MINUTES
KENDALL COUNTY
ZONING BOARD OF APPEALS MEETING
111 WEST FOX STREET, COUNTY BOARD ROOM (ROOMS 209 and 210)
YORKVILLE, IL 60560
December 13, 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, Cliff Fox, Tom LeCuyer, Randy Mohr, Dick Thompson, Anne Vickery, and Dick Whitfield
Members Absent: None
Staff Present: Matthew Asselmeier, AICP, CFM, Senior Planner
Others Present: Gregg Ingemunson, Dan Koukol, Brian Henrichs, and Rick Porter

Chairman Mohr welcomed Anne Vickery to the Zoning Board of Appeals.

Chairman Mohr requested that the agenda be amended by moving Petition 21-37 to after Petition 21-48. He also announced that Petition 21-49 would be continued to the January 31, 2022, hearing. Member Vickery made a motion, seconded by Member LeCuyer, to amend the agenda as requested. With a voice vote (7) ayes, the motion carried.

MINUTES:
Member Whitfield made a motion, seconded by Member Cherry, to approve the minutes of the November 1 hearing/meeting.

With a voice vote of seven (7) ayes, the motion carried.

Chairman Mohr swore in Gregg Ingemunson, Dan Koukol, Brian Henrichs, and Rick Porter prior to the start of the public hearings.

PETITIONS
The Zoning Board of Appeals started their review of Petition 21-46 at 7:02 p.m.
Petition 21 – 46 – Greg Dady on Behalf of DTG Investments, LLC and Robert A. Baish on Behalf of Baish Excavating, Inc.

Request:	Major Amendments to a Special Use Permit for a Landscaping Business Granted by Ordinance 2007-10 by Changing the Number of Employees Reporting to the Property, Amending the Site Plan, and Removing the Restrictions Forbidding the Parking and Storing of Vehicles, Equipment, and Landscaping Materials Outdoors
PIN:	06-09-400-005
Location:	3485 Route 126, Na-Au-Say Township
Purpose:	Petitioner Wants to Operate Landscaping Business at the Property; Property is Zoned A-1 Agricultural District

Mr. Asselmeier summarized the request.

Greg Dady, on behalf of DTG Investments, LLC would like to sell the subject property to Baish Excavating. After exploring a text amendment to allow an excavating business on the subject property, the Petitioners decided to pursue a major amendment to the existing special use permit for a landscaping business at the subject property.

The application materials, aerial of the property, aerial with the flood zone, plat of survey, site plan, the court order regarding a previous excavating business at the property, and the special use permit for a landscaping business previously granted by Ordinance 2007-10 were provided.

The subject property is approximately five point five (5.5) acres in size.

Route 126 is a State maintained arterial; there is a trail planned along Route 126.

There is a floodplain on the north end of the property (Zone A-no base flood elevation determined).

The adjacent uses are agricultural or agricultural related.

The adjacent zonings are A-1. The zonings in the area are A-1, R-1, and A-1 with special use permits.

The Future Land Use Map calls for the area to be Rural Residential and Public Institutional.

The A-1 SU to the east is for a farm market, garden shop, winery, corn maze, and fall festival. The A-1 SU to the west is for a farm equipment sales and service business.

Oswego School District 308 owns the property southwest of the subject property.

Ten (10) existing houses are within one half (1/2) mile of the subject property.

Pictures of the property and area were provided.

EcoCAT Report submitted and consultation was terminated.

The LESA Score was 189 indicating a low level of protection.

Petition information was sent to Na-Au-Say Township on October 26, 2021. No comments have been received.

Petition information was sent to the Village of Oswego on October 26, 2021. The property is inside Oswego's planning boundary. No comments have been received.

Petition information was sent to the Village of Plainfield on October 26, 2021. The property is within one point five (1.5) miles of Plainfield. No comments have been received.

The Oswego Fire Protection District was sent information on October 26, 2021. The Oswego Fire Protection District submitted an email on October 27, 2021, requesting that fuel tanks be installed, permitted, and inspected per applicable law, storage heights inside the storage bins be capped at

twenty-five feet (25') in height, and no miscellaneous storage of vehicles, machinery, or equipment occur in the storage bins. The Petitioners were agreeable to these requests.

ZPAC reviewed this proposal at their meeting on November 2, 2021. The Petitioners stated that only trailers would be parked in the floodplain. No turning lanes off of Route 126 would be required. However, the Illinois Department of Transportation could review the need for turning lanes in the future. The Petitioners were agreeable to setting the maximum number of employees at fifteen (15). ZPAC recommended approval of the request with the conditions proposed by Staff by a vote of eight (8) in favor and zero (0) in opposition with two (2) members absent. The minutes of the meeting were provided.

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on December 8, 2021. The Petitioner was asked if the building in the floodplain would be used for the proposed business and if they would be agreeable to a restriction to not use this building as part of the special use. The Petitioner was agreeable to this condition. The Kendall County Regional Planning Commission recommended approval of this special use permit with the condition that the building on the northeast corner of the property in the floodplain not be used as part of the business allowed by the special use permit by a vote of nine (9) in favor and zero (0) in opposition with one (1) member absent. The minutes of the meeting were provided.

The subject property has been used as a landscaping business and repair and restoration business. The Petitioner would like to retain the special use permit for a cleanup and restoration business at the property.

1. All vehicles, equipment and materials associated with a landscaping business shall be stored entirely within an enclosed structure, unless otherwise permitted under the terms of this Special Use Permit.

2. The business shall be located on, and have direct access to, a State, County or Collector Highway as identified in the County's LRMP, having an all-weather surface, designed to accommodate loads of at least 73,280 lbs, unless otherwise approved in writing by the agency having jurisdiction over said Highway. Such approvals shall establish limitations as to the number of employees and types of vehicles coming to and from the site that are engaged in the operation of the use (including delivery vehicles). These restrictions shall be included as controlling conditions of the Special Use.

3. No landscape waste generated off the property can be burned on this site.

If the County Board approves the outdoor storage of materials, the above conditions have been met.

According to the business plan, Baish Excavating, Inc. does excavation, concrete, landscaping, site maintenance, railroad and major pipeline work. Their work takes place offsite within a radius of approximately thirty-five (35) miles of Plainfield. They are relocating from their current location because their existing location has been sold.

The hours of operation are Monday through Friday from 6:00 a.m. until 5:00 p.m. The company operates outside these hours of operation during snowfalls and other emergencies. The company has eleven (11) employees, but this number could rise to fifteen (15) employees. Four (4) or five (5) of these employees work onsite while the remainder of employees work at job sites.

Equipment and trucks would be stored indoors as much as possible, but some equipment would be stored outside. Equipment consists of excavators, loaders, skid steers, track skids, two (2) semi dumps, and dump trailers. The site plan shows a sixty foot by one hundred foot (60' X 100') trailer parking area.

According the to the site plan, the Baish Excavating, Inc. would like to install three (3) fuel tanks on a concrete pad. The area would be twenty feet by thirty feet (20' X 30').

The site plan also calls for a twenty foot by sixty foot (20' X 60') outdoor storage bin area. This area would be used to store aggregates and salt in "tents". The "tents" would be a maximum of thirty feet (30') in height. The tents would be enclosed except for one (1) side. A picture of the "tent" was provided.

The existing special use permit for a landscaping business was granted on March 20, 2007, and included the following conditions and restrictions:

1. The maximum number of employees reporting to the site is 40.

2. The development of the site shall be in conformance with the submitted Site Enhancement Plan dated August 18, 2006 with a latest revision of date of March 9, 2007.

3. All commercial vehicles used for the special use are to be stored inside an accessory structure when not in use.

4. No construction activity can take place on the portion of the subject parcel located in Section 9 of Na-Au-Say Township until such time that a detailed flood plain study has been forwarded to PBZ staff and Strand Associates, to ensure that there are no negative impacts to Aux Sable Creek.

5. A site development permit will need to be secured prior to construction of the proposed parking stalls demonstrating that the post construction elevations of that portion of the parking lot located within the flood plain as depicted on the existing FEMA FIRM maps dated July 19, 1982 (Community Map Panel 170341 0100C) will not exceed the existing elevations of the existing grades on the site.

6. No construction activity shall take place and no permits (building, occupancy or site development) shall be issued for the subject property located in Section 9 of Na-Au-Say Township until such time that the required 15 foot Regional Trail easement, and the additional ROW along Route 126 per the previous Agreed Court Order, has been supplied and recorded.

7. All renovations to existing structures must conform to a commercial standard per the provisions of the Kendall County Building Code, including handicapped accessibility of the structures.

8. Other than the outside storage of non-growing landscaping materials, no outside storage shall

be allowed on the site.

9. Occupancy in the existing residence will be restricted to an employee of the petitioner, for use as a caretaker's residence, and his/her immediate family members.

10. No composting will be done on-site. All grass clippings will be stored temporarily in a bin or dumpster and be hauled off the site periodically when the bin becomes full.

The Petitioner is requesting that conditions 1, 2, 3, and 8 be amended or repealed. Conditions 4, 6, and 7 have previously been met. The FEMA FIRM maps have been updated since the original special use permit was granted in 2007.

According to the site plan, there is one (1) approximately fourteen thousand (14,000) square foot metal building on the property that is used for office operations and maintenance. One (1) approximately one thousand six hundred (1,600) square foot wood frame machine shed is located on the northeast corner of the truck parking area. One (1) single-family home with a detached garage is located on the west side of the property.

Any new structures would require applicable building permits.

The property is served by well and septic.

There is floodplain as part of the Little Slough Creek on the property as shown on the flood zone aerial and plat of survey. This area is considered Zone A which means no flood elevation has been determined; therefore, this area is considered Floodway.

On October 26, 2021, the Petitioners and their engineer met with the Senior Planner, a representative of WBK, and the Planning, Building and Zoning Committee Chairman at the property. The Petitioners agreed that no hazardous or flammable materials would be stored in the floodway. The Kendall County Stormwater Management Ordinance forbids the storage of such materials in the floodway.

The property has two accesses off of Route 126. The western access would be used by the existing house and the eastern access would be used by the business operating out of the metal building.

According to the site plan, a parking area is shown north of the metal building. The parking area is gravel.

Contrary to the business plan, no additional lighting beyond the existing lighting on the building and light near the entrance is planned at this time. Section 11:02.F.12.A requires an illumination plan for parking lots with thirty (30) or more parking spaces.

There is one (1) existing four foot by eight foot (4'X8') freestanding sign. A light exists next to the sign. A picture of the sign was provided.

There is an existing wooden fence around the property and a single gate east of the metal building.

A berm and several mature trees are between the metal building and Route 126. Pictures of the landscaping were provided.

No information was provided regarding noise control.

No new odors are foreseen by the proposed use.

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 operation of the special use will not be detrimental to the public health, safety, morals, comfort, or general welfare provided that the operator of the business allowed by this special use permit develops the site according to the submitted site plan, follows the agreed upon hours of operation, and follows the Kendall County Inoperable Vehicle Ordinance, Kendall County Junk and Debris Ordinance, and Kendall County Stormwater Management Ordinance, and related ordinances.

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. Provided that the business operates as proposed, no injury should occur to other property and property values should not be negatively impacted.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. Adequate utilities exist on the site based upon the number of proposed employees at the property. No additional buildings are planned for the site. The Petitioners are aware that parking cannot occur in the front yard setback. Route 126 is a State maintained road and should be able to handle the traffic. The Petitioners are aware that floodplain exists on the property and certain materials cannot be stored in the floodplain per the Kendall County Stormwater Management Ordinance.

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 because the Petitioners are not asking for any variances.

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 10-11 of the Kendall County Land Resource Management Plan which

calls for “a strong base of agricultural, commercial and industry 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 major amendment to an existing special use permit subject to the following conditions and restrictions:

1. Conditions 1 (pertaining to number of employees), 2 (pertaining to the site plan), 3 (pertaining to outside storage of commercial vehicles), and 8 of Ordinance 2007-10 shall be repealed. The remaining conditions and restrictions in Ordinance 2007-10 shall remain in force and valid.
2. The site shall be developed substantially in accordance with the site plan. The property owner or operators of the business allowed by this special use permit may remove the frame residence, garage, wood frame machine shed, and corn crib without amending the site plan.
3. The owners of the business allowed by the special use permit shall maintain the parking areas shown on the site plan and in substantially the same location as depicted on the site plan. The parking area north of the building shall be gravel and the parking lot south of the building shall be asphalt. Any expansions of either parking lots shall require an amendment to the special use permit.
4. The building located on the northeast corner of the property inside the floodplain as shown on the site plan shall not be used as part of the business allowed by this special use permit. **(Added at RPC)**
5. The owners of the businesses allowed by this special use permits shall diligently monitor the property for leaks from equipment and vehicles parked and stored on the subject property and shall promptly clean up the site if leaks occur.
6. Any new structures constructed or installed on the property shall not be considered for agricultural purposes and must secure applicable building permits.
7. Equipment and vehicles related to the business allowed by the special use permit may be stored outdoors.
8. None of the vehicles or equipment parked or stored on the subject property related to the business allowed by the special use permit shall be considered agricultural vehicles or agricultural equipment.
9. All of the vehicles and equipment stored on the subject property related to the business allowed by the special use permit shall be maintained in good condition with no deflated tires and shall be licensed if required by law.
10. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated outdoor storage bins as shown on the site plan. The maximum height of the bins or “tents” shall be thirty feet (30’) and shall look substantial like the structures shown in the pictures. The maximum storage heights inside the storage bins shall be capped at twenty-five feet (25’). No miscellaneous storage of vehicles, machinery, or equipment shall occur in the storage bins.
11. One (1) maximum four foot by eight foot (4’ X 8’) freestanding sign may be located on the

subject property. The sign may be illuminated.

12. No landscape waste generated off the property can be burned on the subject property.

13. A maximum of fifteen (15) employees of the business allowed by this special use permit, including the owners of the business allowed by this special use permit, may report to this site for work. No employees shall engage in the sale of landscaping related materials on the property.

14. No retail customers of the business allowed by this special use permit shall be invited onto the property by anyone associated with the use allowed by this special use permit.

15. The hours of operation of the business allowed by this special use permit shall be Monday through Saturday from 6:00 a.m. until 5:00 p.m. Business operations may occur outside the hours of operation in the event of bad weather and snow removal. The owners of the business allowed by this special use permit may reduce these hours of operation.

16. 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.

17. At least one (1) functioning fire extinguisher and one (1) first aid kit shall be on the subject property. Applicable signage stating the location of the fire extinguisher and first aid kit shall be placed on the subject property.

18. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.

19. The conditions and restrictions contained in Ordinance 2014-29 shall be separate and enforceable from the conditions and restrictions contained in Ordinance 2007-10 and this major amendment to an existing special use permit.

20. The property owner and operator of the business allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business,

including but not limited, the public health protection standards for properties in the floodplain contained in the Kendall County Stormwater Management Ordinance.

21. 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.

22. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

23. 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.

Chairman Mohr asked about the difference between a landscaping business and an excavating company. Mr. Asselmeier responded that excavating companies were not allowed in the A-1 district. Landscaping businesses were not defined in the Zoning Ordinance; it was unclear where the line existed between a landscaping business and an excavating business.

Member LeCuyer made a motion, seconded by Member Thompson, to accept the Staff Report into evidence.

With a voice vote of seven (7) ayes, the motion carried.

Chairman Mohr opened the public hearing at 7:16 p.m.

Gregg Ingemunson, Attorney for the Petitioner, said Baish Excavating does more landscaping work than excavating work.

Dan Koukol, on behalf of his father, Philip R. Koukol, said that his family owns the neighboring farm. He felt the business would be a good fit. He noted that the property had a well and pump business without anyone's knowledge previously. An excavating business moved in, but everything was required to be indoors. He requested that excavator and landscaper be defined and that operations be kept indoors. He questioned the materials available at the Petitioner's current operations.

Member Vickery said she did not know Baish Excavating to be a landscaping business. She felt the special use was proposed for change as a matter of convenience and not truly what they do as a business. She also questioned the County's ability to enforce the existing regulations on the existing landscaping businesses and related special use permits. She did not believe that the proposal would be a good use. She favored indoor storage.

Chairman Mohr closed the public hearing at 7:21 p.m.

Member LeCuyer made a motion, seconded by Member Whitfield, to approve the findings of fact.

The votes were as follows:
Ayes (6): Cherry, Fox, LeCuyer, Mohr, Thompson, and Whitfield
Nays (0): None
Abstain (1): Vickery
Absent (0): None

The motion passed.

Member Whitfield made a motion, seconded by Member LeCuyer, to approve the conditions proposed by Staff.

The votes were as follows:
Ayes (6): Cherry, Fox, LeCuyer, Mohr, Thompson, and Whitfield
Nays (1): Vickery
Abstain (0): None
Absent (0): None

The motion passed.

Member LeCuyer made a motion, seconded by Member Whitfield, to recommend approval of the special use permit.

The votes were as follows:
Ayes (6): Cherry, Fox, LeCuyer, Mohr, Thompson, and Whitfield
Nays (1): Vickery
Abstain (0): None
Absent (0): None

The motion passed.

The proposal will go to the Kendall County Planning, Building and Zoning Committee on Tuesday, December 14, 2021.

The Zoning Board of Appeals completed their review of Petitions 21-46 at 7:24 p.m.

The Zoning Board of Appeals started their review of Petition 21-48 at 7:24 p.m.

Petition 21 – 48 – Brian Henrichs on Behalf of Baka Properties, LLC

Request: Map Amendment Rezoning the Subject Property from A-1 Agricultural District to R-3 One Family Residential District
PIN: 02-34-130-004
Location: 55 Riverside Street (Lot 183 in Fox River Gardens), Bristol Township
Purpose: Petitioner Wants to Rezone the Property in Order to Subdivide the Property and Construct Two Homes

Mr. Asselmeier summarized the request.

The Petitioner is requesting a map amendment rezoning the subject property from A-1 Agricultural District to R-3 One Family Residential District.

The Petitioner plans to submit preliminary and final plats dividing the property into two (2) parcels in order to construct one (1) house on each new parcel.

The application materials, plat of survey, topographic survey, and aerial of the property were provided.

55 ILCS 5/5-12014(b)(B) allows for written protests signed by the owner or owners of land immediately touching, or immediately across a street, alley, or public right-of-way from, at least 20% of the perimeter of the land to be rezoned. In such cases, a three quarters (3/4) vote of the entire County Board is necessary to approve the map amendment. On November 30, 2021, this type of written protest was submitted to the County; the protest was provided.

Following the Kendall County Regional Planning Commission meeting, upon further review, the subject property is an agriculturally zoned lot in a recorded subdivision established before Kendall County adopted a zoning ordinance and is eligible for one (1) single-family house per Section 5:15.B of the Kendall County Zoning Ordinance which states the following:

"A lot which was established in an agricultural district by recorded deed or is part of an approved plat of subdivision, or was otherwise legally established on or before the adoption of this amendatory ordinance, may be used for single family residence purposes provided that the yard requirements of the R-2 District are complied with."

The property is addressed as 55 Riverside Street and is Lot 183 in the Fox River Gardens Subdivision.

The property is approximately two point seven (2.7) acres in size.

The current land is Vacant; the property was previously used as horse pasture.

The Kendall County Future Land Use Map called for the property to be Suburban Residential (Max 1.00 DU/Acre). Yorkville's Future Land Use Map called for the property to be Estate/Conservation Residential.

Yorkville Road and Riverside Street are private streets.

Mr. Asselmeier read an email from Greg Chismark noting floodplain on the property and provided a map showing the approximate locations of the floodplain. There were no wetlands on the property.

The adjacent land uses were Single-Family Residential.

The adjacent properties were zoned A-1 and R-3.

The Kendall County Future Land Use Map called for the area to be Suburban Residential (Max 1.00 DU/Acre). Yorkville's Future Land Use Map called for the area to be Estate/Conservation Residential.

Zoning districts within one half (1/2) of a mile included A-1, A-1 SU, R-1, R-2, and R-3 in the unincorporated area. Properties inside Yorkville were zoned R-2 and OS-2.

The A-1 special use to the north was for a campground (Hide-A-Way Lakes).

EcoCat submitted on November 10, 2021. Protected resources may be in the vicinity, but adverse impacts were unlikely and consultation was terminated.

NRI application submitted on November 12, 2021. The draft LESA Score was 120 indicating a low level of protection.

The United City of Yorkville was emailed information on November 16, 2021. The Yorkville Economic Development Committee reviewed this proposal on December 7, 2021, and did not issue a recommendation. The Yorkville Planning and Zoning Commission reviewed this proposal on December 8, 2021, and had no objections to the request. Emails regarding these actions were provided.

Bristol Township was emailed information on November 16, 2021. No comments have been received.

ZPAC reviewed this proposal at their meeting on December 7, 2021. Discussion occurred about floodplain on the lot and restrictions about building in the floodplain. Appropriate federal, state, and local permits would be needed to build in the floodplain and applicable insurance would be required. An alternative septic system would likely be needed.

Rick Porter, Attorney for the Objectors, presented an objection to the requested rezoning from several neighbors. He felt having a R-3 zoned property in the area was inappropriate. He noted the exemptions in the Zoning Ordinance that allows houses on A-1 zoned properties. He noted the deed restrictions and argued that only one (1) home was allowed on Lot 183. The density would not be compatible with area. He noted that wetlands are located on the property. He noted the area and streets are prone to flooding with odor issues from septic systems and sanitary issues will worsen. He also noted the large amount of hydric soils on the property. Additional buildings will create additional flooding on downstream property owners. He also stated that the Petitioner has a history of not complying with County regulations. The trend of development is not toward increased density. Mr. Porter said the Committee could recommend R-1 zoning under the Zoning Ordinance.

