties in the immediate vicinity could be mitigated by establishing restrictions related to the number of guests allowed on the property, the days and hours of operation, and buffering within the ordinance granting the special use permit and major amendment to the special use permit.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. True, the Petitioner's approved site plan from Ordinance 2019-23 addresses utilities, drainage, and points of ingress and egress.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. The site conforms to the regulations of the A-1 Agricultural Zoning District.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed use is consistent with an objective found on Page 3-6 of the Kendall County Land Resource Management Plan which states as an objective "Encourage Agriculture and Agribusiness."

Staff recommended approval of the requested major amendment to an existing special use permit subject to the following conditions and restrictions:

- 1. The approximately nineteen thousand seven hundred (19,700) square foot building shall be divided in substantial the way shown in the application materials.
- 2. Condition 2.C of Ordinance 2019-23 shall be deleted and replaced with the following:
  - C. A maximum of two hundred eighty (280) guests shall be allowed in attendance within Event Space A at a given time. A maximum of sixty (60) guests shall be allowed in attendance within Event Space B at a given time. There shall only be one (1) event taking place at a given time and the total allowable guests shall not exceed a total of two hundred eighty (280) guests.
- 3. Condition 2.I of Ordinance 2019-23 shall be deleted and replaced with the following:

- I. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings.
- 4. Condition 2.J of Ordinance 2019-23 shall be deleted and replaced with the following:
  - J. Events in either event spaces shall conclude by Midnight. Tours of the facility for prospective customers shall be by appointment. Setup for events in either event spaces would start at 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. Event Space A would close on November 1<sup>st</sup> and reopen April 1<sup>st</sup>. Event Space B may operate year round.
- 5. All other conditions and restrictions contained in Ordinance 2019-23 shall remain effective.
- 6. Failure to comply with one or more of the above conditions or restrictions or the conditions and restrictions contained in Ordinance 2019-23 could result in the amendment or revocation of the special use permit.
- 7. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

Boyd Ingemunson, Attorney for the Petitioners, explained the history of the business. He explained the table comparing the conditions on the Petitioners' special use permit with the special use permit for other banquet facilities. He stated that the restrictions regarding the number of events, event end time, and season of event were unique to the Petitioners' special use permit. He noted that no violations have occurred and the sound level was constantly monitored. The speakers were in the ceiling and pointed downward.

Member Rodriguez stated that he visited the subject property. He was very impressed by the venue. He said that the Petitioners turned on the music at a high level and they took a sound reading at the street. Noise from passing vehicles was louder than the sound from the sound system. He encouraged all Commissioners to visit the property. He also noted the breeze inside the building with the open barn doors.

Member Wilson asked if the spaces were air conditioned. Mr. Ingemunson responded that Event Space B is basically a large living room and Event Space A is basically a barn.

Member Wilson asked about the use of the space not included in either event space. Mr. Ingemunson responded that is a private living area.

Member Wilson expressed concerns about noise if events last until Midnight.

Member Wilson asked about fire suppression. Mr. Ingemunson responded that the Petitioners have complied with applicable fire codes. Member Wilson asked about the number exits. Mr. Ingemunson responded that, in addition to the barn doors, there were exit doors adjacent to the barn doors. Adam Theis said there were three (3) separate entrances.

Mr. Theis clarified that the Petitioners were changing the proposal to have events end at 11:00 p.m. and patrons given one (1) hour to vacate the property.

Member Wilson asked if any other noise suppression systems exist beside the control of the speakers. Mr. Theis stated that the barn was insulated and there were several walls. The property also has several trees and a berm.

Member Nelson asked if any speakers were located outside the barn. Mr. Ingemunson said no amplified music would originate outside the building.

Member Wilson asked if events were catered. Mr. Ingemunson responded that events were catered.

Steve Knutson, Chairman of the Fox Township Planning Commission, stated that the Commission did not agree with all of the amendments. He noted that the existing special use permit has not been in existence for a long period of time. He expressed concerns regarding potential violations of the existing special use permit. Ending events at 11:00 p.m. compared to Midnight would be favorable.