Chris Lannert said development of the site was difficult. He argued that the previous rezoning in the area was probably illegal. He noted that fill had been placed on the property. He said it was a beautiful natural area. The Petitioner should not be able to build more than one (1) house on the parcel. Only a small portion of the lot was buildable. He advised the Committee not to be put into a position to accept the subdivision because the rezoning was approved.

Boyd Ingemunson, Attorney for the Petitioner, noted that the lot and neighboring lot merged Parcel Identification Numbers, otherwise the Petitioner could build one (1) house. He noted that every lot in the area was challenging to build. He noted that the request meets the Land Resource Management Plan and the intent of the subdivision. Mr. Asselmeier asked if the Petitioner was aware that, if the request was approved, two (2) houses might not be able to be built on the lot. Mr. Ingemunson acknowledged that the lot has challenges and will have to meet regulations.

Mr. Klaas questioned the nature of the Petition. Mr. Asselmeier responded the present request is to rezone the property. If the rezoning was approved, the Petitioner could pursue a subdivision with the

intent of placing two (2) houses on the existing parcel. Mr. Ingemunson said the Petitioner would ideally like to have the ability to build two (2) houses. The item before the County is rezoning the property. Mr. Klaas felt the Petition was flawed with the possibility that more than one (1) house could be placed on the parcel. He felt that the parcel should be entitled to one (1) and only one (1) house.

Mr. Guritz noted that deed restrictions exist. Discussion occurred regarding the deed restrictions. The question was raised regarding which entity enforces the deed restrictions.

Mr. Asselmeier noted that agricultural activities could occur on all of the properties in the area. He also noted that, if the rezoning was approved, a future property owner could decide to do a subdivision.

Dee Studler described the neighborhood. She noted the animals in the area. She noted the people admiring natural beauty when traveling in their kayaks down the river. The area was not high density. She said the Petitioner has already violated the deed restrictions and will not follow the rules. Mr. Asselmeier asked Ms. Studler if she would be fine if the Petitioner used the property for a cattle or hog farm. Ms. Studler responded yes.

Mr. Asselmeier explained how the property was originally zoned A-1.

James Kohout, Dave Morgan, and Gerald Chase stated they were in favor of allowing the Petitioner to have one (1) house, but were opposed to multiple houses on the property.

Dave Morgan and JoAnn Willingham expressed concerns about stormwater runoff and standing water.

Dave Morgan also expressed concerns related to property values, lighting, and traffic congestion.

Shabbir Shamsuddin expressed concerns regarding the width of the road and septic issues.

Mr. Asselmeier asked Mr. Ingemunson if the Petitioner would be interested in obtaining a conditional use permit for single-family home while retaining the A-1 zoning. Mr. Ingemunson responded that he would need to discuss the matter with the Petitioner.

Chairman Gengler felt that only one (1) house should be on the property.

ZPAC recommended denial of the request map amendment by a vote of seven (7) against the proposal, one (1) in favor of the proposal and two (2) members absent. The minutes were provided.

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on December 8, 2021.

Mr. Asselmeier noted that the County does not enforce or interpret the deed restrictions and the Petitioner might attempt to divide the property through a Plat Act exemption if the rezoning was approved.

Commissioners discussed the buildability of the lot and floodplain on the property.

Boyd Ingemunson, Attorney for the Petitioner, restated much of the same information that he said at ZPAC. He further noted that a mechanical septic system probably would be required and the buildability of the lot had not been determined. He also discussed the rights of property owners to rezone their property. He discussed the previous rezoning that occurred on the Petitioner's neighboring property in 2005. He stated the subject property was not suitable for agricultural uses. He stated that his clients have not violated any laws related to the placement of fill and the neighbors did not like the Petitioner.

Rick Porter, Attorney for the Objectors, restated much of the same information that he said at ZPAC. He stated that his clients favor having one (1) home on the property only and, if the property was going to be rezoned, it should be rezoned to R-1 or R-2. He stated that fill had been placed on the property and River Street experienced flooding. He said neighbors did not receive notification for the previous rezoning in 2005. He also discussed the facts required in order to prove the need for a rezoning.

Chris Lannert restated much of the same information that he said at ZPAC. He called the development of two (2) lots on the property unnecessary and noted the limited amount of land available on the property for even one (1) house.

Pat Kelsey provided a picture of the fill on the property. He discussed the drainage and plants in the area. He discussed the difficulty of putting septic systems in hydric soils and in the area. He discussed the engineering and earthwork that would need to occur to raise buildings out of the floodplain. He said the subject property was lower than the nearby houses along the Fox River. He said a wet stream flowed through the property and approximately twenty-five percent (25%) of the property was in wetlands. He also stated there was a culvert for the stream to flow through under Yorkville Road.

Brian Henrichs, Petitioner, stated he wanted the rezoning in order to keep his kids and grandchildren in the area. He also explained the water table in the area and said that he has not had any issues with his septic system. He also said no wetlands were located on the property.

Chairman Ashton noted the deed restrictions did not matter.

Dee Studler restated much of the same information that she said at ZPAC. She provided information regarding a recent judgement related to a tree dispute.

James Kohout restated much of the same information that he said at ZPAC. He stated that he still uses his property for agriculture. He favored one (1) house on the property and was opposed to two (2) houses on the property.

A neighbor said the southern portion of Fox River Gardens was different than the northern portion of Fox River Gardens. He noted the frequency of his sump pump running. He noted issues exist between neighbors. He was concerned about property values. He did not object to one (1) house on the property. The neighbors just want to protect and preserve the neighborhood.

James Clune was opposed to any buildings on the property because of the floodplain, stormwater, and mosquitos. He was concerned about the neighborhood getting a bad reputation with Realtors.

Shabbir Shamsuddin restated much of the same information that he said at ZPAC. He was not against the Petitioner. He did not receive notice of the rezoning in 2005. He discussed the septic issues he has at his property. His yard was underwater when it rains. He said building one (1) home will cause issues with hydrology. He was also concerned about property values and increased traffic.

Gerald Chase restated much of the same information that he said at ZPAC. He said that he had not received notice of the previous zoning change. He was concerned about drainage and the impact of a second house on the water situation.

Member Rodriguez felt that one (1) house was enough for the property and discussed the challenges of building multiple houses on the property.

Mr. Asselmeier provided the minimum square footages for R-1, R-2, and R-3 zoned properties. The subject property is less than the minimum one hundred thirty-thousand (130,000) square foot lot size required in the R-1.

The Kendall County Regional Planning recommended rezoning the property R-2 instead of R-3 by a vote of seven (7) in favor and two (2) in opposition with one (1) member absent. The minutes of the meeting were provided.

The Petitioner desires to rezone the subject property in order to subdivide the property into (2) parcels and construct one (1) house on each of the two (2) new parcels created for a total of two (2) new houses.

Section 8:07.H of the Kendall County Zoning Ordinance does not allow properties larger than ten (10) acres in size to rezone to the R-3 One Family Residential District. The subject property is less than ten (10) acres in size.

The minimum lot size in the R-3 One Family Residential District is forty-five thousand (45,000) square feet.

Any new homes or accessory structures would be required to meet applicable building codes.

According to the Plat of Survey, there is one (1) existing steel and frame pole building and one (1) frame stable on the property.

No public or private utilities are onsite. Electricity is at Yorkville Road and Riverside Street.

The property fronts Yorkville Road and Riverside Street, two (2) private roads.

Any new driveways constructed would be for residential purposes. Any new driveways would have to meet applicable regulations and secure proper permits.

No new odors are foreseen.

Any new lighting would be for residential use only.

Any fencing, landscaping, or screening would be for residential purposes.

Any signage would be residential in nature.

No noise is anticipated.

Any new homes would have to be constructed per Kendall County's Stormwater Management Ordinance.

The proposed findings of fact were as follows:

Existing uses of property within the general area of the property in question. The surrounding properties are used for single-family residential uses.

The Zoning classification of property within the general area of the property in question. The surrounding properties are zoned A-1 or R-3.

The suitability of the property in question for the uses permitted under the existing zoning classification. The property is presently zoned A-1. The property is less than forty (40) acres and does not qualify for any agricultural housing allocations. One (1) single-family residential home could be constructed on the subject property under the provision outlined in Section 5:15.B of the Kendall County Zoning Ordinance pertaining to non-conforming lots on agricultural zoned properties in certain subdivisions.

The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was in its present zoning classification. The Zoning Board of Appeals shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and is not solely for the interest of the applicant. The Zoning Board of Appeals may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification than that requested by the applicant. For the purpose of this paragraph the R-1 District shall be considered the highest classification and the M-2 District shall be considered the lowest classification. The trend of development in the area is single-family residential uses found in rural settings with wooded lots.

Consistency with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. The Future Land Use Map in the Land Resource Management Plan classifies this property as Suburban Residential. The maximum density for the Suburban Residential classification is one density unit per acre (1.00 DU/Acre). The minimum lot size for R-3 One Family Residential District zoned land is slightly over one (1) acre at forty-five thousand (45,000) square feet. Accordingly, the R-3 One Family Residential District is consistent with the Suburban Residential classification.

Staff recommended approval of the proposed map amendment because the proposal is consistent with the Land Resource Management Plan.

Member LeCuyer made a motion, seconded by Member Thompson, to accept the Staff Report into evidence.

With a voice vote of seven (7) ayes, the motion carried.

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

Brian Henrichs, Petitioner, stated that he was forced to go R-3 by the County; he tried to stay A-1. He was withdrawing his Petition for a later date in 2022.

Rick Porter, Attorney for the Objectors, said that they tried to reach the Petitioner and his Attorney, but were unsuccessful. He said the Petitioner and his Attorney did not inform he and his clients because the Petitioner wanted the Objectors to incur additional expenses.

Chairman Mohr noted that the Petition was rescinded at the request of the Petitioner.

Chairman Mohr closed the public hearing at 7:39 p.m.

The Zoning Board of Appeals completed their review of Petitions 21-48 at 7:39 p.m.

The Zoning Board of Appeals started their review of Petition 21-37 at 7:40 p.m.

Petition 21 – 37 – Kendall County Planning, Building and Zoning Committee

Request: Text Amendments to the Kendall County Zoning Ordinance Pertaining to the Illinois Garden Act and Roadside Stand Regulations

Purpose: Petitioner Wishes Vegetable Gardens and Roadside Stands To Be Permitted Uses on all Residentially Zoned Properties, Establishes Sight-Line Requirements to Vegetable Gardens, Updates Appendix 9, Table of Uses, and Makes Citation Corrections to the Zoning Ordinance

Mr. Asselmeier summarized the request.
Earlier in 2021, the Illinois General Assembly passed and the Governor signed Public Act 102-0180 (formerly House Bill 0633) also known as the Garden Act.

The Garden Act allows people to plant vegetable gardens as the primary use on residential pieces of property. Further, no county in Illinois can prevent people from using residential property for the purpose of vegetable gardens. The Garden Act becomes effective January 1, 2022. A copy of Public Act 102-0180 was provided.

Presently, farming is a permitted use on A-1, RPD-1, RPD-2, and RPD-3 zoned property in unincorporated Kendall County.

Also, per Section 4:05.B of the Kendall County Zoning Ordinance, gardens may encroach up to all property lines.

At their meeting on September 13, 2021, the Kendall County Planning, Building and Zoning Committee voted to initiate text amendments to the Zoning Ordinance to allow vegetable gardening as a primary use on R-1, R-2, R-3, R-4, R-5, R-6, and R-7 zoned property, allow roadside stands selling agricultural products grown on the premises in the same residential zoning districts, and to restrict gardens from

forty foot (40') sight triangles where two (2) public streets meet. Roadside stands must be setback at least ten feet (10') from the nearest right-of-way.

Below please find the original redlined version of the proposal:

8:02.A Permitted Uses in the R-1

5. Lands and buildings used for horticulture or farm purposes **including vegetable gardens as defined by the Garden Act.**

8:06.A Permitted Uses in the R-2

1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:

a. Lands and buildings used for horticultural or farm purposes, **not including vegetable gardens as defined by the Garden Act and roadside stands following the setback requirements in Section 8:02.A**

~~**b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and**~~

~~**c.**~~ **b.** Farm-type animals shall be prohibited in the R-2 District with the exception of chickens.

8:07.A Permitted Uses in the R-3

1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:

a. Lands and buildings used for horticultural or farm purposes, **not including vegetable gardens as defined by the Garden Act and roadside stands following the setback requirements in Section 8:02.A**

~~**b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and**~~

~~**c.**~~ **b.** Farm-type animals shall be prohibited in the R-3 District with the exception of chickens.

8:08.A Permitted Uses in the R-4, R-5, R-6, and R-7 Districts

6. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, provided that the stands and produce on display are located ten feet (10') back from the nearest right-of-way line.

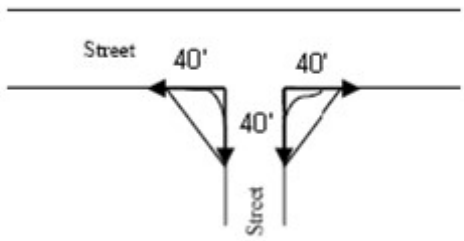
10. Vegetable Gardens as defined by the Garden Act.

Remaining Permitted Uses to be Renumbered.

Amendment to Appendix 9, Table of Uses to reflect the addition of Vegetable Gardens and Roadside Stands as Permitted Use in all Residential Zoning Districts.

Section 11:02.F.11 should be clarified as follows regarding sight triangles:

11. Landscape sight triangle. No landscaping including berms **and vegetable gardens as defined by the Garden Act** shall be planted within a forty foot (40') sight triangle measured at the intersection of two public streets.



Petition information was emailed to the townships on September 22, 2021. To date, only the Na-Au-Say Township Planning Commission has reviewed this proposal and they unanimously recommended approval.

ZPAC reviewed this proposal at their meeting on October 5, 2021. Discussion centered on the State imposing new regulations. ZPAC recommended approval of the proposal by a vote of seven (7) in favor, zero (0) in opposition, and one (1) present with two (2) members absent. The minutes were provided.

At the October 27, 2021, Kendall County Regional Planning Commission meeting, the consensus of the Commission was to establish a setback larger than ten feet (10') in the front yards and side yards of corner lots for Boulder Hill. The minutes were provided.

The Kendall County Zoning Board of Appeals started their review of the proposal on November 1, 2021. The discussion centered on increased traffic. They noted that existing garage sales, which are not regulated, caused additional traffic and parking issues. The Zoning Board also noted that the size of lots in Boulder Hill will restrict the amount produce available to be sold. The minutes of the hearing were provided.

Per the Zoning Ordinance, the required front yard setbacks in the R-4, R-5, and R-6 Districts are forty feet (40') from the right-of-way from freeway and arterial roads, thirty feet (30') for major and minor collector roads, and twenty-five feet (25') from all other roads. For the R-7 District, the front yard setbacks are fifty feet (50') for freeway and arterial roads, forty feet (40') from major and minor collector roads, and thirty feet (30') from all other roads. The side yard setback for corner lots in the R-4, R-5, R-6, and R-7 Districts is thirty feet (30').

A map showing the areas zoned R-4, R-5, R-6, and R-7 was provided.

The proposal could be amended to restrict roadside stands from the front yard and side yards of corner lots in the R-4, R-5, R-6, and R-7 Districts with the setbacks as noted in the previous paragraph. This would cause roadside stands to be placed closer to the house, including on porches and inside garages, on smaller lots.

Staff would like to point out that accessory structures are presently not allowed in the front yard or side yards of corner lot setbacks and that lawn furniture can be placed within two point five feet (2.5') of any property line. Staff has also been directed not to strictly enforce setback restrictions related to lemonade and similar stands in residential areas.

With the above information in mind, the Kendall County Regional Planning Commission met on December 8, 2021, and recommended that roadside stands be restricted from required front yard setbacks and side yard setbacks for corner lots in the R-4, R-5, R-6, and R-7 Districts by vote of nine (9) in favor and zero (0) in opposition with one (1) member absent. The minutes were provided.

Member Vickery asked who would be impacted by this proposal. Mr. Asselmeier responded the proposal would impact people zoned residential and not agricultural; properties in Boulder Hill for example.

Chairman Mohr opened the public hearing at 7:44 p.m.

The consensus of the Board was that the County would have difficulty enforcing setbacks.

Mr. Asselmeier provided a history of the State law.

Member Whitfield questioned the number of houses that would have roadside stands.

Chairman Mohr closed the public hearing at 7:50 p.m.

Member Whitfield made a motion, seconded by Member Cherry, to recommend approval of the text amendment as originally proposed with roadsides stands allowed up to ten feet (10') of the nearest right-of-way line.

The votes were as follows:
Ayes (7): Cherry, Fox, LeCuyer, Mohr, Thompson, Vickery, and Whitfield
Nays (0): None
Abstain (0): None
Absent (0): None

The motion passed.

The townships will be notified of the results of the public hearing and will have thirty (30) days to object.

The proposal will go to the Kendall County Planning, Building and Zoning Committee on Monday, January 10, 2022.

The Zoning Board of Appeals completed their review of Petitions 21-37 at 7:51 p.m.

NEW BUSINESS/OLD BUSINESS
Selection of Kendall County Zoning Board of Appeals Acting Chairman

Member Whitfield nominated Tom LeCuyer to the position of Acting Chairman, seconded by Member

Cherry. There were no additional nominations.

With a voice vote of seven (7) ayes, the motion carried.

REVIEW OF PETITIONS THAT WENT TO THE COUNTY BOARD

Mr. Asselmeier reported that Petitions 21-26, 21-32, and 21-36 were approved by the County Board.

PUBLIC COMMENTS

Mr. Asselmeier stated a special use permit and variance for landscaping business at 1038 Harvey Road and Petition 21-49 would be on the agenda on January 31, 2022.

ADJOURNMENT OF THE ZONING BOARD OF APPEALS

Member LeCuyer made a motion, seconded by Member Vickery, to adjourn.

With a voice vote of seven (7) ayes, the motion carried.

The Zoning Board of Appeals meeting adjourned at 7:55 p.m.

The next hearing/meeting will be on January 31, 2022.

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

Exhibits

1. Memo on Petition 21-37 Dated December 9, 2021
2. Certificate of Publication for Petition 21-37 (Not Included with Report but on file in Planning, Building and Zoning Office)
3. Memo on Petition 21-46 Dated December 9, 2021
4. Certificate of Publication and Certified Mail Receipts for Petition 21-46 (Not Included with Report but on file in Planning, Building and Zoning Office)
5. Memo on Petition 21-48 Dated December 10, 2021
6. Certificate of Publication and Certified Mail Receipts for Petition 21-48 (Not Included with Report but on file in Planning, Building and Zoning Office)
7. December 7, 2021 Email from Dan Kramer RE: Quezada Zoning Petition
8. Certificate of Publication and Certified Mail Receipts for Petition 21-49 (Not Included with Report but on file in Planning, Building and Zoning Office)

DEPARTMENT OF PLANNING, BUILDING & ZONING
111 West Fox Street • Room 203
Yorkville, IL • 60560
(630) 553-4141 Fax (630) 553-4179

MEMORANDUM

To: Kendall County Zoning Board of Appeals
From: Matthew H. Asselmeier, AICP, CFM Senior Planner
Date: December 9, 2021
Re: Public Act 102-0180-Garden Act (Petition 21-37)

Earlier in 2021, the Illinois General Assembly passed and the Governor signed Public Act 102-0180 (formerly House Bill 0633) also known as the Garden Act.

The Garden Act allows people to plant vegetable gardens as the primary use on residential pieces of property. Further, no county in Illinois can prevent people from using residential property for the purpose of vegetable gardens. The Garden Act becomes effective January 1, 2022. A copy of Public Act 102-0180 is attached.

Presently, farming is a permitted use on A-1, RPD-1, RPD-2, and RPD-3 zoned property in unincorporated Kendall County.

Also, per Section 4:05.B of the Kendall County Zoning Ordinance, gardens may encroach up to all property lines.

At their meeting on September 13, 2021, the Kendall County Planning, Building and Zoning Committee voted to initiate text amendments to the Zoning Ordinance to allow vegetable gardening as a primary use on R-1, R-2, R-3, R-4, R-5, R-6, and R-7 zoned property, allow roadside stands selling agricultural products grown on the premises in the same residential zoning districts, and to restrict gardens from forty foot (40') sight triangles where two (2) public streets meet. Roadside stands must be setback at least ten feet (10') from the nearest right-of-way.

Below please find the original redlined version of the proposal:

8:02.A Permitted Uses in the R-1
5. Lands and buildings used for horticulture or farm purposes **including vegetable gardens as defined by the Garden Act.**

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1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:
a. Lands and buildings used for horticultural or farm purposes, **not including vegetable gardens as defined by the Garden Act and roadside stands following the setback requirements in Section 8:02.A**
~~**b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and**~~
~~**c.**~~ **b.** Farm-type animals shall be prohibited in the R-2 District with the exception of chickens.

8:07.A Permitted Uses in the R-3
1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:
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~~**b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and**~~
~~**c.**~~ **b.** Farm-type animals shall be prohibited in the R-3 District with the exception of chickens.

8:08.A Permitted Uses in the R-4, R-5, R-6, and R-7 Districts
6. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, provided that the stands and produce on display are located ten feet (10') back from the nearest right-of-way line.

10. Vegetable Gardens as defined by the Garden Act.

Remaining Permitted Uses to be Renumbered.

Amendment to Appendix 9, Table of Uses to reflect the addition of Vegetable Gardens and Roadside Stands as Permitted Use in all Residential Zoning Districts.

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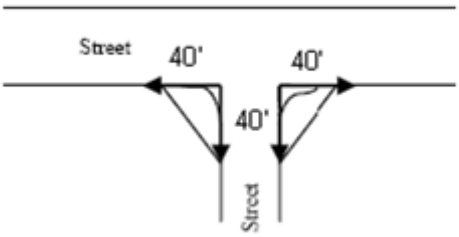

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Per the Zoning Ordinance, the required front yard setbacks in the R-4, R-5, and R-6 Districts are forty feet (40') from the right-of-way from freeway and arterial roads, thirty feet (30') for major and minor collector roads, and twenty-five feet (25') from all other roads. For the R-7 District, the front yard setbacks are fifty feet (50') for freeway and arterial roads, forty feet (40') from major and minor collector roads, and thirty feet (30') from all other roads. The side yard setback for corner lots in the R-4, R-5, R-6, and R-7 Districts is thirty feet (30').

A map showing the areas zoned R-4, R-5, R-6, and R-7 is also attached.

The proposal could be amended to restrict roadside stands from the front yard and side yards of corner lots in the R-4, R-5, R-6, and R-7 Districts with the setbacks as noted in the previous paragraph. This would cause roadside stands to be placed closer to the house, including on porches and inside garages, on smaller lots.

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With the above information in mind, the Kendall County Regional Planning Commission met on December 8, 2021, and recommended that roadside stands be restricted from required front yard setbacks and side yard setbacks for corner lots in the R-4, R-5, R-6, and R-7 Districts by vote of nine (9) in favor and zero (0) in opposition with one (1) member absent. The minutes are attached.

If you have any questions, please let me know.

MHA

Encs.: Public Act 102-0180
October 5, 2021 ZPAC Minutes (This Petition Only)
October 27, 2021 Kendall County Regional Planning Commission Minutes (This Petition Only)
November 1, 2021 Kendall County Zoning Board of Appeals Minutes (This Petition Only)
R-4, R-5, R-6, and R-7 Map
December 8, 2021 Kendall County Regional Planning Commission Minutes (This Petition Only)

AN ACT concerning vegetable garden protection.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act may be cited as the Garden Act.

Section 5. Purpose. The Act's purpose is to encourage and protect the sustainable cultivation of fresh produce at all levels of production, including on residential property for personal consumption or non-commercial sharing.

Section 10. Vegetable garden defined. As used in this Act, the term "vegetable garden" means any plot of ground or elevated soil bed on residential property where vegetables, herbs, fruits, flowers, pollinator plants, leafy greens, or other edible plants are cultivated.

Section 15. Right to cultivate vegetable gardens. Notwithstanding any other law, any person may cultivate vegetable gardens on their own property, or on the private property of another with the permission of the owner, in any county, municipality, or other political subdivision of this state.

Section 20. Home rule. A home rule unit may not regulate gardens in a manner inconsistent with this Act. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

Section 25. State and local regulation still permitted. Section 20 of this Act notwithstanding, this Act does not preclude the adoption of a regulation or local ordinance of general nature that does not specifically regulate vegetable gardens, including, but not limited to, regulations and ordinances relating to height, setback, water use, fertilizer use, or control of invasive or unlawful species, provided that any such regulation or ordinance does not have the effect of precluding vegetable gardens.

ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC)
October 5, 2021 – Unapproved Meeting Minutes

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

Present:
Matt Asselmeier – PBZ Department
Meagan Briganti – GIS Department
Scott Gengler – PBZ Committee Chair
Brian Holdiman – PBZ Department
Fran Klaas – Highway Department
Sergeant Dave Lawson – Sheriff's Department
Alyse Olson – Soil and Water Conservation District
Aaron Rybski – Health Department

Absent:
Greg Chismark – WBK Engineering, LLC
David Guritz – Forest Preserve

Audience:
Brenda Zeiter, Gregg Ingemunson, Greg Dady, Boyd Ingemunson, and John Tebrugge

PETITIONS

Petition 21-37 Kendall County Planning, Building and Zoning Committee
Mr. Asselmeier summarized the request.

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8:07.A Permitted Uses in the R-3
1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:

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~~**b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and**~~
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8:08.A Permitted Uses in the R-4, R-5, R-6, and R-7 Districts
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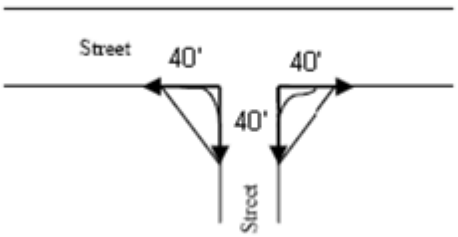


Mr. Asselmeier was unaware of any complaints against vegetable gardens in Kendall County.

Chairman Gengler asked what happens if the County does not approve this proposal. Mr. Asselmeier said State law supersedes County law. If the County tried to prosecute someone for violating regulation in conflict with State law, the court probably would rule against the County.
Discussion occurred regarding the threshold to meet the agricultural zoning exemption in State law.

Ms. Briganti made a motion, seconded by Mr. Rybski, to recommend approval of the text amendment.

The votes were as follows:
Yeas (7): Asselmeier, Briganti, Gengler, Holdiman, Lawson, Olson, and Rybski
Nays (0): None
Present (1): Klaas
Absent (2): Chismark and Guritz

The motion carried.

The proposal goes to the Kendall County Regional Planning Commission on October 27, 2021.

CORRESPONDENCE

None

PUBLIC COMMENT

None

ADJOURNMENT

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

With a voice vote of eight (8) ayes, the motion carried.

The ZPAC, at 10:44 a.m., adjourned.

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

Enc.

KENDALL COUNTY
REGIONAL PLANNING COMMISSION

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

Unapproved - Meeting Minutes of October 27, 2021 - 7:00 p.m.

Chairman Ashton called the meeting to order at 7:28 p.m.

ROLL CALL
Members Present: Bill Ashton, Roger Bledsoe, Tom Casey, Dave Hamman, Larry Nelson, Claire Wilson, and Seth Wormley
Members Absent: Karin McCarthy-Lange, Ruben Rodriguez, and Bob Stewart
Staff Present: Matthew H. Asselmeier, Senior Planner
Others Present: Brenda Zeiter, Boyd Ingemunson, Ron Miller, Fran Miller, and Dan Koukol

PETITIONS
Petition 21-37 Kendall County Planning, Building and Zoning Committee
Mr. Asselmeier summarized the request.

Earlier in 2021, the Illinois General Assembly passed and the Governor signed Public Act 102-0180 (formerly House Bill 0633) also known as the Garden Act.

The Garden Act allows people to plant vegetable gardens as the primary use on residential pieces of property. Further, no county in Illinois can prevent people from using residential property for the purpose of vegetable gardens. The Garden Act becomes effective January 1, 2022. A copy of Public Act 102-0180 was provided.

Presently, farming is a permitted use on A-1, RPD-1, RPD-2, and RPD-3 zoned property in unincorporated Kendall County.

Also, per Section 4:05.B of the Kendall County Zoning Ordinance, gardens may encroach up to all property lines.

At their meeting on September 13, 2021, the Kendall County Planning, Building and Zoning Committee voted to initiate text amendments to the Zoning Ordinance to allow vegetable gardening as a primary use on R-1, R-2, R-3, R-4, R-5, R-6, and R-7 zoned property, allow roadside stands selling agricultural products grown on the premises in the same residential zoning districts, and to restrict gardens from forty foot (40') sight triangles where two (2) public streets meet. Roadside stands must be setback at least ten feet (10') from the nearest right-of-way.

Below please find the redlined version of the proposal:

8:02.A Permitted Uses in the R-1

5. Lands and buildings used for horticulture or farm purposes **including vegetable gardens as defined by the Garden Act.**

8:06.A Permitted Uses in the R-2

1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:

a. Lands and buildings used for horticultural or farm purposes, **not including vegetable gardens as defined by the Garden Act and roadside stands following the setback requirements in Section 8:02.A**

~~**b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and**~~

~~**c.**~~ **b.** Farm-type animals shall be prohibited in the R-2 District with the exception of chickens.

8:07.A Permitted Uses in the R-3

1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:

a. Lands and buildings used for horticultural or farm purposes, **not including vegetable gardens as defined by the Garden Act and roadside stands following the setback requirements in Section 8:02.A**

~~**b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and**~~

~~**c.**~~ **b.** Farm-type animals shall be prohibited in the R-3 District with the exception of chickens.

8:08.A Permitted Uses in the R-4, R-5, R-6, and R-7 Districts

6. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, provided that the stands and produce on display are located ten feet back from the nearest right-of-way line.

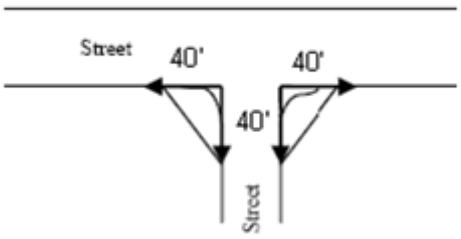
10. Vegetable Gardens as defined by the Garden Act.

Remaining Permitted Uses to be Renumbered.

Amendment to Appendix 9, Table of Uses to reflect the addition of Vegetable Gardens and Roadside Stands as Permitted Use in all Residential Zoning Districts.

Section 11:02.F.11 should be clarified as follows regarding sight triangles:

11. Landscape sight triangle. No landscaping including berms **and vegetable gardens as defined by the Garden Act** shall be planted within a forty foot (40') sight triangle measured at the intersection of two public streets.



Petition information was emailed to the townships on September 22, 2021. To date, only the Na-Au-Say Township Planning Commission has reviewed this proposal and they unanimously recommended approval.

ZPAC reviewed this proposal at their meeting on October 5, 2021. Discussion centered on the State imposing new regulations. ZPAC recommended approval of the proposal by a vote of seven (7) in favor, zero (0) in opposition, and one (1) present with two (2) members absent. The minutes were provided.

Chairman Ashton asked about having vegetable stands in Boulder Hill. Mr. Asselmeier said yes, if they were located at least ten feet (10') from the right-of-way. The produce would be required to be grown on the property where it was sold. The stands could be on both vacant and improved lots.

Member Nelson asked about the imposition of setbacks for the sale produce. He had concerns regarding the ten foot (10') setback as being too small.

Discussion occurred regarding the location of the right-of-way in Boulder Hill in relation to sidewalks.

Accessory structures would have to follow setback requirements.

Discussion occurred the State's agricultural zoning regulations on lots five (5) acres or less.
Member Nelson made a motion to have Mr. Asselmeier research restricting roadside sides in the front yard and street side yard setbacks in the R-6 and R-7 Districts. The motion was not seconded, but the consensus of the Commission was to Mr. Asselmeier research this item.

The Commission had no objections to the general growing requirements and the requirement restricting growing of gardens in the forty foot (40') sight triangles where two (2) or more public streets meet.

This proposal will go back to the Regional Planning Commission on December 8, 2021.

CITIZENS TO BE HEARD/ PUBLIC COMMENT

Member Wilson asked if any special use permits had to be rescinded due to the Agricultural Experiences Act. Mr. Asselmeier responded that several of the entities that have seasonal festivals also have special use permits for other activities. The special use permits for other activities could still be enforced. Any restrictions on a seasonal festival specifically would no longer be enforceable.

Dan Koukol, as a County Board Member, thanked all of the Commissioners for their time and work on the Commission. He noted all of the experience of the Commissioners. He stated that the issues raised by the Regional Planning do not always get enough time and attention at the Planning, Building and Zoning Committee. He also discussed the complaints that he received regarding agricultural special uses.

Dan Koukol, as a citizen, noted that he has a special use permit. He noted that he communicated with a landscaper in McCook that wanted to move to Kendall County because the zoning was easy and he could just purchase land and start operations. He expressed concerns about companies claiming to be landscaping businesses with large amounts of heavy equipment. He discussed the floodplain and requested special use permit amendment at 3485 Route 126. He suggested weight restriction for equipment for landscaping businesses. He also discussed the pallet factory near Ashley Road and Plattville Road. Member Nelson suggested having a boiler plate restriction for landscaping businesses.

Chairman Ashton discussed a conversation he had regarding an industrial zone along Route 126. After the October 27, 2021, Comprehensive Land Plan and Ordinance Committee meeting he did not think a conversation like that along Route 126 would occur. He noted a future exodus from the County because of taxes.

Mr. Asselmeier noted that only a small number of special use permits have periodic reviews.

ADJOURNMENT

Member Nelson made a motion, seconded by Member Hamman, to adjourn. With a voice of seven (7) ayes, the motion carried.

The Kendall County Regional Planning Commission meeting adjourned at 8:47 p.m.

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

KENDALL COUNTY
REGIONAL PLANNING COMMISSION
OCTOBER 27, 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)
Ron & Fran MILLER	[redacted]	

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
November 1, 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: Cliff Fox, Tom LeCuyer, Randy Mohr, Dick Thompson, and Dick Whitfield
Members Absent: Scott Cherry and Karen Clementi
Staff Present: Matthew Asselmeier, AICP, CFM, Senior Planner
Others Present: Brenda Zeiter, Boyd Ingemunson, Ron Miller, and Fran Miller

Chairman Mohr swore in Brenda Zeiter, Boyd Ingemunson, Ron Miller, and Fran Miller.

PETITIONS
The Zoning Board of Appeals started their review of Petition 21-37 at 7:33 p.m.

Petition 21 – 37 – Kendall County Planning, Building and Zoning Committee
Request: Text Amendments to the Kendall County Zoning Ordinance Pertaining to the Illinois Garden Act and Roadside Stand Regulations
Purpose: Petitioner Wishes Vegetable Gardens and Roadside Stands To Be Permitted Uses on all Residentially Zoned Properties, Establishes Sight-Line Requirements to Vegetable Gardens, Updates Appendix 9, Table of Uses, and Makes Citation Corrections to the Zoning Ordinance

Mr. Asselmeier summarized the request.

Earlier in 2021, the Illinois General Assembly passed and the Governor signed Public Act 102-0180 (formerly House Bill 0633) also known as the Garden Act.

The Garden Act allows people to plant vegetable gardens as the primary use on residential pieces of property. Further, no county in Illinois can prevent people from using residential property for the purpose of vegetable gardens. The Garden Act becomes effective January 1, 2022. A copy of Public Act 102-0180 was provided.

Presently, farming is a permitted use on A-1, RPD-1, RPD-2, and RPD-3 zoned property in unincorporated Kendall County.

Also, per Section 4:05.B of the Kendall County Zoning Ordinance, gardens may encroach up to all property lines.

At their meeting on September 13, 2021, the Kendall County Planning, Building and Zoning Committee voted to initiate text amendments to the Zoning Ordinance to allow vegetable gardening as a primary use on R-1, R-2, R-3, R-4, R-5, R-6, and R-7 zoned property, allow roadside stands selling agricultural products grown on the premises in the same residential zoning districts, and to restrict gardens from forty foot (40') sight triangles where two (2) public streets meet. Roadside stands must be setback at least ten feet (10') from the nearest right-of-way.

Below please find the redlined version of the proposal:

8:02.A Permitted Uses in the R-1

5. Lands and buildings used for horticulture or farm purposes **including vegetable gardens as defined by the Garden Act.**

8:06.A Permitted Uses in the R-2

1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:

a. Lands and buildings used for horticultural or farm purposes, **not including vegetable gardens as defined by the Garden Act and roadside stands following the setback requirements in Section 8:02.A**

~~**b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and**~~

~~**c.**~~ **b.** Farm-type animals shall be prohibited in the R-2 District with the exception of chickens.

8:07.A Permitted Uses in the R-3

1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:

a. Lands and buildings used for horticultural or farm purposes, **not including vegetable gardens as defined by the Garden Act and roadside stands following the setback requirements in Section 8:02.A**

~~**b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and**~~

~~**c.**~~ **b.** Farm-type animals shall be prohibited in the R-3 District with the exception of chickens.

8:08.A Permitted Uses in the R-4, R-5, R-6, and R-7 Districts

6. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, provided that the stands and produce on display are located ten feet back from the nearest right-of-way line.

10. Vegetable Gardens as defined by the Garden Act.

Remaining Permitted Uses to be Renumbered.

Amendment to Appendix 9, Table of Uses to reflect the addition of Vegetable Gardens and Roadside Stands as Permitted Use in all Residential Zoning Districts.

Section 11:02.F.11 should be clarified as follows regarding sight triangles:

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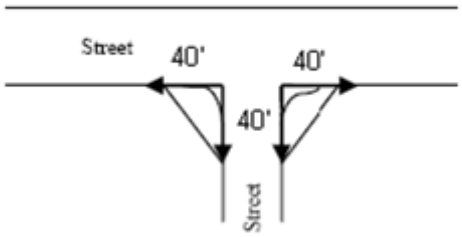


Petition information was emailed to the townships on September 22, 2021. To date, only the Na-Au-Say Township Planning Commission has reviewed this proposal and they unanimously recommended approval.

ZPAC reviewed this proposal at their meeting on October 5, 2021. Discussion centered on the State imposing new regulations. ZPAC recommended approval of the proposal by a vote of seven (7) in favor, zero (0) in opposition, and one (1) present with two (2) members absent. The minutes were provided.

Mr. Asselmeier noted that the Regional Planning Commission reviewed this proposal on October 27, 2021, and voted to lay over the proposal because of concerns regarding roadside stands in Boulder Hill in the front yard and street side yard setback.

Mr. Asselmeier noted that the County does not strictly enforce setbacks related to lemonade stands.

Member Whitfield asked if the setbacks were different for garage sales. Mr. Asselmeier said there was no difference. If people were not allowed to have roadside stands in their front yards, the stands would be moved to garages to porches.

Member Whitfield noted that freewill offer vegetable stands already exist in the County.

Member Whitfield expressed concerns about parking and pedestrians at garage sales.

Chairman Mohr noted that the amount of garden space available on the average parcel in Boulder Hill was small.

Chairman Mohr suggested revisiting the subject, if roadside stands became a nuisance.

Mr. Asselmeier noted that the growing season and season during which people would sell products grown in the garden would not be the entire year.

Member Whitfield concurred that most lots in Boulder Hill lacked space to have large gardens.

Mr. Asselmeier provided a background of the bill.

Mr. Asselmeier has not received a garage sale complaint.

Chairman Mohr noted there were existing produce sales in Yorkville.

Roadside stands would only allow for products grown on the premises.

Member Whitfield said that some kids would plant a garden for 4H or scouting.

Member Thompson questioned the number cars a roadside stand in Boulder Hill would generate.

The proposal will go back to the Kendall County Regional Planning Commission on Wednesday, December 8, 2021.

The Zoning Board of Appeals completed their review of Petitions 21-37 at 7:45 p.m.

PUBLIC COMMENTS

Mr. Asselmeier stated that a request for a major amendment to a special use permit for a landscaping business at 3485 Route 126 had been submitted. The major amendment changes the site plan to have outdoor storage of equipment and materials and changes the number of employees that can report to the property. This item will be on the December 13, 2021, Zoning Board of Appeals agenda. The application deadline for that meeting is November 12, 2021.

ADJOURNMENT OF THE ZONING BOARD OF APPEALS

Member Whitfield made a motion, seconded by Member Thompson, to adjourn.

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

The Zoning Board of Appeals meeting adjourned at 7:57 p.m.

The next hearing/meeting will be on December 13, 2021.

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

Exhibits

1. Memo on Petition 21-37 Dated October 20, 2021
2. Certificate of Publication for Petition 21-37 (Not Included with Report but on file in Planning, Building and Zoning Office)

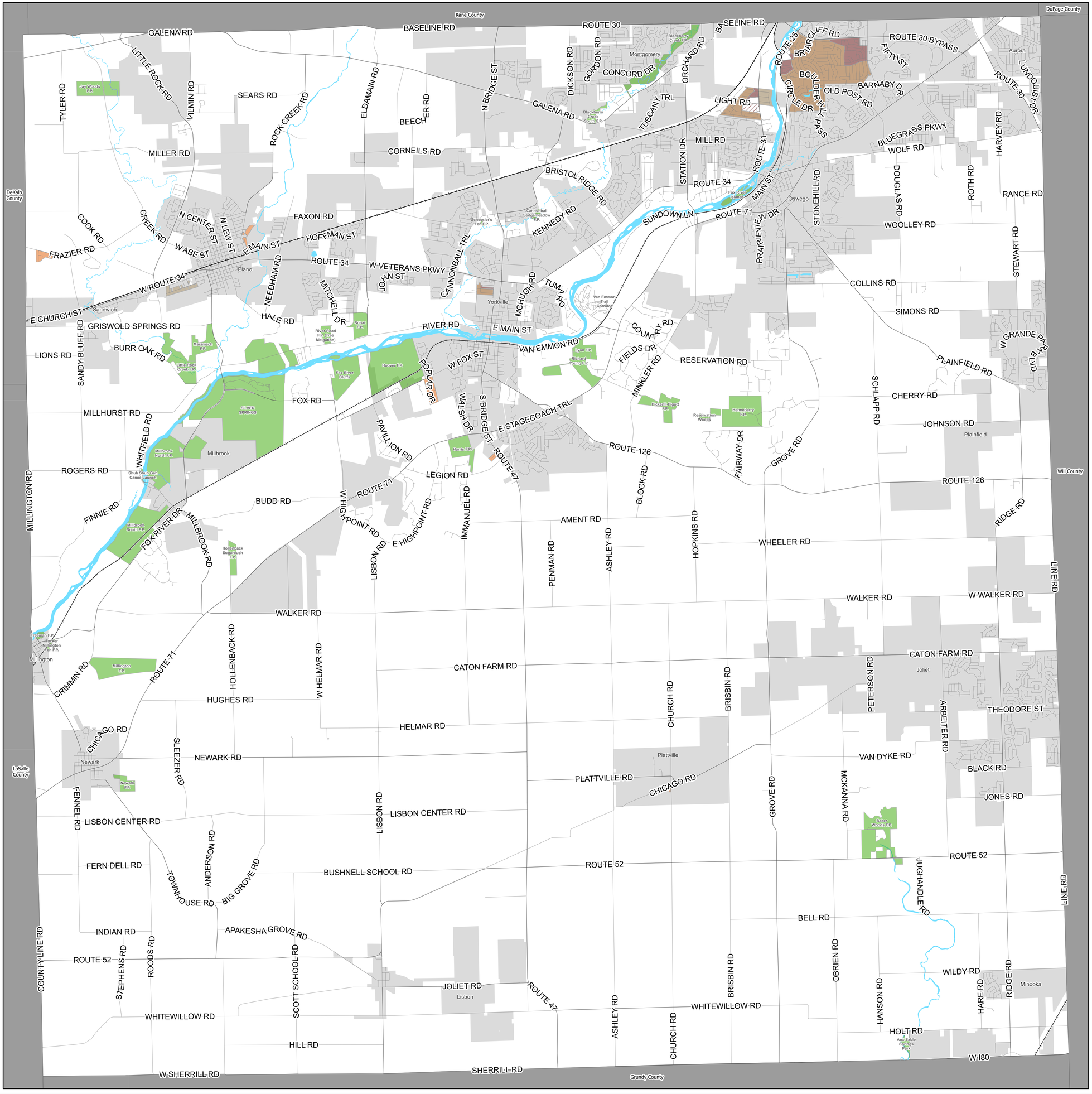
0 0

KENDALL COUNTY
ZONING BOARD OF APPEALS
NOVEMBER 1, 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
Don Miller	[redacted]	

Properties zoned R-4, R-5, R-6, and R-7



R4
R5
R6
R7
R7-SU
Forest Preserves

N

0 1 2 4
Miles

Kendall County GIS
111 West Fox Street - Room 308
Yorkville, Illinois 60560
630.553.4212

KENDALL COUNTY
REGIONAL PLANNING COMMISSION

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

Unapproved - Meeting Minutes of December 8, 2021 - 7:00 p.m.