Kurt Buhle stated he moved to the area for the peace and quiet and it is not quiet during the events. He was concerned about the impact of the proposal on land value because of the increase in noise and traffic. He was also concerned that future amendments would be proposed. He has not witnessed the north barn doors closed. The Petitioners have had events after closing season. Several events have gone after 11:00 p.m. He has a called the Sheriff one (1) time because of excessive noise. No noise reading occurred when he called the Sheriff because the event had ended. Member Wilson encouraged Mr. Buhle to obtain decibel readings. Mr. Buhle purchased his property in 2012.

John Vogt expressed concerns about noise. He noted traffic usually comes and goes to the north. He would be agreeable to having the south barn doors open. He said events have lasted until 11:00 p.m. He has lived in the area for forty (40) years. He moved here for the peace and quiet and that is not the case. He also believed that his property values have been negatively impacted unless someone with a companion business wanted to purchase his property.

Jeanette Buhle asked Member Rodriguez if the barn windows were open during his visit. Member Rodriguez responded yes. Discussion occurred about the type of the new sound system. Ms. Buhle said they previously heard the noise from the property inside their house. She also noted the small number of trees blocking the barn. She would like to have the conditions in the special use followed and they will call the Sheriff in the future every time there is a violation.

Mr. Ingemunson stated that the Petitioners were going to install additional pine trees. Neither barn door is aimed at the Buhle property.

Robert Bright invited everyone, including his neighbors, to tour the property. Installing the sound system was on the priority list.

Discussion occurred regarding the existing approved landscaping plan. Member Nelson suggested planting evergreens, like a whispering pine or Colorado blue spruce. Mr. Theis was agreeable to adding more trees to the landscaping plan. Member Rodriguez noted that a large number of large trees were located on the property. JoAnn Bright-Theis was agreeable to adding evergreens. Member Nelson discussed the impact of banquet facilities on ambient noise as measured with a decimeter. Member Wilson suggested installing a sound barrier fence in addition to the evergreens.

Member Wormley expressed his support for the proposal and the planting of additional trees. He was concerned about having the barn doors closed on hot days because of the collection of heat.

Mr. Knutson reiterated the short history of the operation of this business. He was concerned about non-compliance with the existing regulations.

Member Nelson made a motion, seconded by Member Rodriguez, to recommend approval of the Petition with the requirement that the Petitioners submit a landscaping plan with evergreen type trees planted and a timeframe for planting the evergreens. The landscaping plan should be submitted prior to the Kendall County Planning, Building and Zoning Committee meeting.

Member Wilson made a motion to amend the previous motion to require the installation of a fence as a sound barrier in addition to the evergreens. The motion died for lack of a second.

The votes on the original, un-amended motion were as follows:

Ayes (8): Ashton, Bledsoe, McCarthy-Lange, Nelson, Rodriguez, Stewart, Wilson, and Wormley

Nays (0): None

Absent (2): Casey and Hamman

Abstain (0): None

The motion carried.

This proposal will go to the Kendall County Zoning Board of Appeals on August 2, 2021.

#### **ADJOURNMENT**

Member Rodriguez made a motion, seconded by Member Wilson, to adjourn. With a voice of eight (8) ayes, the motion carried.

The Kendall County Regional Planning Commission meeting adjourned at 8:10 p.m.

Respectfully submitted by, Matthew H. Asselmeier, AICP, CFM Senior Planner

Enc.

## KENDALL COUNTY REGIONAL PLANNING COMMISSION JULY 28, 2021

IF YOU WOULD LIKE TO BE CONTACTED ON FUTURE MEETINGS REGARDING THIS TOPIC, PLEASE PROVIDE YOUR ADDRESS OR EMAIL ADDRESS

NAME	ADDRESS (OPTIONAL)	EMAIL ADDRESS (OPTIONAL)			
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ABO DE LA CONTRACTION DE LA CO					
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Ah Voyl					
Teams Buhe					
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