Chairman Ashton called the meeting to order at 7:01 p.m.

ROLL CALL
Members Present: Bill Ashton, Roger Bledsoe, Tom Casey, Karin McCarthy-Lange, Larry Nelson, Ruben Rodriguez, Bob Stewart, Claire Wilson, and Seth Wormley
Members Absent: Dave Hamman
Staff Present: Matthew H. Asselmeier, Senior Planner
Others Present: Greg Dady, Gregg Ingemunson, Brian Henrichs, Rick Porter, Chris Lannert, Pat Kelsey, Rick Porter, James Kohout, James Clune, Shabbir Shamsuddin, and Gerald Chase

PETITIONS
Petition 21-37 Kendall County Planning, Building and Zoning Committee
Mr. Asselmeier summarized the request.

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~~**c.**~~ **b.** Farm-type animals shall be prohibited in the R-2 District with the exception of chickens.

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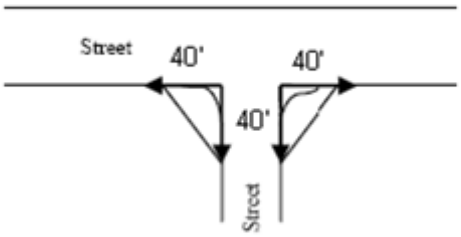


Petition information was emailed to the townships on September 22, 2021. To date, only the Na-Au-Say Township Planning Commission has reviewed this proposal and they unanimously recommended approval.

ZPAC reviewed this proposal at their meeting on October 5, 2021. Discussion centered on the State imposing new regulations. ZPAC recommended approval of the proposal by a vote of seven (7) in favor, zero (0) in opposition, and one (1) present with two (2) members absent. The minutes were provided.

At the October 27, 2021, Kendall County Regional Planning Commission meeting, the consensus of the Commission was to establish a setback larger than ten feet (10') in the front yards and side yards of corner lots for Boulder Hill. The minutes were provided.

The Kendall County Zoning Board of Appeals started their review of the proposal on November 1, 2021. The discussion centered on increased traffic. They noted that existing garage sales, which are not regulated, caused additional traffic and parking issues. The Zoning Board also noted that the size of lots in Boulder Hill will restrict the amount produce available to be sold. The minutes of the hearing were provided.

Per the Zoning Ordinance, the required front yard setbacks in the R-4, R-5, and R-6 Districts are forty feet (40') from the right-of-way from freeway and arterial roads, thirty feet (30') for major and minor collector roads, and twenty-five feet (25') from all other roads. For the R-7 District, the front yard setbacks are fifty feet (50') for freeway and arterial roads, forty feet (40') from major and minor collector roads, and thirty feet (30') from all other roads. The side yard setback for corner lots in the R-4, R-5, R-6, and R-7 Districts is thirty feet (30').

A map showing the areas zoned R-4, R-5, R-6, and R-7 was provided.

The proposal could be amended to restrict roadside stands from the front yard and side yards of corner lots in the R-4, R-5, R-6, and R-7 Districts with the setbacks as noted in the previous paragraph. This would cause roadside stands to be placed closer to the house, including on porches and inside garages, on smaller lots.

Staff would like to point out that accessory structures are presently not allowed in the front yard or side yards of corner lot setbacks and that lawn furniture can be placed within two point five feet (2.5') of any property line. Staff has also been directed not to strictly enforce setback restrictions related to lemonade and similar stands in residential areas.

Member Wormley said there was not much the Commission could do regarding changing the proposal.

Mr. Henrichs asked about the procedure considering the Land Resource Management Plan calls for the area to be zoned R-3. Member Nelson said the Petitioner had a pretty good chance of winning in court. Member Nelson also felt that there would be difficulties get septic permits.

Member Wormley made a motion, seconded by Member McCarthy-Lange, to recommend approval of the text amendment to restrict roadside stands from the required front yard and corner yard setbacks in the R-4, R-5, R-6, and R-7 zoning districts.

The votes were as follows:
Ayes (9): Ashton, Bledsoe, Casey, McCarthy-Lange, Nelson, Rodriguez, Stewart, Wilson, and Wormley
Nays (0): None
Absent (1): Hamman
Abstain (0): None

The motion carried.

This proposal will go to the Kendall County Zoning Board of Appeals on December 13, 2021.

CITIZENS TO BE HEARD/PUBLIC COMMENT
None

ADJOURNMENT
Member Rodriguez made a motion, seconded by Member Wilson, to adjourn. With a voice of nine (9) ayes, the motion carried.

The Kendall County Regional Planning Commission meeting adjourned at 9:53 p.m.

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

Enc.

KENDALL COUNTY
REGIONAL PLANNING COMMISSION
DECEMBER 8, 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)
Greg Ingemunson	[redacted]	
Boyd Ingemunson		
Chris Lannert		
Pat Kelsey		
Rick Porter		
James Kolhout		
James Coon		
Shabbir Shamsuddin		

Gerald Chrisney

DEPARTMENT OF PLANNING, BUILDING & ZONING
111 West Fox Street • Room 203
Yorkville, IL • 60560
(630) 553-4141 Fax (630) 553-4179

Petition 21-46
Greg Dady on Behalf of DTG Investments, LLC
Major Amendment to a Special Use Permit for a Landscaping Business

INTRODUCTION

Greg Dady, on behalf of DTG Investments, LLC would like to sell the subject property to Baish Excavating. After exploring a text amendment to allow an excavating business on the subject property, the Petitioners decided to pursue a major amendment to the existing special use permit for a landscaping business at the subject property.

The application materials are included as Attachment 1. The aerial of the property is included as Attachment 2. The aerial with the flood zone is included as Attachment 3. The plat of survey is included as Attachment 4. The site plan is included as Attachment 5. The court order regarding a previous excavating business at the property is included as Attachment 14. The special use permit for a landscaping business previously granted by Ordinance 2007-10 is included as Attachment 15.

SITE INFORMATION

PETITIONERS: Greg Dady on Behalf of DTG Investments, LLC

ADDRESS: 3485 Route 126, Oswego

LOCATION: North Side of Route 126 Approximately 0.45 Miles West of Schlapp Road

TOWNSHIP: Na-Au-Say

PARCEL #: 06-09-400-005

LOT SIZE: 5.6 +/- Acres

EXISTING LAND Former Cleanup and Restoration Business

USE:

ZONING: A-1 Agricultural District with Special Use Permits

LRMP:

Future Land Use	Rural Residential (0.65 DU/Acre)
Roads	Route 126 is a State maintained arterial.
Trails	There is a trail planned along Route 126.
Floodplain/ Wetlands	There is a floodplain on the north end of the property (Zone A-no base flood elevation determined).

REQUESTED ACTION: Major Amendment to Special Use Permit for Landscaping Business

APPLICABLE REGULATIONS: Section 13:08 – Special Use Procedures

SURROUNDING LAND USE

Location	Adjacent Land Use	Adjacent Zoning	Land Resource Management Plan	Zoning within ½ Mile
North	Agricultural	A-1	Rural Residential	A-1
South	Agricultural	A-1	Public/Institutional and Rural Residential	A-1
East	Agricultural	A-1	Rural Residential	A-1, A-1 SU, and R-1
West	Farm Equipment Sales and Service Business	A-1 SU	Rural Residential	A-1 and A-1 SU

Pictures of the property are included as Attachments 7-13.

The A-1 SU to the east is for a farm market, garden shop, winery, corn maze, and fall festival.

Oswego School District 308 owns the property southwest of the subject property.

Ten (10) existing houses are within one half (1/2) mile of the subject property.

PHYSICAL DATA

ENDANGERED SPECIES REPORT

EcoCAT Report submitted and consultation was terminated, see Attachment 1, Page 11.

NATURAL RESOURCES INVENTORY

The LESA Score was 189 indicating a low level of protection, see Attachment 6.

ACTION SUMMARY

NA-AU-SAY TOWNSHIP

Petition information was sent to Na-Au-Say Township on October 26, 2021.

VILLAGE OF OSWEGO

Petition information was sent to the Village of Oswego on October 26, 2021. The property is inside Oswego's planning boundary.

VILLAGE OF PLAINFIELD
Petition information was sent to the Village of Plainfield on October 26, 2021. The property is within one point five (1.5) miles of Plainfield.

OSWEGO FIRE PROTECTION DISTRICT
The Oswego Fire Protection District was sent information on October 26, 2021. The Oswego Fire Protection District submitted an email on October 27, 2021, requesting that fuel tanks be installed, permitted, and inspected per applicable law, storage heights inside the storage bins be capped at twenty-five feet (25') in height, and no miscellaneous storage of vehicles, machinery, or equipment occur in the storage bins. The email was included as Attachment 17. The Petitioners were agreeable to these requests.

ZPAC
ZPAC reviewed this proposal at their meeting on November 2, 2021. The Petitioners stated that only trailers would be parked in the floodplain. No turning lanes off of Route 126 would be required. However, the Illinois Department of Transportation could review the need for turning lanes in the future. The Petitioners were agreeable to setting the maximum number of employees at fifteen (15). ZPAC recommended approval of the request with the conditions proposed by Staff by a vote of eight (8) in favor and zero (0) in opposition with two (2) members absent. The minutes of the meeting were included as Attachment 18.

RPC
The Kendall County Regional Planning Commission reviewed this proposal at their meeting on December 8, 2021. The Petitioner was asked if the building in the floodplain would be used for the proposed business and if they would be agreeable to restriction to not use this building as part of the special use. The Petitioner was agreeable to this condition. The Kendall County Regional Planning Commission recommended approval of this special use permit with the condition that building that the building on the northeast corner of the property in the floodplain not be used as part of the business allowed by the special use permit by a vote of nine (9) in favor and zero (0) in opposition with one (1) member absent. The minutes of the meeting were included as Attachment 19.

GENERAL INFORMATION
The subject property has been used as a landscaping business and repair and restoration business. The Petitioner would like to retain the special use permit for a cleanup and restoration business at the property.

1. All vehicles, equipment and materials associated with a landscaping business shall be stored entirely within an enclosed structure, unless otherwise permitted under the terms of this Special Use Permit.

2. The business shall be located on, and have direct access to, a State, County or Collector Highway as identified in the County's LRMP, having an all-weather surface, designed to accommodate loads of at least 73,280 lbs, unless otherwise approved in writing by the agency having jurisdiction over said Highway. Such approvals shall establish limitations as to the number of employees and types of vehicles coming to and from the site that are engaged in the operation of the use (including delivery vehicles). These restrictions shall be included as controlling conditions of the Special Use.

3. No landscape waste generated off the property can be burned on this site.

If the County Board approves the outdoor storage of materials, the above conditions have been met.

BUSINESS OPERATIONS
According to the business plan found on pages 2 and 3 of Attachment 1, Baish Excavating, Inc. does excavation, concrete, landscaping, site maintenance, railroad and major pipeline work. Their work takes place offsite within a radius of approximately thirty-five (35) miles of Plainfield. They are relocating from their current location because their existing location has been sold.

The hours of operation are Monday through Friday from 6:00 a.m. until 5:00 p.m. The company operates outside these hours of operation during snowfalls and other emergencies. The company has eleven (11)

employees, but this number could rise to fifteen (15) employees. Four (4) or five (5) of these employees work onsite while the remainder of employees work at job sites.

Equipment and trucks would be stored indoors as much as possible, but some equipment would be stored outside. Equipment consists of excavators, loaders, skid steers, track skids, two (2) semi dumps, and dump trailers. The site plan (Attachment 5) shows a sixty foot by one hundred foot (60' X 100') trailer parking area.

According the to the site plan (Attachment 5), the Baish Excavating, Inc. would like to install three (3) fuel tanks on a concrete pad. The area would be twenty feet by thirty feet (20' X 30').

The site plan (Attachment 5) also calls for a twenty foot by sixty foot (20' X 60') outdoor storage bin area. This area would be used to store aggregates and salt in "tents". The "tents" would be a maximum of thirty feet (30') in height. The tents would be enclosed except for one (1) side. A picture of the "tent" is provided as Attachment 16.

EXISTING SPECIAL USE PERMIT
The existing special use permit for a landscaping business was granted on March 20, 2007, and included the following conditions and restrictions:

1. The maximum number of employees reporting to the site is 40.

2. The development of the site shall be in conformance with the submitted Site Enhancement Plan dated August 18, 2006 with a latest revision of date of March 9, 2007.

3. All commercial vehicles used for the special use are to be stored inside an accessory structure when not in use.

4. No construction activity can take place on the portion of the subject parcel located in Section 9 of Na-Au-Say Township until such time that a detailed flood plain study has been forwarded to PBZ staff and Strand Associates, to ensure that there are no negative impacts to Aux Sable Creek.

5. A site development permit will need to be secured prior to construction of the proposed parking stalls demonstrating that the post construction elevations of that portion of the parking lot located within the flood plain as depicted on the existing FEMA FIRM maps dated July 19, 1982 (Community Map Panel 170341 0100C) will not exceed the existing elevations of the existing grades on the site.

6. No construction activity shall take place and no permits (building, occupancy or site development) shall be issued for the subject property located in Section 9 of Na-Au-Say Township until such time that the required 15 foot Regional Trail easement, and the additional ROW along Route 126 per the previous Agreed Court Order, has been supplied and recorded.

7. All renovations to existing structures must conform to a commercial standard per the provisions of the Kendall County Building Code, including handicapped accessibility of the structures.

8. Other than the outside storage of non-growing landscaping materials, no outside storage shall be allowed on the site.

9. Occupancy in the existing residence will be restricted to an employee of the petitioner, for use as a caretaker's residence, and his/her immediate family members.

10. No composting will be done on-site. All grass clippings will be stored temporarily in a bin or dumpster and be hauled off the site periodically when the bin becomes full.

The Petitioner is requesting that conditions 1, 2, 3, and 8 be amended or repealed. Conditions 4, 6, and 7 have previously been met. The FEMA FIRM maps have been updated since the original special use permit was granted in 2007.

BUILDINGS AND BUILDING CODES
According to the site plan (Attachment 5), there is one (1) approximately fourteen thousand (14,000) square foot metal building on the property that is used for office operations and maintenance. One (1) approximately one thousand six hundred (1,600) square foot wood frame machine shed is located on the northeast corner of the truck parking area. One (1) single-family home with a detached garage is located on the west side of the property.

Any new structures would require applicable building permits.

ENVIRONMENTAL HEALTH
The property is served by well and septic.

STORMWATER
There is floodplain as part of the Little Slough Creek on the property as shown on Attachments 3 and 4. This area is considered Zone A which means no flood elevation has been determined; therefore, this area is considered Floodway.

On October 26, 2021, the Petitioners and their engineer met with the Senior Planner, a representative of WBK, and the Planning, Building and Zoning Committee Chairman at the property. The Petitioners agreed that no hazardous or flammable materials would be stored in the floodway. The Kendall County Stormwater Management Ordinance forbids the storage of such materials in the floodway.

ACCESS
The property has two accesses off of Route 126. The western access would be used by the existing house and the eastern access would be used by the business operating out of the metal building.

PARKING AND INTERNAL TRAFFIC CIRCULATION
According to the site plan (Attachment 5), a parking area is shown north of the metal building. The parking area is gravel.

LIGHTING
Contrary to the business plan, no additional lighting beyond the existing lighting on the building and light near the entrance is planned at this time. Section 11:02.F.12.A requires an illumination plan for parking lots with thirty (30) or more parking spaces.

SIGNAGE
There is one (1) existing four foot by eight foot (4'X8') freestanding sign. A light exists next to the sign. A picture of the sign is included as Attachment 10.

SECURITY
There is an existing wooden fence around the property and a single gate east of the metal building.

LANDSCAPING
A berm and several mature trees are between the metal building and Route 126. Pictures of the landscaping are included as Attachments 11 and 12.

NOISE CONTROL
No information was provided regarding noise control.

ODORS
No new odors are foreseen by the proposed use.

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 special use permit applications and major amendments to special use permits. 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 operation of the special use will not be detrimental to the public health, safety, morals, comfort, or general welfare provided that the operator of the business allowed by this special use permit develops the site according to the submitted site plan, follows the agreed upon hours of operation, and follows the Kendall County Inoperable Vehicle Ordinance, Kendall County Junk and Debris Ordinance, and Kendall County Stormwater Management Ordinance, and related ordinances.**

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. **Provided that the business operates as proposed, no injury should occur to other property and property values should not be negatively impacted.**

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. **Adequate utilities exist on the site based upon the number of proposed employees at the property. No additional buildings are planned for the site. The Petitioners are aware that parking cannot occur in the front yard setback. Route 126 is a State maintained road and should be able to handle the traffic. The Petitioners are aware that floodplain exists on the property and certain materials cannot be stored in the floodplain per the Kendall County Stormwater Management Ordinance.**

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 because the Petitioners are not asking for any variances.**

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 10-11 of the Kendall County Land Resource Management Plan which calls for "a strong base of agricultural, commercial and industry that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents."**

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

1. Conditions 1 (pertaining to number of employees), 2 (pertaining to the site plan), 3 (pertaining to outside storage of commercial vehicles), and 8 of Ordinance 2007-10 shall be repealed. The remaining conditions and restrictions in Ordinance 2007-10 shall remain in force and valid.
2. The site shall be developed substantially in accordance with the attached site plan (Attachment 5). The property owner or operators of the business allowed by this special use permit may remove the frame residence, garage, wood frame machine shed, and corn crib without amending the site plan.
3. The owners of the business allowed by the special use permit shall maintain the parking areas shown on the site plan and in substantially the same location as depicted on the attached site plan (Attachment 5). The parking area north of the building shall be gravel and the parking lot south of the building shall be asphalt. Any expansions of either parking lots shall require an amendment to the special use permit.
4. The building located on the northeast corner of the property inside the floodplain as shown on the attached site plan (Attachment 5) shall not be used as part of the business allowed by this special use permit. **(Added at RPC)**

5. The owners of the businesses allowed by this special use permits shall diligently monitor the property for leaks from equipment and vehicles parked and stored on the subject property and shall promptly clean up the site if leaks occur.

6. Any new structures constructed or installed on the property shall not be considered for agricultural purposes and must secure applicable building permits.

7. Equipment and vehicles related to the business allowed by the special use permit may be stored outdoors.

8. None of the vehicles or equipment parked or stored on the subject property related to the business allowed by the special use permit shall be considered agricultural vehicles or agricultural equipment.

9. All of the vehicles and equipment stored on the subject property related to the business allowed by the special use permit shall be maintained in good condition with no deflated tires and shall be licensed if required by law.

10. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated outdoor storage bins as shown on the attached site plan (Attachment 5). The maximum height of the bins or "tents" shall be thirty feet (30') and shall look substantial like the structures shown in Attachment 16. The maximum storage heights inside the storage bins shall be capped at twenty-five feet (25'). No miscellaneous storage of vehicles, machinery, or equipment shall occur in the storage bins.

11. One (1) maximum four foot by eight foot (4' X 8') freestanding sign may be located on the subject property. The sign may be illuminated.

12. No landscape waste generated off the property can be burned on the subject property.

13. A maximum of fifteen (15) employees of the business allowed by this special use permit, including the owners of the business allowed by this special use permit, may report to this site for work. No employees shall engage in the sale of landscaping related materials on the property.

14. No retail customers of the business allowed by this special use permit shall be invited onto the property by anyone associated with the use allowed by this special use permit.

15. The hours of operation of the business allowed by this special use permit shall be Monday through Saturday from 6:00 a.m. until 5:00 p.m. Business operations may occur outside the hours of operation in the event of bad weather and snow removal. The owners of the business allowed by this special use permit may reduce these hours of operation.

16. 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.

17. At least one (1) functioning fire extinguisher and one (1) first aid kit shall be on the subject property. Applicable signage stating the location of the fire extinguisher and first aid kit shall be placed on the subject property.

18. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.

19. The conditions and restrictions contained in Ordinance 2014-29 shall be separate and enforceable from the conditions and restrictions contained in Ordinance 2007-10 and this major amendment to an existing special use permit.

20. The property owner and operator of the business allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business, including but not limited, the public health protection standards for properties in the floodplain contained in the Kendall County Stormwater Management Ordinance.

21. 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.

22. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

23. 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.

ATTACHMENTS

1. Application Materials (Including Petitioner's Findings of Fact, NRI Application, and EcoCat)
2. Aerial
3. Flood Zone Aerial
4. Plat of Survey
5. Site Plan
6. NRI Report
7. Building East Southside
8. Building West Southside
9. Storage Bin Area
10. Sign
11. Berm and Trees One
12. Berm and Trees Two
13. Looking South
14. May 8, 2001 Order
15. Ordinance 2007-10
16. Storage Tent
17. October 27, 2021 Oswego Fire Protection District Email
18. November 2, 2021 ZPAC Meeting Minutes (This Petition Only)
19. December 8, 2021 Kendall County Regional Planning Commission Minutes (This Petition Only)

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
Baish Excavating, Inc. / Robert A. Baish

CURRENT LANDOWNER/NAME(s)
DTG Investments, LLC

SITE INFORMATION

ACRES	SITE ADDRESS OR LOCATION	ASSESSOR'S ID NUMBER (PIN)
5	3485 State Route 126	06-09-400-005

EXISTING LAND USE	CURRENT ZONING	LAND CLASSIFICATION ON LRMP
	A-1	Rural Resdidential

REQUESTED ACTION (Check All That Apply):

____SPECIAL USE ___ MAP AMENDMENT (Rezone to ____) ___ VARIANCE

____ADMINISTRATIVE VARIANCE ___ A-1 CONDITIONAL USE for:_____ ___ SITE PLAN REVIEW

___ TEXT AMENDMENT ___ RPD (___Concept; ___ Preliminary; ___ Final) ___ ADMINISTRATIVE APPEAL

___ PRELIMINARY PLAT ___ FINAL PLAT ___ OTHER PLAT (Vacation, Dedication, etc.)

__X__ AMENDMENT TO A SPECIAL USE (__X__ Major; _____ Minor)

[1]PRIMARY CONTACT
Robert Baish

PRIMARY CONTACT MAILING ADDRESS [redacted]

PRIMARY CONTACT EMAIL [redacted]

PRIMARY CONTACT PHONE # [redacted]

PRIMARY CONTACT FAX # [redacted]

PRIMARY CONTACT OTHER #(Cell, etc.) [redacted]

[2]ENGINEER CONTACT
Michael Cook

ENGINEER MAILING ADDRESS [redacted]

ENGINEER EMAIL [redacted]

ENGINEER PHONE # [redacted]

ENGINEER FAX #

ENGINEER OTHER # (Cell, etc.)
815.715.6217

I UNDERSTAND THAT BY SIGNING THIS FORM, THAT THE PROPERTY IN QUESTION MAY BE VISITED BY COUNTY STAFF & BOARD/ COMMISSION MEMBERS THROUGHOUT THE PETITION PROCESS AND THAT THE PRIMARY CONTACT LISTED ABOVE WILL BE SUBJECT TO ALL CORRESPONDANCE ISSUED BY THE COUNTY.

I CERTIFY THAT THE INFORMATION AND EXHIBITS SUBMITTED ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND THAT I AM TO FILE THIS APPLICATION AND ACT ON BEHALF OF THE ABOVE SIGNATURES.

SIGNATURE OF APPLICANT [redacted] **DATE** 10/7/2024

FEE PAID:$_____
CHECK #:_____

[1]*Primary Contact will receive all correspondence from County*
[2]*Engineering Contact will receive all correspondence from the County's Engineering Consultants*

Baish Excavating, Inc.
P.O. Box 193
25712 W. 143rd St.
Plainfield, Illinois 60544

Phone: 815-577-1515
Fax: 815-609-2929
E-mail: bbaish@baishexcavating.com
www.baishexcavating.com

August 30, 2021

To Whom It May Concern,

Baish Excavating, Inc. is an union construction company that has been doing business locally, for over 30 years. Although the company name has "excavation" in it, the company has expanded into many aspects of construction work in order to continue to prosper and keep its employees employed. The company does excavation, concrete work, landscaping, site maintenance, works with rail roads, as well as major pipelines. Baish tends to do more general construction services than anything anymore, and excavation has become the smallest part of our daily work. All of it's work takes place off site and somewhere in approximately a 35 mile radius of Plainfield. Baish has been in the Plainfield area for the majority of its time in business and has been at its current location for almost 9 years. The only reason for looking to relocate is because the property has been sold for other purposes. During all those years Baish has prided itself with being a good neighbor and a enjoys that a large portion of our employees are from the local area as well. .

Baish's main hours of operation are 6 AM—5 PM, Monday through Friday. Due to contracts to do emergency repairs for local municipalities, as well as snow plowing when Mother Nature dictates, there are other times that employees may need to mobilize, but those are usually isolated incidents. The average daily amount of employees that come and go is 11. 4-5 of those people work full time on site and the rest are grabbing equipment to take to the jobs they are working on.

All equipment and trucks will be stored inside, but some equipment may be stored on site. The amount will change depending on the work loads. There may be excavators and / or loaders on site if in between jobs or getting ready to mobilize for snow removal. No specific piece is on site for long. Skid steers and track skids tend to be in yard the most but are leaving daily to work on job sites. We have two semi dumps that the dump trailers might be parked outside when not being used, but the intent is to keep as much as possible stored inside the buildings. We will have three fuel tanks, on a concrete pad, on site which we will be guided by Feece Oil and the State Fire Marshall as to proper placement. They will be surrounded by concrete block and illuminated by a light station. We have started discussion with them already and they have stated that we will be well below allowed limits for this type of site. They have provided pictures, which are attached, showing the basic layout for the install, as well as the spec sheet for their tanks.

We would like to also have a few material bins on site, which would be for the purpose of storing extra aggregates for emergency repairs and salt during times which snow removal is taking place. We have attached reference pictures of these as well. We are entertaining putting these under a roof upon completing them.

Other than the fuel tanks and aggregate bins, we have no intention of changing anything to how the

property currently is.
We truly hope that you will consider allowing us to conduct business at this site under the special use currently in place, and the major amendment requested. The location feels like a perfect fit to us and as it is within 5 miles of our current location, it allows us to continue working in an area with which we have been for more than 3 decades and have called home as well as our place of business.

DTG Properties

October 18, 2021

To Whom It May Concern,

I support Baish Excavating's application for a special use permit to lease my property at 3485 Rt. 126 in Oswego. I believe that their use of the property is ideal and that their company will be an asset to the community. If you have any further questions, please contact me.

Sincerely,

Greg Dady

Owner, DTG Properties, LLC

[redacted]

DTG Properties, LLC ✦ 1118 Prairie St, Unit B, Aurora, IL 60506 ✦ 331-999-0DTG (0384)
email: info@dtgproperties.com ✦ www.dtgproperties.com

EXHIBIT A

LEGAL DESCRIPTION

THAT PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 9 AND THAT PART OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 16 ALL IN TOWNSHIP 36 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING NORTHERLY OF THE CENTER LINE OF ILLINOIS ROUTE 126 BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER OF SECTION 9; THENCE NORTH 1 DEGREE 36 MINUTES 40 SECONDS WEST ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER, 260.00 FEET; THENCE NORTH 88 DEGREES 44 MINUTES 53 SECONDS EAST, 335.00 FEET; THENCE SOUTH 1 DEGREE 39 MINUTES 11 SECONDS EAST, 677.39 FEET TO THE CENTER LINE OF SAID ROUTE 126; THENCE SOUTH 80 DEGREES 28 MINUTES 31 SECONDS WEST ALONG SAID CENTER LINE, 338.17 FEET TO THE WEST LINE OF SAID NORTHEAST QUARTER; THENCE NORTH 1 DEGREE 40 MINUTES 39 SECONDS WEST, ALONG SAID WEST LINE, 466.05 FEET TO THE POINT OF BEGINNING, IN THE TOWNSHIP OF NA-AU-SAY, KENDALL COUNTY, ILLINOIS, EXCEPT THAT PART DEDICATED FOR ROAD PURPOSES PER DOCUMENT NUMBER 2001-24468, RECORDED DECEMBER 18, 2001.

(PERMANENT INDEX NUMBER 06-09-400-005-0000)

PREPARED BY:
Donald J. Manikas, Esq.
[redacted]

201400017091
DEBBIE GILLETTE
KENDALL COUNTY, IL
RECORDED: 12/4/2014 2:03 PM
WD: 1354.00 RHSPS FEE: 10.00
PAGES: 4

AFTER RECORDATION RETURN TO:
Kristine Larsen, Esq.
[redacted]

$ 435.00

SEND SUBSEQUENT TAX BILLS TO:
DTG Investments, LLC 3485 Route 126
[redacted]

STATE OF ILLINOIS
STATE TAX
DEC.-4.14
REAL ESTATE TRANSFER TAX
DEPARTMENT OF REVENUE
0000004097

REAL ESTATE TRANSFER TAX
0087000
FP326656

SPECIAL WARRANTY DEED

THIS INDENTURE, is made as of this 29th day of October, 2014 between **TRIPLE B SOUTH, LLC,** an Illinois limited liability company, as party of the first part, and **DTG INVESTMENTS, LLC 3485 ROUTE 126**, an Illinois series limited liability company, as party of the second part.

WITNESSETH, that the party of the first part, for and in consideration of the sum of Ten and no/100 Dollars in hand paid, by these presents does GRANT, BARGAIN, SELL, REMISE, RELEASE, ALIEN AND CONVEY unto the party of the second part, and to its successors and assigns, FOREVER, all the following described land, situated in the County of Kendall, and State of Illinois known and legally described on Exhibit A attached hereto, subject to general real estate taxes not yet due and payable; zoning and building laws and ordinances; public and utility easements; covenants, conditions and restrictions of record (including that certain Ordinance Number 2014-29 granting a special use for 3485 Route 126 for a clean-up restoration services business, recorded October 10, 2014 as Document Number 201400014186); party wall rights and agreements, if any; matters shown or disclosed by survey prepared by Jade Surveyors LLC dated September 24, 2014; and existing leases or tenancies.

Address of Property: 3485 Route 126, Kendall County, Oswego, Illinois

Permanent Index Number: 06-09-400-005-0000

Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim or demand whatsoever, of the party of the first part, either in law or in equity, of, in and to the above described premises, with

the hereditaments and appurtenances: TO HAVE AND TO HOLD the said premises as above described, with the appurtenances, unto the party of the second part, its heirs and assigns forever.

And the party of the first part, for itself, and its successors, does covenant, promise and agree, to and with the party of the second part, its successors and assigns, that, except as set forth above and expressly excluding all matters not done by the party of the first part, it has not done or suffered to be done, anything whereby the said premises hereby granted are, or may be, in any manner encumbered or charged, and it will defend same against the lawful claims of all persons claiming by, through or under it, but not otherwise.

IN WITNESS WHEREOF, said party of the first part has caused its name to be signed to these presents, the day and year first written above.

TRIPLE B SOUTH, LLC
an Illinois limited liability company

By: [redacted]
William F. Adelizzi, Managing Member

State of Illinois)
)SS.
County of Cook)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that William F. Adelizzi, as Managing Member of Triple B South, LLC, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 24th day of October, 2014.

Commission expires November 20, 2016.

[redacted]

"OFFICIAL SEAL"
Melissa Y March
Notary Public, State of Illinois
My Commission Expires 11/20/2016

PLAT ACT AFFIDAVIT OF METES AND BOUNDS

STATE OF ILLINOIS)
) SS
COUNTY OF KENDALL)

Robert L. Adelizzi, being duly sworn on oath, and further states that:
(please check the appropriate box)

A. [X] That the attached deed is not in violation of 765 ILCS 205/1(a), in that the sale or exchange is of an entire tract of land not being a part of a larger tract of land; or

B. [ ] That the attached deed is not in violation of 765 ILSC 205/1(b) for one of the following reasons: (please circle the appropriate number)

1. The division or subdivision of land into parcels or tracts of 5.0 acres or more in size which does not involve any new streets or easements of access;
2. The division of lots or blocks of less than one (1) acres in any recorded subdivision which does not involve any new streets or easements of access;
3. The sale or exchange of parcels of land between owners of adjoining and contiguous land;
4. The conveyance of parcels of land or interest therein for use as right of way for railroads or other public utility facilities and other pipe lines which does not involve any new streets or easements of access;
5. The conveyance of land owned by a railroad or other public utility which does not involve any new streets or easements of access;
6. The conveyance of land for highway or other public purposes or grants or conveyances relating to the dedication of land for public use or instruments relating to the vacation of land impressed with a public use;
7. Conveyances made to correct descriptions in prior conveyances;
8. The sale or exchange of parcels or tracts of land following the division into not more than two (2) parts of a particular parcel or tract of land existing on July 17, 1959 and not involving any new streets or easements of access;
9. The sale of a single lot of less than 5.0 acres from a larger tract when a survey is made by an Illinois Registered Land Surveyor; provided, that this exemption shall not apply to the sale of any subsequent lots from the same larger tract of land, as determined by the dimensions and configuration of the larger tract on October 1, 1973, and provided also that this exemption does not invalidate any local requirements applicable to the subdivision of land;
10. This conveyance is of land described in the same manner as title was taken by grantor(s).

AFFIANT further states that he makes this affidavit for the purpose of inducing the Recorder of Deeds of Kendall County, Illinois, to accept the attached deed for recording.

[redacted]
Signature of Affiant

SUBSCRIBED AND SWORN TO BEFORE ME

This 29th day of October, 2014.

[redacted]
Signature of Notary Public

"OFFICIAL SEAL"
Melissa Y March
Notary Public, State of Illinois
My Commission Expires 11/20/2016

(File: 00887800.DOCX /)

KENDALL COUNTY
DISCLOSURE OF BENEFICIARIES FORM

1 Applicant Greg Dady - DTG Investments, LLC

Address [redacted]

City [redacted] State [redacted] Zip [redacted]

2. Nature of Benefit Sought

3. Nature of Applicant: (Please check one)
- ___ Natural Person (a)
- ___ Corporation (b)
- ___ Land Trust/Trustee (c)
- ___ Trust/Trustee (d)
- X Partnership (e)
- ___ Joint Venture (f)

4. If applicant is an entity other than described in Section 3, briefly state the nature and characteristics of the applicant:

5. If your answer to Section 3 you have checked letter b, c, d, e, or f, identify by name and address each person or entity who is a 5% shareholder in case of a corporation, a beneficiary in the case of a trust or land trust, a joint venture in the case of a joint venture, or who otherwise has proprietary interest, interest in profits and losses or right to control such entity:

NAME	ADDRESS	INTEREST
Greg Dady -	[redacted]	50
Tia Dady -		50

6. Name, address, and capacity of person making this disclosure on behalf of the applicant:

Greg Dady is the applicant.

VERIFICATION

I, Greg Dady, being first duly sworn under oath that I am the person making this disclosure on behalf of the applicant, that I am duly authorized to make the disclosure, that I have red the above and foregoing Disclosure of Beneficiaries, and that the statements contained therein are true in both substance and fact.

Subscribed and sworn to before me this 30 day of October, A.D. 2019

(seal)

[redacted]
Notary Public

OFFICIAL SEAL
LAURA L TOMSA-BLACK
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:04/04/22

KENDALL COUNTY
DISCLOSURE OF BENEFICIARIES FORM

1. Applicant Baish Excavating, Inc.

   Address [redacted]

   City [redacted] State [redacted] Zip [redacted]

2. Nature of Benefit Sought _____

3. Nature of Applicant: (Please check one)
   - ___ Natural Person (a)
   - _X_ Corporation (b)
   - ___ Land Trust/Trustee (c)
   - ___ Trust/Trustee (d)
   - ___ Partnership (e)
   - ___ Joint Venture (f)

4. If applicant is an entity other than described in Section 3, briefly state the nature and characteristics of the applicant:

5. If your answer to Section 3 you have checked letter b, c, d, e, or f, identify by name and address each person or entity who is a 5% shareholder in case of a corporation, a beneficiary in the case of a trust or land trust, a joint venture in the case of a joint venture, or who otherwise has proprietary interest, interest in profits and losses or right to control such entity:

NAME	ADDRESS	INTEREST
Robert Baish	[redacted]	100%

6. Name, address, and capacity of person making this disclosure on behalf of the applicant:

   Robert Baish

VERIFICATION

I, [redacted], being first duly sworn under oath that I am the person making this disclosure on behalf of the applicant, that I am duly authorized to make the disclosure, that I have red the above and foregoing Disclosure of Beneficiaries, and that the statements contained therein are true in both substance and fact>

Subscribed and sworn to before me this 8th day of October, A.D. 2021

(seal)

[redacted]
Notary Public

OFFICIAL SEAL
ROBERT W DEHM
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:10/05/22

EcoCAT
Ecological Compliance Assessment Tool

ILLINOIS DEPARTMENT OF NATURAL RESOURCES

Applicant	DTG Investments, LLC	*IDNR Project Number*	2005266
Contact	Greg Dady	*Date*	01/03/2020
Address	[redacted]	*Alternate Number*	2004942
Project Address	Rt 126 Truck Parking 3485 Rt. 126, Oswego		

Description to obtain a special use permit for existing property

Natural Resource Review Results

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

The Illinois Natural Heritage Database contains no record of State-listed threatened or endangered species, Illinois Natural Area Inventory sites, dedicated Illinois Nature Preserves, or registered Land and Water Reserves in the vicinity of the project location

Consultation is terminated. This consultation is valid for two years unless new information becomes available that was not previously considered; the proposed action is modified; or additional species, essential habitat, or Natural Areas are identified in the vicinity. If the project has not been implemented within two years of the date of this letter, or any of the above listed conditions develop, a new consultation is necessary. Termination does not imply IDNR's authorization or endorsement.

Location
The applicant is responsible for the accuracy of the location submitted for the project.

County: Kendall

Township, Range, Section
36N, 8E, 9
36N, 8E, 16

IL Department of Natural Resources Contact
Adam Rawe
217-785-5500
Division of Ecosystems & Environment

Government Jurisdiction
Kendall County Planning Building and Zoning
Matthew Asselmeier
111 West Fox Street
Yorkville, Illinois 60560 -1498

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.

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. Special use will not affect 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.

Special use will 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.

All of the above have 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 Special use will conform with all the above.

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.

Special use is consistent with the Land Resource Management Plan and adopted County plans and policies

Attachment 2

January 30, 2020

Ownership Parcels

Zoning

A1

A1-SU

Street Centerlines

1:6,000

0 0.04 0.07 0.15 mi

0 0.05 0.1 0.2 km

Kendall County Web GIS

Attachment 3-Flood Zone Map

January 30, 2020

Kendall County FEMA FIRM Panels

Ownership Parcels

Street Centerlines

USA Flood Hazard Areas

1% Annual Chance Flood Hazard

1:2,160

0 0.01 0.03 0.05 mi

0 0.02 0.04 0.08 km

Kendall County Web GIS

PLAT OF SURVEY

OF

THAT PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 9 AND THAT PART OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 18 ALL IN TOWNSHIP 36 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTHERLY OF THE CENTER LINE OF ILLINOIS ROUTE 126 BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER OF SECTION 9; THENCE NORTH 1 DEGREE 36 MINUTES 40 SECONDS WEST, ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER, 260.00 FEET; THENCE NORTH 88 DEGREES 44 MINUTES 53 SECONDS EAST. 335.00 FEET; THENCE SOUTH 1 DEGREE 39 MINUTES 11 SECONDS EAST, 677.39 FEET TO THE CENTER LINE OF SAID ROUTE 126; THENCE SOUTH 80 DEGREES 28 MINUTES 31 SECONDS WEST, ALONG SAID CENTER LINE, 338.17 FEET TO THE WEST LINE OF SAID NORTHEAST QUARTER; THENCE NORTH 1 DEGREE 40 MINUTES 39 SECONDS WEST, ALONG SAID WEST LINE. 466.05 FEET TO THE POINT OF BEGINNING, IN THE TOWNSHIP OF NA-AU-SAY, KENDALL COUNTY, ILLINOIS, EXCEPT THAT PART DEDICATED FOR ROAD PURPOSES PER DOCUMENT NUMBER 2001-24468, RECORDED DECEMBER 18, 2001.

N

W E

SCALE: 1"=40'

S

335.00

260.00

626.92

415.58

398.52

180.33

155.77

338.19

ACREAGE PARCEL
JERRALD J. SMITS, ET AL

LITTLE SLOUGH CREEK

WIRE FENCE

WOOD FRAME MACHINE SHED
26.10 x 60.30

100.32

102.68

11.51

12.71

CONCRETE

FENCE 0.40 E.

UTILITY POLE

GARAGE
8.60 x 18.00
14.30

TRANSFORMER

OVERHEAD WIRES

WOODEN FENCE

GRAVEL

METAL SILO

CORN CRIB
8.00 x 40.20

A SOUTHERLY BOUNDARY OF ZONE "A", THE 100 YEAR FLOOD PLAIN, AS REPRESENTED ON AND SCALED FROM FIRM PANEL 130, MAP NUMBER 17093C0130H, BEARING A REVISION DATE OF JANUARY 8, 2014

SITE BENCHMARK:
ELEVATION OF TOP OF WELL = 650.44

TWO STORY WOOD FRAME RESIDENCE
48.70 x 28.50 x 22.50
26.30 x 6.00
22.40

66.77

66.71

POINT OF BEGINNING

TWO STORY WOOD FRAME RESIDENCE

ASPHALT PAVING
175.20 x 28.94

PROPANE TANK

METAL BUILDING
80.29 x 29.34

GATE

FENCE 0.36 W.

ELECTRIC & GAS METERS

SEPTIC FIELD

TRAILER

AREA = ±5.0098 ACRES
PRESENTLY ZONED A1-SU

ACREAGE PARCEL
PHILIP & BETTY ANN KOUKOL
LIVING TRUST

FENCE 0.75 E.

LIGHT

SIGN

ASPHALT PAVING

50.48

EXCEPTION

338.17 S 80°28'31" W

ILLINOIS STATE ROUTE NO. 126

ASPHALT ROAD

REFERENCE BENCHMARK: KENDALL COUNTY MARKER DESIGNATION NO. 708, BRASS MARKER ON TOP OF WEST SIDE OF THE CONCRETE BOX CULVERT UNDER GROVE ROAD CROSSING OVER A TRIBUTARY BRANCH TO THE EAST AUX SABLE CREEK, 1 MILE NORTH OF ROUTE 126
ELEVATION = 687.53 NGVD 29

SITE ADDRESS: 3485 ROUTE 126
OSWEGO IL 60543

Owner Name DTG INVESTMENTS LLC
Owner Address PO BOX 7453
AURORA IL 60507

ORDERED BY:

BRUMMEL PROPERTIES

STATE OF ILLINOIS } S. S.
COUNTY OF KENDALL }

THIS IS TO CERTIFY THAT I, AN ILLINOIS LAND SURVEYOR, HAVE SURVEYED THE PROPERTY DESCRIBED ABOVE AND THAT THE ANNEXED PLAT IS A CORRECT REPRESENTATION OF SAID SURVEY. THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.
GIVEN UNDER MY HAND AND SEAL AT OSWEGO, ILLINOIS, THIS 17TH DAY OF DECEMBER A. D., 20 19 .

WILLIAM MATTHEW WINGSTEDT REGISTERED LAND SURVEYOR LICENSE NO. [redacted] OSWEGO, IL PROFESSIONAL STATE OF ILLINOIS

[redacted]
ILLINOIS LAND SURVEYOR NO. [redacted]
(LICENSE SUBJECT TO RENEWAL AND EXPIRES 11/30/2020)

REFER TO DEED OR GUARANTEE POLICY FOR RESTRICTIONS NOT SHOWN ON SURVEY.
ALL DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.
LINE DIRECTIONS AND BEARINGS, WHERE SHOWN, ARE BASED ON A DEED DATUM LINE.
PLEASE COMPARE ALL POINTS BEFORE BUILDING AND REPORT ANY APPARENT DISCREPANCIES

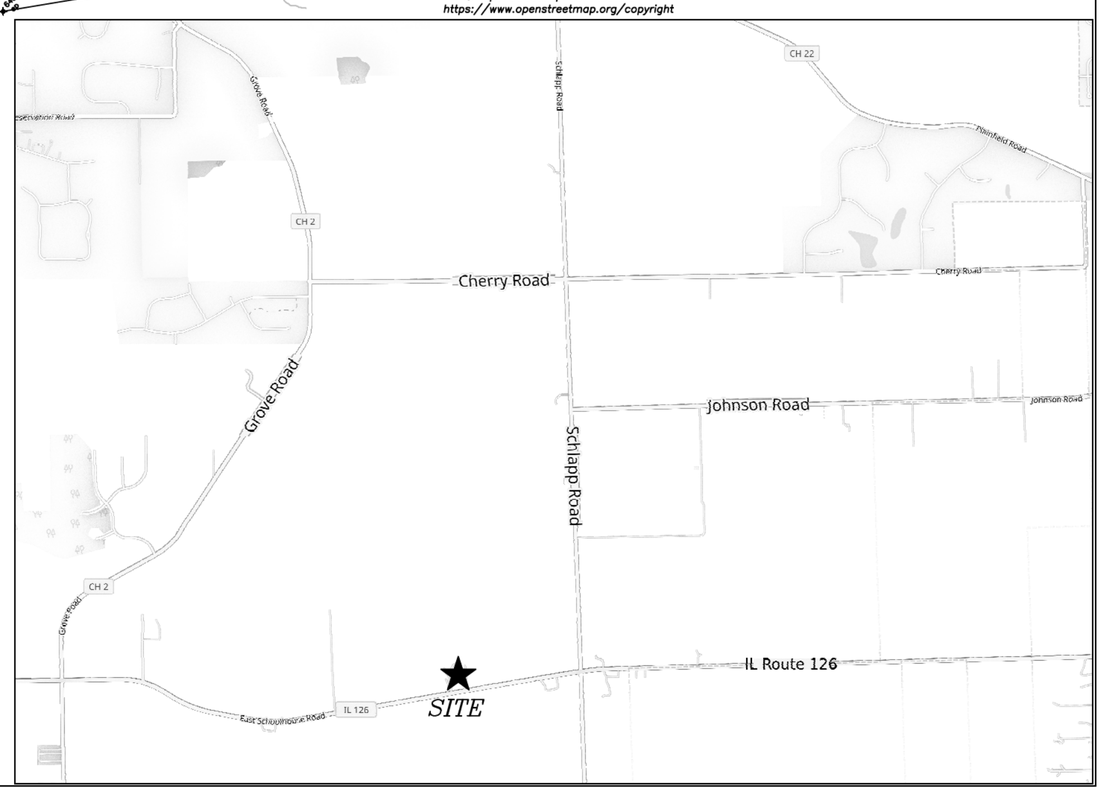
3485 ROUTE 126.DWG
● = found iron stake
○ = set iron stake
0 1/4" 1/2" 3/4" 1"
0' 7.5' 15' 22.5' 30'

FIELD WORK COMPLETED, BUILDINGS AND OTHER IMPROVEMENTS LOCATED AS SHOWN ON THE 17TH OF DECEMBER , A. D., 20 19 .

ORDER NO. 19 L 71 FILE NO. 191062

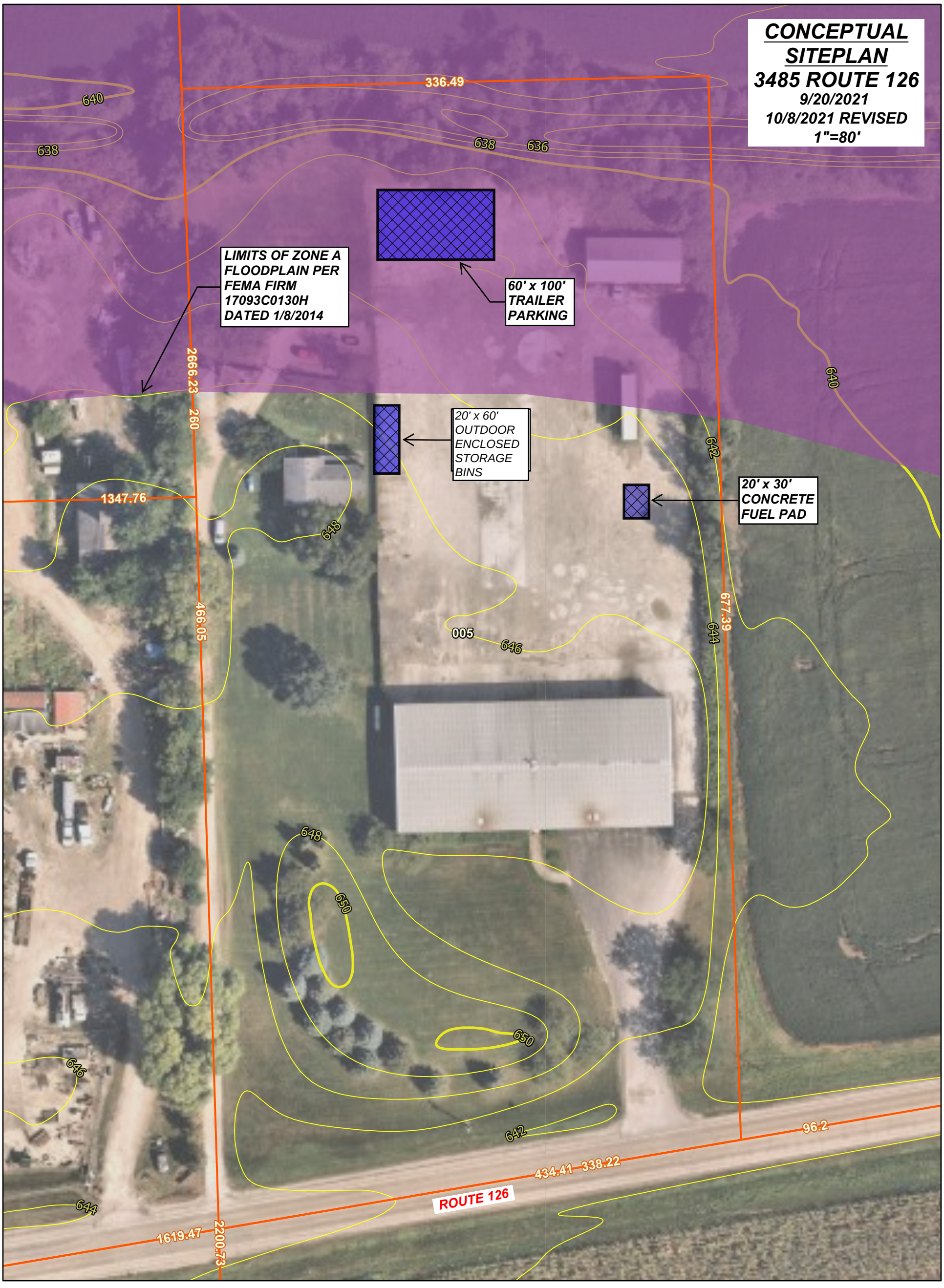
WILLIAM M. WINGSTEDT
ILLINOIS PROFESSIONAL LAND SURVEYOR
329 WHITE PINES CT., OSWEGO, ILLINOIS 60543
PHONE: (630) 554-8209 FAX (630) 551-1207

VICINITY MAP



Baish Excavating, Inc.

Attachment 5



September 20, 2021

Parcel Lines

Parcels

Ownership Parcel

USA Flood Hazard Areas

1% Annual Chance Flood Hazard

2018 Contours

Contour

Index Line

1:960

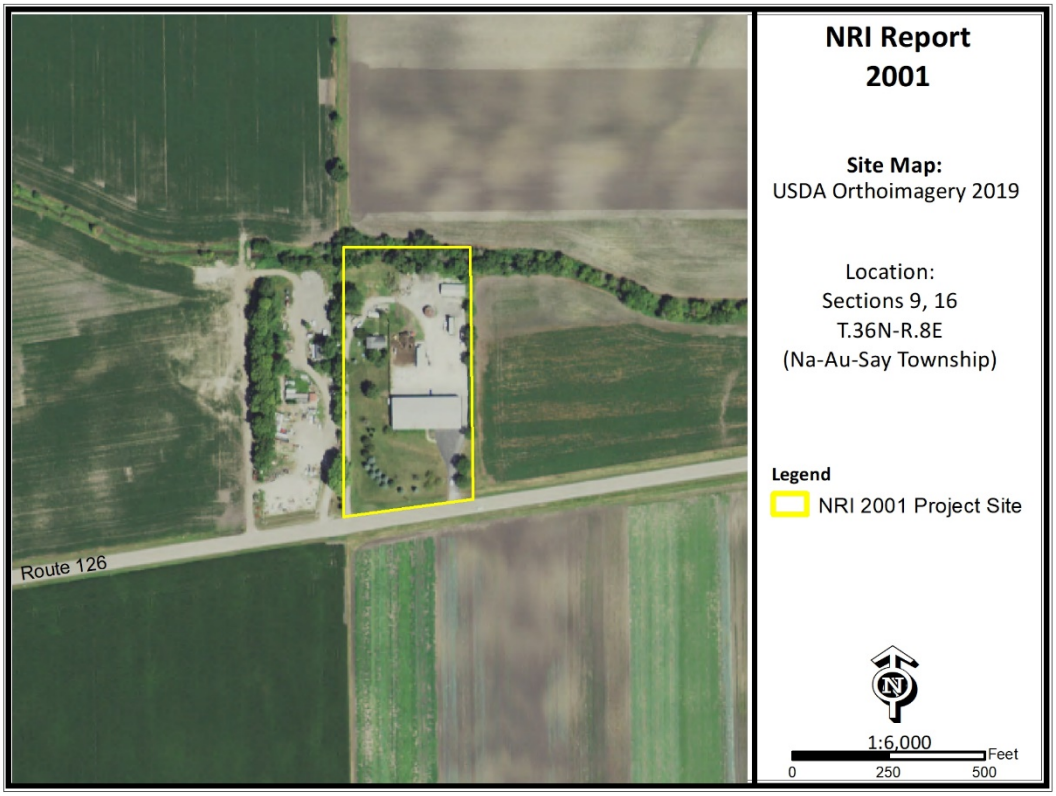
0 0.01 0.01 0.03 mi

0 0.01 0.03 0.05 km

Kendall County Web GIS

View GIS Disclaimer at https://www.co.kendall.il.us/departments/geographic-information-systems/gis-disclaimer-page/.

NATURAL RESOURCE INFORMATION (NRI) EXECUTIVE SUMMARY REPORT: 2001



January 2020

Petitioner: DTG Investments, LLC
Contact: Greg Dady

Prepared by:

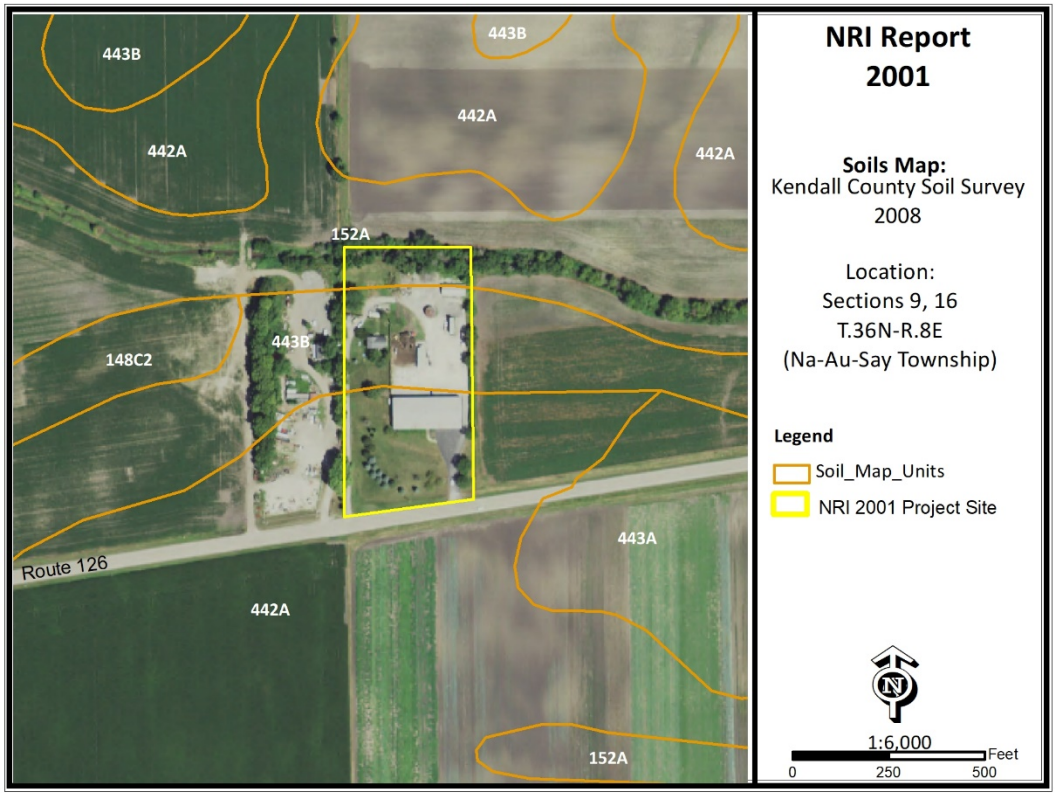
Kendall County Soil & Water Conservation District
7775A Route 47 • Yorkville, Illinois 60560
Phone: (630)553-5821 x3 • Fax: (630)553-7442
www.kendallswcd.org

2001 **Executive Summary** **January 2020**

Petitioner: DTG Investments, LLC
Contact Person: Greg Dady
County or Municipality the petition is filled with: Kendall County
Location of Parcel: SE 1/4 Section 9; NE ¼ Section 16 T.36N.-R.8E. (Oswego Township), 3rd Principal Meridian in Kendall Co., IL
Project or Subdivision Name: N/A
Existing Zoning & Land Use: A-1; Buildings, Parking, Outdoor Storage, Creek
Proposed Zoning & Land Use: A-1 Special Use
Proposed Water Source: Well
Proposed Type of Sewage Disposal System: Septic
Proposed Type of Storm Water Management: Not Provided
Size of Site: 5.0 acres
Land Evaluation Site Assessment Score: 189 (Land Evaluation: 92; Site Assessment: 97)

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
152A	Drummer silty clay loam, 0-2% slopes	Poorly drained	B/D	Hydric Soil	Prime Farmland (if drained)
442A	Mundelein silt loam, 0-2% slopes	Somewhat poorly drained	B/D	Hydric Inclusions Likely	Prime Farmland
443B	Barrington silt loam, 2-4% slopes	Moderately well drained	C	Non-hydric	Prime Farmland

Hydrologic Soil Groups: 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.

Hydric Soils: 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, one soil, 152A Drummer silty clay loam, is classified as a hydric soil and one, 442A Mundelein silt loam, is designated as having the potential for hydric inclusions.

Prime Farmland: 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, all are designated as prime farmland.

Table 2:

Map Unit	Surface Runoff	Water Table	Ponding	Flooding
152A	Negligible	January - May Upper Limit: 0.0'-1.0' Lower Limit: >6.0'	January - May Surface Water Depth & Duration: 0.0'-0.5' Frequency: Brief, Frequent	January – May None
442A	Negligible	January - May Upper Limit: 1.0'-2.0' Lower Limit: >6.0'	January - May Surface Water Depth & Duration: -- Frequency: None	January – May None
443B	Low	February - April Upper Limit: 2.0'-3.5' Lower Limit: >6.0'	February - April Surface Water Depth & Duration: -- Frequency: None	February - April None

Surface Runoff: 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).

Ponding: 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).

Flooding: 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.
- ✓ Somewhat Limited: 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.
- ✓ Very Limited: 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.

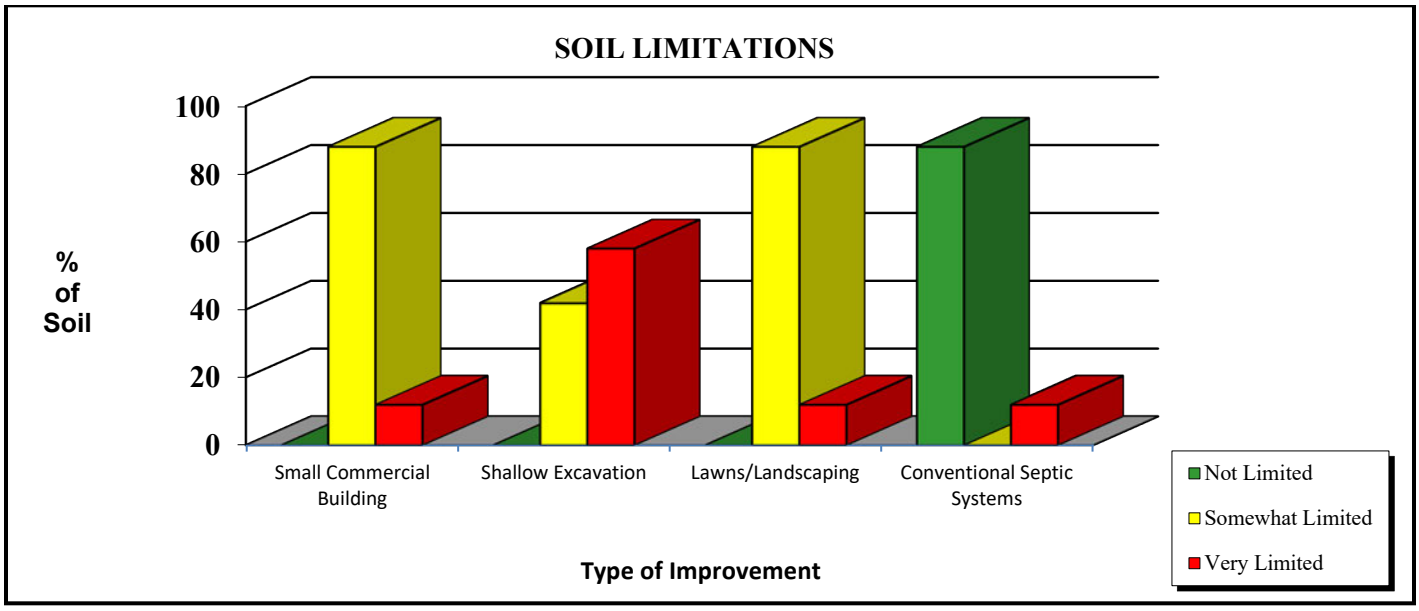
Limitations are listed below for dwellings with basements, dwellings without basements, small commercial building, and onsite conventional sewage disposal systems. Please note this information is based on soils in an undisturbed state as compiled for the USDA-NRCS 2008 Soil Survey of Kendall County, 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
152A	**Very Limited:** Ponding, Depth to saturated zone, Shrink-swell	**Very Limited:** Ponding, Depth to saturated zone, Shrink-swell	**Very Limited:** Ponding, Depth to saturated zone, Shrink-swell	**Unsuitable:** wet
442A	**Somewhat Limited:** Depth to saturated zone	**Very Limited:** Depth to saturated zone	**Somewhat Limited:** Depth to saturated zone	**Suitable**
443B	**Somewhat Limited:** Shrink-swell	**Somewhat Limited:** Depth to saturated zone	**Somewhat Limited:** Shrink-swell	**Suitable**

Table 3b: Building Limitations

Soil Type	Shallow Excavations	Lawns & Landscaping
152A	**Very Limited:** Ponding, Depth to saturated zone, Dusty, Unstable excavation walls	**Very Limited:** Ponding, Depth to saturated zone, Dusty
442A	**Very Limited:** Depth to saturated zone, Dusty, Unstable excavation walls	**Somewhat Limited:** Depth to saturated zone, Dusty
443B	**Somewhat Limited:** Depth to saturated zone, Dusty, Unstable excavation walls	**Somewhat Limited:** Dusty



Building Limitations Maps:

Figure 2a: Small Commercial Building

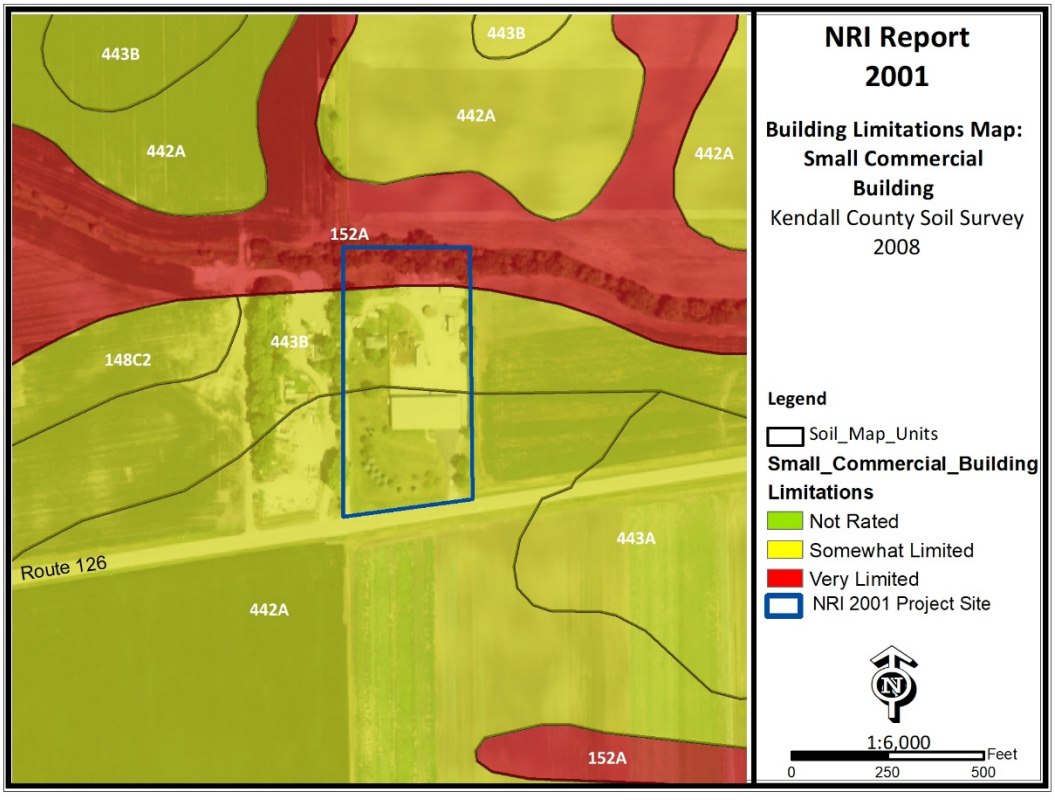


Figure 2b: Shallow Excavations

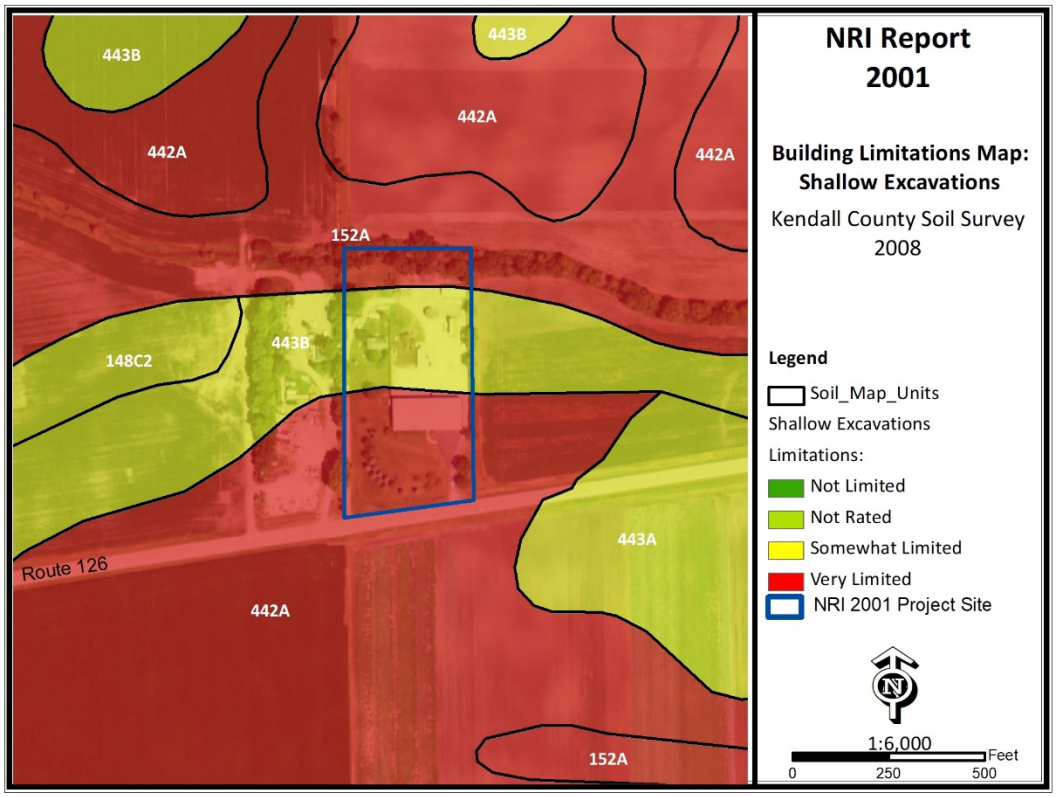
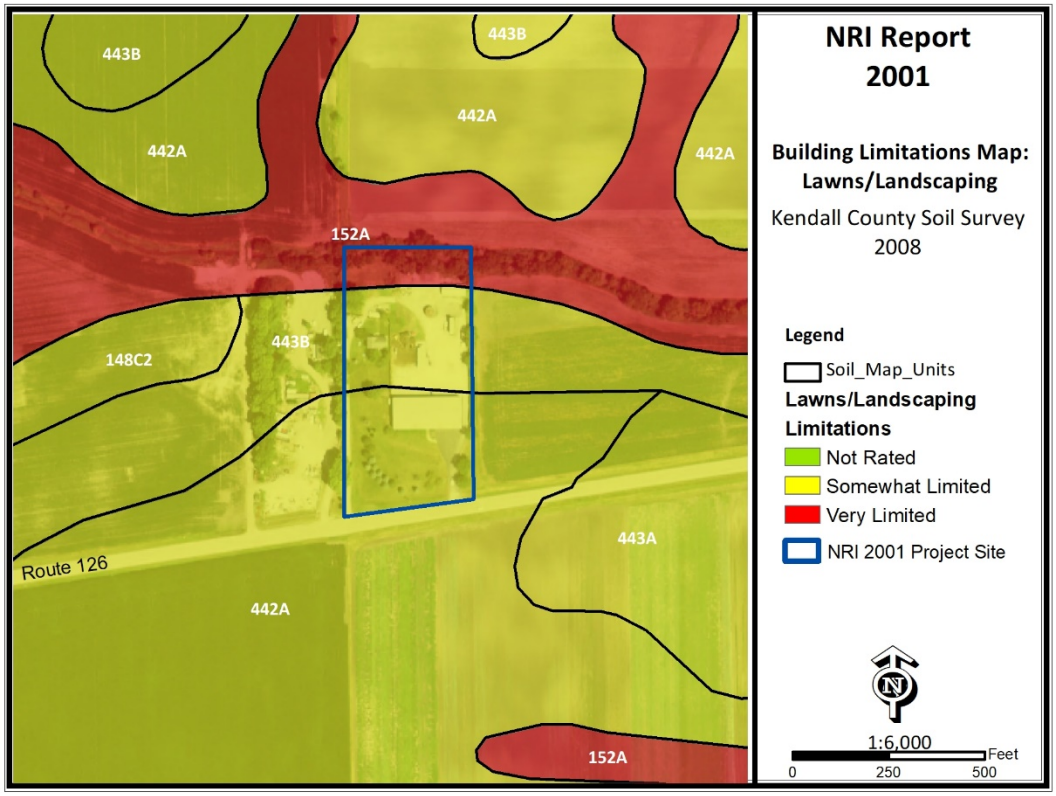


Figure 2c: Lawns/Landscaping



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

Soil Type	Value Group	Relative Value	Acres	Product (Relative Value x Acres)
152A	1	100	0.6	60.0
442A	2	94	2.3	216.2
443B	3	87	2.1	182.7
Totals			**5.0**	**458.9**
LE Score		**LE= 458.9/5.0**		**LE = 92**

The Land Evaluation score for this site is **92**, indicating that this site is predominately prime farmland well suited for agricultural production.

Table 4b: Site Assessment Computation

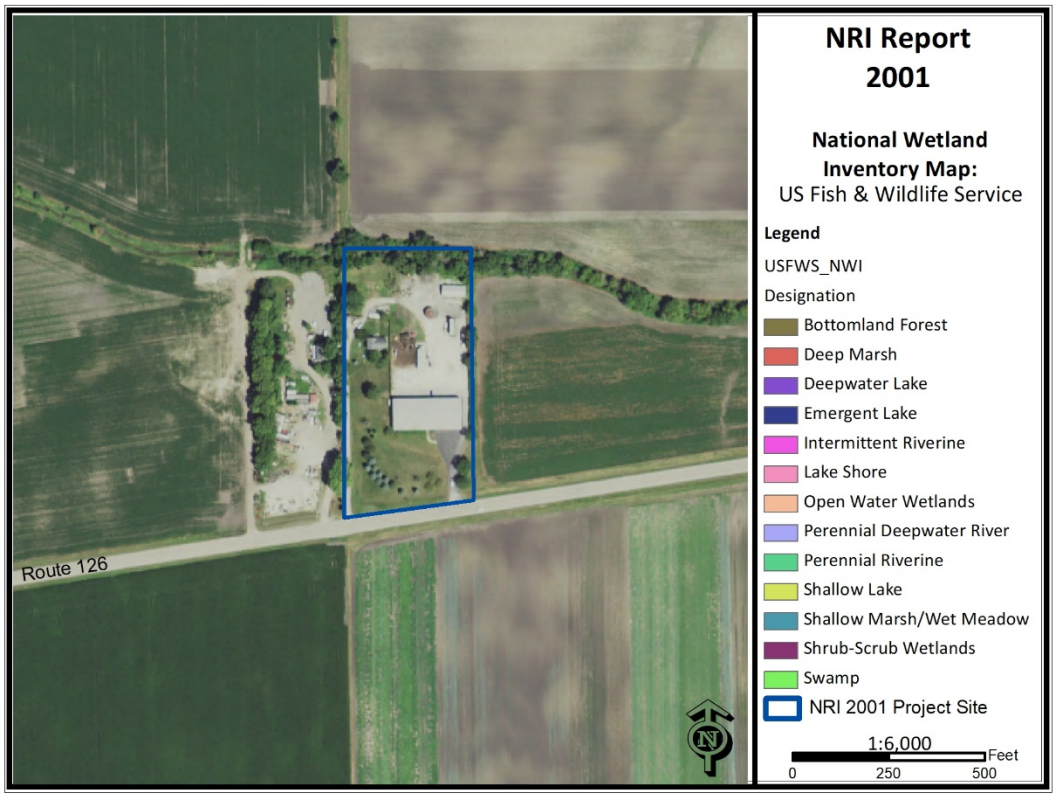
A.	**Agricultural Land Uses**	**Points**
	1. Percentage of area in agricultural uses within 1.5 miles of site. (20-10-5-0)	20
	2. Current use adjacent to site. (30-20-15-10-0)	20
	3. Percentage of site in agricultural production in any of the last 5 years. (20-15-10-5-0)	0
	4. Size of site. (30-15-10-0)	0
B.	**Compatibility / Impact on Uses**	
	1. Distance from city or village limits. (20-10-0)	20
	2. Consistency of proposed use with County Land Resource Management Concept Plan and/or municipal comprehensive land use plan. (20-10-0)	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)	10
	Site Assessment Score:	**97**

Land Evaluation Value: 92 + **Site Assessment Value: 97** = **LESA Score: 189**

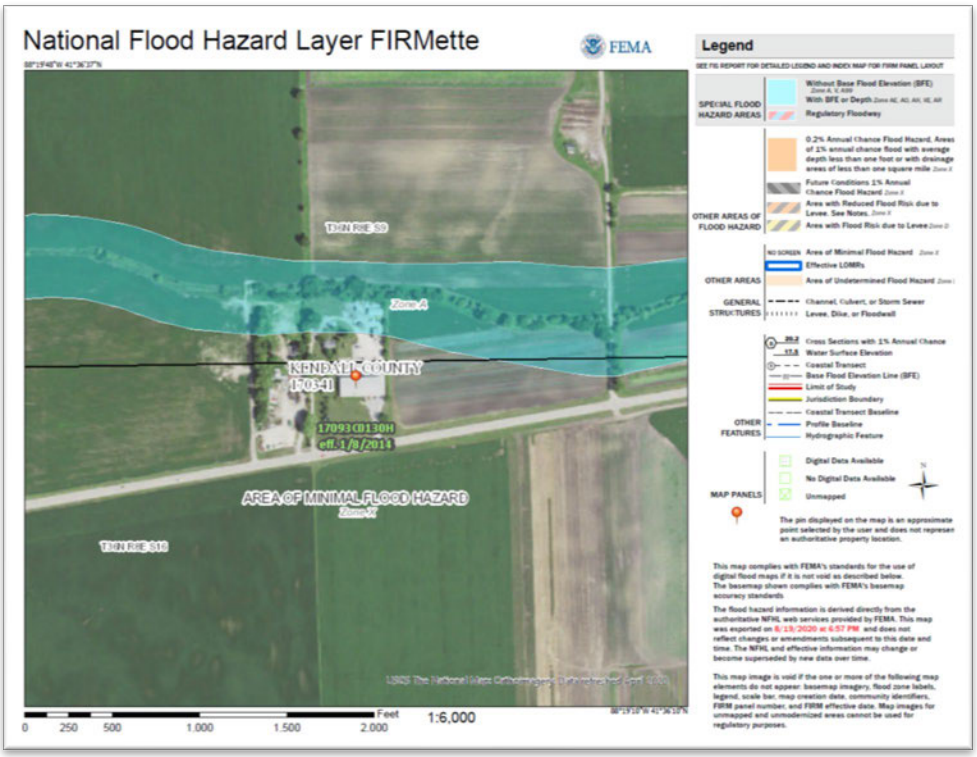
LESA SCORE	LEVEL OF PROTECTION
0-200	Low
201-225	Medium
226-250	High
251-300	Very High

The **LESA Score for this site is 189 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 not 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 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* (https://illinoisurbanmanual.org/) 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 DTG Investments, LLC at the request of their contact Greg Dady for the proposed A-1 Special Use petition. This parcel is located in Sections 9 & 16 of Na-Au-Say Township (T.36N.-R.8E. of the 3rd 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 92 out of a possible 100 points indicating the soils found on the project site are predominately prime farmland well suited for agricultural production. The overall LESA Score for this site is 189 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 three soil types identified onsite, all are designated as prime farmland. 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 of the soil types found onsite, is designated as a hydric soil and one soil type 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, 58% are very limited for shallow excavations and 12% are unsuitable for onsite conventional septic systems, 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, if 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 Illinois River Watershed.

If development should occur onsite, a soil erosion sediment control plan should 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 (Ill. Complied Statues, Ch. 70, Par 405/22.02a).

[redacted]

SWCD Board Representative

January 6, 2020

Date

Attachment 7 Building East

Attachment 8 Building West

Attachment 9 Storage Bin Area

Attachment 10 Sign

Attachment 11 Berm and Trees 1

Attachment 12 Berm and Trees 2

Attachment 13 Looking South

STATE OF ILLINOIS)
) SS
COUNTY OF KENDALL)

IN THE CIRCUIT COURT FOR THE SIXTEENTH JUDICIAL CIRCUIT
KENDALL COUNTY, ILLINOIS

COUNTY OF KENDALL, a Body Politic,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	GEN. NO. 99-OV-18
	)	
STEVEN FREEMAN and JEAN FREEMAN,	)	
	)	
Defendants.	)	

AGREED ORDER

This cause comes before the Court for hearing on the Complaint filed herein by the County alleging violations of the Kendall County Zoning Ordinance and the Kendall County Soil and Erosion Control Ordinance as such Ordinances apply to the real estate owned by the Defendants, STEVEN FREEMAN and JEAN FREEMAN.

The real estate which is the subject matter of these proceedings and is the subject of this Order is described on Exhibit "A" attached hereto and made a part hereof and consists of the tract of land containing 2.4396 acres of land and presently improved with a metal building, silo and corn crib.

The Court is advised that a building permit was issued for the construction of an Equipment Storage Building on the real estate on September 3, 1997, and that subsequent thereto the building was constructed by the Defendants and was thereafter used continuously for the storage of trucks and earthmoving equipment used by the Defendants in their excavating business.

The Court is further advised that the County and the Defendants have agreed to the terms of this Order settling between the parties all matters in controversy in this proceeding,

which permits the continued use of the building by the Defendants, subject, however, to the terms and restrictions contained in this Order.

NOW, THEREFORE, IT IS ORDERED AS FOLLOWS:

1. The real estate described herein shall remain classified A-1, Agricultural, under the Kendall County Zoning Ordinance. Defendants shall withdraw their pending Petition for Special Use filed on October 13, 2000.

2. Defendants shall be permitted to continue to use the real estate and the improvements situated thereon for the storage of the trucks and equipment used in their excavating business, or for other uses normally permitted in the A-1 Zoning District, subject, however, to the following restrictions:

   a. All trucks and earthmoving equipment used in the Defendants' excavating business shall be stored inside the metal equipment storage building.

   b. Nothing other than agricultural products may be stored on the 2.4396 acre parcel of real estate outside of the metal equipment storage building, the silo, and the corn crib, depicted on Exhibit "A".

   c. No additional building or buildings shall be constructed on the real estate, nor shall the size of the metal equipment storage building be increased.

   d. In the event that the metal equipment storage building sustains damages, due to fire or other causes, in excess of 50% of its value, then the building may only be rebuilt and restored if the structure meets all required building set back requirements for principal buildings (100 feet from the dedicated road right of way) in the A-1 Zoning District and the building, when rebuilt, shall not be greater than 10,000 square feet in size.

   e. The maximum quantity of fuel which may be stored on-site shall be 2,000 gallons, and all fuel shall be stored in compliance with the rules and regulations of the Office of the Illinois State Fire Marshall.

   f. No portion of the adjoining acreage owned by the Defendants and depicted on Exhibit "A", containing the frame residence and barn, shall be used for storage of any equipment used by the Defendants in their excavating business. The use of said adjoining parcel shall be limited to uses permitted in the A-1 Zoning District.

g. The metal equipment storage building shall be maintained in accordance with the building code and building use codes and shall be subject to periodic inspection by the Kendall County Planning, Building & Zoning Department. Said building shall not be used for office purposes.

h. Defendants shall blacktop that portion of the gravel driveway on the South side of the metal equipment storage building prior to May 1, 2002.

i. Defendants shall comply with the County Stormwater Control Ordinances and shall make such site improvements as are required by the County in order to comply therewith.

j. Defendants shall apply for a site development permit, including all required fees and submittal of required engineering plans, for the berms constructed on site, no later than 60 days from the date of entry of this Order.

k. Defendants shall request a reinspection of the completed structure to ensure it meets all building code requirements. All applicable inspection fees, including the difference between a 14,000 square foot and a 9,000 square foot structure, shall be paid to the County within 60 days from the date of entry of this Order.

l. Defendants shall dedicate to the State of Illinois, or to the County of Kendall, as directed by the County, a 50 feet of Right of Way for roadway purposes along the South line of the entire 5.398 acres described on Exhibit "A" to accommodate future expansion of Illinois Route 126.

m. All dirt and material piles shall be removed from the property no later than 30 days from the date of entry of this Order.

3. The use of the land for storage of trucks and equipment and for an excavating business shall only continue as long as the Defendants own and personally use the property. Once the property is sold, leased or transferred, the use as described must cease.

4. Defendants shall pay a fine and Court Costs of $2,500.00, within 14 days from the date of entry of this Order.

5. The Kendall County Planning, Building & Zoning Department is authorized to monitor the use of the premises to insure compliance with the terms of this Order.

6. This Court shall retain jurisdiction of the subject matter hereof and the parties hereto for the purpose of enforcing the terms and provisions hereof.

Approved: County of Kendall

By: [redacted]

[redacted] eeman Jean Freeman

Entered as an Agreed Order this 8th day of May, 2001

[redacted]

Judge

H:\SBuening$\FREEMAN.AGREEDORD3.doc

THAT PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 9 AND THAT PART OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 16 LYING NORTHERLY OF THE CENTERLINE OF ILLINOIS ROUTE #126 ALL IN TOWNSHIP 36 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER OF SECTION 9; THENCE NORTH 1 DEGREE 36 MINUTES 40 SECONDS WEST ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER, 260 FEET; THENCE NORTH 88 DEGREES 44 MINUTES 53 SECONDS EAST, 335 FEET; THENCE SOUTH 01 DEGREE 39 MINUTES 11 SECONDS EAST 148.39 FEET FOR THE POINT OF BEGINNING; THENCE SOUTH 01 DEGREE 39 MINUTES 11 SECONDS EAST, 529.00 FEET TO SAID CENTER LINE OF ROAD; THENCE SOUTH 80 DEGREES 28 MINUTES 31 SECONDS WEST ALONG SAID CENTERLINE, 211.04 FEET; THENCE NORTH 01 DEGREE 39 MINUTES 11 SECONDS WEST, 392.85 FEET; THENCE NORTH 88 DEGREES 40 MINUTES 35 SECONDS EAST, 60.0 FEET; THENCE NORTH 01 DEGREE 39 MINUTES 11 SECONDS WEST, 200.0 FEET; THENCE SOUTH 78 DEGREES 36 MINUTES 35 SECONDS EAST, 153.0 FEET TO THE POINT OF BEGINNING, IN THE TOWNSHIP OF NA-AU-SAY, KENDALL COUNTY, ILLINOIS.

Exhibit "A" - Page 1 of 2

06-09-400-005

State of Illinois
County of Kendall

Zoning Petition
#06-32

ORDINANCE NUMBER 2007 - 10

GRANTING A SPECIAL USE
3485 ROUTE 126 COUNTRYSIDE LANDSCAPE SUPPLY

WHEREAS, Triple B South d/b/a Countryside Industries, filed a petition for a Special Use within the A-1 district, for property located at 3485 Route 126 in Na-Au-Say Township; and

WHEREAS, said petition is to allow for the usage of the parcel for a wholesale landscape supply and contracting business; and

WHEREAS, said property is zoned A-1 Agricultural and the request is allowable upon issuance of a Special Use Permit per § 7.01.D.17 of the Kendall County Zoning Ordinance; and

WHEREAS, said property is legally described as follows:

> ***That part of the west ½ of the southeast ¼ of Section 9 and part of the west ½ of the northeast ¼ of section 16 all in Township 36N, Range 8 east of the Third principal meridian, lying northerly of the centerline of Illinois Route No. 126 described as follows: beginning at the southwest corner of said southeast ¼ of Section 9; thence north 01 degrees, 36minutes, 40 seconds west along the west line of said southeast ¼, 260 feet; thence north 88 degrees, 44 minutes, 53 seconds east, 335 feet; thence south 01 degrees, 39 minutes, 11 seconds east, 677.39 feet to the centerline of said road; thence south 80 degrees, 28 minutes, 31 seconds, west along said centerline, 338.17 feet to the west line of said northeast 1/4; thence north 01 degrees, 40 minutes, 39 seconds west along said west line, 466.05 feet to the point of beginning, in the Township of NA-AU-SAY, Kendall County, Illinois (PIN 06-09-400-005)***

WHEREAS, 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

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

NOW, THEREFORE, BE IT ORDAINED, that the Kendall County Board hereby grants approval of a Special Use zoning permit for the use indicated in the recitals section of this Ordinance and as indicated on the submitted Site Enhancement Plan included as Exhibit "A" attached hereto and incorporated herein, subject to the following conditions:

1. The maximum number of employees reporting to the site is 40.
2. The development of the site shall be in conformance with the submitted Site Enhancement Plan dated August 18, 2006 with a latest revision date of March 9, 2007.
3. All commercial vehicles used for the special use are to be stored inside an accessory structure when not in use.

State of Illinois
County of Kendall

Zoning Petition
#06-32

4. No construction activity can take place on the portion of the subject parcel located in Section 9 of Na-Au-Say Township until such time that a detailed flood plain study has been forwarded to PBZ staff and Strand Associates, to ensure that there are no negative impacts to Aux Sable Creek.
5. A site development permit will need to be secured prior to construction of the proposed parking stalls demonstrating that the post construction elevations of that portion of the parking lot located within the flood plain as depicted on the existing FEMA FIRM maps dated July 19, 1982 (Community Map Panel 170341 0100 C) will not exceed the existing elevations of the existing grades on the site.
6. No construction activity shall take place and no permits (building, occupancy or site development) shall be issued for the subject parcel located in Section 9 of Na-Au-Say Township until such time that the required 15 foot Regional Trail easement, and the additional ROW along Route 126 per the previous Agreed Court Order, has been supplied and recorded.
7. All renovations to existing structures must conform to a commercial standard per the provisions of the Kendall County Building Code, including handicapped accessibility of the structures.
8. Other than the outside storage of non-growing landscaping materials, no outside storage shall be allowed on the site.
9. Occupancy in the existing residence will be restricted to an employee of the petitioner, for use as a caretaker's residence, and his/her immediate family members.
10. No composting will be done on-site. All grass clippings will be stored temporarily in a bin or dumpster and be hauled off the site periodically when the bin becomes full.

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 March 20, 2007.

Attest:

John A. Church
Kendall County Board Chairman

Paul Anderson
Kendall County Clerk

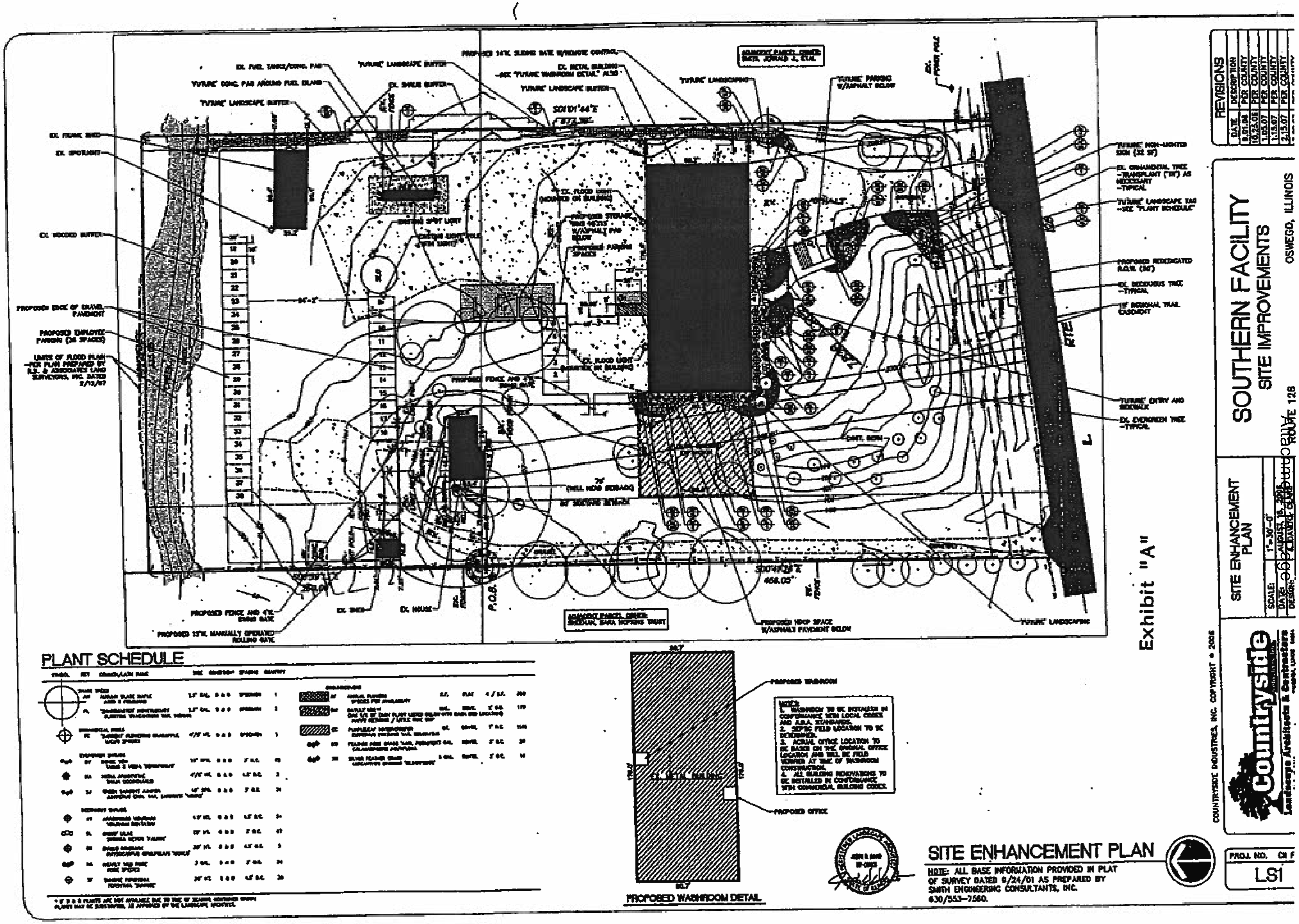

SOUTHERN FACILITY
SITE IMPROVEMENTS
OSWEGO, ILLINOIS
ROUTE 126
SITE ENHANCEMENT PLAN
SCALE: 1"=30'-0"
REVISIONS
DATE DESCRIPTION
9.01.06 PER COUNTY
10.23.06 PER COUNTY
1.05.07 PER COUNTY
1.15.07 PER COUNTY
2.15.07 PER COUNTY
Countryside
Landscape Architects & Contractors
COUNTRYSIDE INDUSTRIES, INC. COPYRIGHT © 2006
PROJ. NO.
LS1
Exhibit "A"
PLANT SCHEDULE
PROPOSED WASHROOM DETAIL
PROPOSED WASHROOM
PROPOSED OFFICE
EX. METAL BUILDING
NOTES:
1. WASHROOM TO BE INSTALLED IN CONFORMANCE WITH LOCAL CODES AND A.D.A. STANDARDS.
2. SEPTIC FIELD LOCATION TO BE DETERMINED.
3. ACTUAL OFFICE LOCATION TO BE BASED ON THE ORIGINAL OFFICE LOCATION AND WILL BE FIELD VERIFIED AT TIME OF WASHROOM CONSTRUCTION.
4. ALL BUILDING RENOVATIONS TO BE INSTALLED IN CONFORMANCE WITH COMMERCIAL BUILDING CODES.
SITE ENHANCEMENT PLAN
NOTE: ALL BASE INFORMATION PROVIDED IN PLAT OF SURVEY DATED 6/24/01 AS PREPARED BY SMITH ENGINEERING CONSULTANTS, INC. 630/553-7560.
S01°01'44"E
S00°41'29"E
468.05'
P.O.B.
EX. HOUSE
EX. SHED
EX. WOODED BUFFER
EX. SPOTLIGHT
PROPOSED EDGE OF GRAVEL PAVEMENT
PROPOSED EMPLOYEE PARKING (38 SPACES)
PROPOSED FENCE AND 4'W. SWING GATE
PROPOSED 13'W. MANUALLY OPERATED ROLLING GATE
PROPOSED 14'W. SLIDING GATE W/REMOTE CONTROL
EX. METAL BUILDING
-SEE "FUTURE WASHROOM DETAIL" ALSO
"FUTURE" LANDSCAPE BUFFER
"FUTURE" PARKING W/ASPHALT BELOW
"FUTURE" LANDSCAPING
"FUTURE" NON-LIGHTED SIGN (32 SF)
EX. ORNAMENTAL TREE -TRANSPLANT ("TR") AS NECESSARY -TYPICAL
"FUTURE" LANDSCAPE TAG -SEE "PLANT SCHEDULE"
PROPOSED REDEDICATED R.O.W. (50')
EX. DECIDUOUS TREE -TYPICAL
15' REGIONAL TRAIL EASEMENT
"FUTURE" ENTRY AND SIDEWALK
EX. EVERGREEN TREE -TYPICAL
PROPOSED HDCP SPACE W/ASPHALT PAVEMENT BELOW
ADJACENT PARCEL OWNER: SHEEHAN, SARA HOPKINS TRUST
EX. POWER POLE

Exhibit "A"

Attachment 16 Storage Tent

Matt Asselmeier

From: Alec Keenum <akeenum@oswegofire.com>
Sent: Wednesday, October 27, 2021 9:47 AM
To: Matt Asselmeier
Subject: [External]RE: Kendall County Zoning Petition 21-46

Matt,

- Fuel tanks – additions of fuel tanks shall be as per Office of the State Fire Marshal (OSFM) with applicable obtained permits, inspections, and approvals from the State
- Outside storage bins – storage heights of any wood chips, or other combustible materials shall be limited in height to 25' as per the International Fire Code (IFC 2015) section 2808.3
- Outside storage bins - shall not be used for miscellaneous storage of vehicles, machinery, equipment, etc.

Regards,

Capt. Alec J Keenum
Fire Marshal
Oswego Fire Protection District

ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC)
November 2, 2021 – Unapproved Meeting Minutes

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

Present:
Matt Asselmeier – PBZ Department
Meagan Briganti – GIS Department
Scott Gengler – PBZ Committee Chair
David Guritz – Forest Preserve (Arrived 9:03 a.m.)
Brian Holdiman – PBZ Department
Fran Klaas – Highway Department
Alyse Olson – Soil and Water Conservation District
Aaron Rybski – Health Department

Absent:
Greg Chismark – WBK Engineering, LLC
Commander Jason Langston – Sheriff's Department

Audience:
Sergiu Tugutchi, Gregg Ingemunson, and Greg Dady

PETITIONS

Petition 21-46 Greg Dady on Behalf of DTG Investments, LLC and Robert Baish on Behalf of Baish Excavating, Inc.
Mr. Asselmeier summarized the request.

Greg Dady, on behalf of DTG Investments, LLC would like to sell the subject property to Baish Excavating. After exploring a text amendment to allow an excavating business on the subject property, the Petitioners decided to pursue a major amendment to the existing special use permit for a landscaping business at the subject property.

The application materials, aerial of the property, aerial with the flood zone, plat of survey, site plan, the court order regarding a previous excavating business at the property, and the special use permit for a landscaping business previously granted by Ordinance 2007-10 were provided.

The subject property is approximately five point five (5.5) acres in size.

Route 126 is a State maintained arterial; there is a trail planned along Route 126.

There is a floodplain on the north end of the property (Zone A-no base flood elevation determined).

The adjacent uses are agricultural or agricultural related.

The adjacent zonings are A-1. The zonings in the area are A-1, R-1, and A-1 with special use permits.

The Future Land Use Map calls for the area to be Rural Residential and Public Institutional.

The A-1 SU to the east is for a farm market, garden shop, winery, corn maze, and fall festival. The A-1 SU to the west is for a farm equipment sales and service business.

Oswego School District 308 owns the property southwest of the subject property.

Ten (10) existing houses are within one half (1/2) mile of the subject property.

Pictures of the property and area were provided.

EcoCAT Report submitted and consultation was terminated.

The LESA Score was 189 indicating a low level of protection.

Petition information was sent to Na-Au-Say Township on October 26, 2021.

Petition information was sent to the Village of Oswego on October 26, 2021. The property is inside Oswego's planning boundary.

Petition information was sent to the Village of Plainfield on October 26, 2021. The property is within one point five (1.5) miles of Plainfield.

The Oswego Fire Protection District was sent information on October 26, 2021. The Oswego Fire Protection District submitted an email on October 27, 2021, requesting that fuel tanks be installed, permitted, and inspected per applicable law, storage heights inside the storage bins be capped at twenty-five feet (25') in height, and no miscellaneous storage of vehicles, machinery, or equipment occur in the storage bins. The Petitioners were agreeable to these requests.

The subject property has been used as a landscaping business and repair and restoration business. The Petitioner would like to retain the special use permit for a cleanup and restoration business at the property.

According to the business plan, Baish Excavating, Inc. does excavation, concrete, landscaping, site maintenance, railroad and major pipeline work. Their work takes place offsite within a radius of approximately thirty-five (35) miles of Plainfield. They are relocating from their current location because their existing location has been sold.

The hours of operation are Monday through Friday from 6:00 a.m. until 5:00 p.m. The company operates outside these hours of operation during snowfalls and other emergencies. The company has eleven (11) employees, but this number could rise to fifteen (15) employees. Four (4) or five (5) of these employees work onsite while the remainder of employees work at job sites.

Equipment and trucks would be stored indoors as much as possible, but some equipment would be stored outside. Equipment consists of excavators, loaders, skid steers, track skids, two (2) semi dumps, and dump trailers. The site plan shows a sixty foot by one hundred foot (60' X 100') trailer parking area.

According the to the site plan, the Baish Excavating, Inc. would like to install three (3) fuel tanks on a concrete pad. The area would be twenty feet by thirty feet (20' X 30').

The site plan also calls for a twenty foot by sixty foot (20' X 60') outdoor storage bin area. This area would be used to store aggregates and salt in "tents". The "tents" would be a maximum of thirty feet (30') in height. The tents would be enclosed except for one (1) side. A picture of the "tent" was provided.

The existing special use permit for a landscaping business was granted on March 20, 2007, and included the following conditions and restrictions:

1. The maximum number of employees reporting to the site is 40.

2. The development of the site shall be in conformance with the submitted Site Enhancement Plan dated August 18, 2006 with a latest revision of date of March 9, 2007.

3. All commercial vehicles used for the special use are to be stored inside an accessory structure when not in use.

4. No construction activity can take place on the portion of the subject parcel located in Section 9 of Na-Au-Say Township until such time that a detailed flood plain study has been forwarded to PBZ staff and Strand Associates, to ensure that there are no negative impacts to Aux Sable Creek.

5. A site development permit will need to be secured prior to construction of the proposed parking stalls demonstrating that the post construction elevations of that portion of the parking lot located within the flood plain as depicted on the existing FEMA FIRM maps dated July 19, 1982 (Community Map Panel 170341 0100C) will not exceed the existing elevations of the existing grades on the site.

6. No construction activity shall take place and no permits (building, occupancy or site development) shall be issued for the subject property located in Section 9 of Na-Au-Say Township until such time that the required 15 foot Regional Trail easement, and the additional ROW along Route 126 per the previous Agreed Court Order, has been supplied and recorded.

7. All renovations to existing structures must conform to a commercial standard per the provisions of the Kendall County Building Code, including handicapped accessibility of the structures.

8. Other than the outside storage of non-growing landscaping materials, no outside storage shall be allowed on the site.

9. Occupancy in the existing residence will be restricted to an employee of the petitioner, for use as a caretaker's residence, and his/her immediate family members.

10. No composting will be done on-site. All grass clippings will be stored temporarily in a bin or dumpster and be hauled off the site periodically when the bin becomes full.

The Petitioner is requesting that conditions 1, 2, 3, and 8 be amended or repealed. Conditions 4, 6, and 7 have previously been met. The FEMA FIRM maps have been updated since the original special use permit was granted in 2007.

According to the site plan, there is one (1) approximately fourteen thousand (14,000) square foot metal building on the property that is used for office operations and maintenance. One (1) approximately one thousand six hundred (1,600) square foot wood frame machine shed is located on the northeast corner of the truck parking area. One (1) single-family home with a detached garage is located on the west side of the property.

Any new structures would require applicable building permits.

The property is served by well and septic.

There is floodplain as part of the Little Slough Creek on the property. This area is considered Zone A which means no flood elevation has been determined; therefore, this area is considered Floodway.

On October 26, 2021, the Petitioners and their engineer met with the Senior Planner, a representative of WBK, and the Planning, Building and Zoning Committee Chairman at the property. The Petitioners agreed that no hazardous or flammable materials would be stored in the floodway. The Kendall County Stormwater Management Ordinance forbids the storage of such materials in the floodway.

The property has two accesses off of Route 126. The western access would be used by the existing house and the eastern access would be used by the business operating out of the metal building.

According to the site plan, a parking area is shown north of the metal building. The parking area is gravel.

Contrary to the business plan, no additional lighting beyond the existing lighting on the building and light near the entrance is planned at this time. Section 11:02.F.12.A requires an illumination plan for parking lots with thirty (30) or more parking spaces.

There is one (1) existing four foot by eight foot (4'X8') freestanding sign. A light exists next to the sign. A picture of the sign was provided.

There is an existing wooden fence around the property and a single gate east of the metal building.

A berm and several mature trees are between the metal building and Route 126. Pictures of the landscaping were provided.

No information was provided regarding noise control.

No new odors are foreseen by the proposed use.

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 operation of the special use will not be detrimental to the public health, safety, morals, comfort, or general welfare provided that the operator of the business allowed by this special use permit develops the site according to the submitted site plan, follows the agreed upon hours of operation, and follows

the Kendall County Inoperable Vehicle Ordinance, Kendall County Junk and Debris Ordinance, and Kendall County Stormwater Management Ordinance, and related ordinances.

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. Provided that the business operates as proposed, no injury should occur to other property and property values should not be negatively impacted.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. Adequate utilities exist on the site based upon the number of proposed employees at the property. No additional buildings are planned for the site. The Petitioners are aware that parking cannot occur in the front yard setback. Route 126 is a State maintained road and should be able to handle the traffic. The Petitioners are aware that floodplain exists on the property and certain materials cannot be stored in the floodplain per the Kendall County Stormwater Management Ordinance.

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 because the Petitioners are not asking for any variances.

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 10-11 of the Kendall County Land Resource Management Plan which calls for “a strong base of agricultural, commercial and industry 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 major amendment to an existing special use permit subject to the following conditions and restrictions:

1. Conditions 1 (pertaining to number of employees), 2 (pertaining to the site plan), 3 (pertaining to outside storage of commercial vehicles), and 8 of Ordinance 2007-10 shall be repealed. The remaining conditions and restrictions in Ordinance 2007-10 shall remain in force and valid.
2. The site shall be developed substantially in accordance with the site plan. The property owner or operators of the business allowed by this special use permit may remove the frame residence, garage, wood frame machine shed, and corn crib without amending the site plan.
3. The owners of the business allowed by the special use permit shall maintain the parking areas shown on the site plan and in substantially the same location as depicted on the site plan. The parking area north of the building shall be gravel and the parking lot south of the building shall be asphalt. Any expansions of either parking lots shall require an amendment to the special use permit.
4. The owners of the businesses allowed by this special use permits shall diligently monitor the property for leaks from equipment and vehicles parked and stored on the subject property and shall promptly clean up the site if leaks occur.
5. Any new structures constructed or installed on the property shall not be considered for agricultural purposes and must secure applicable building permits.
6. Equipment and vehicles related to the business allowed by the special use permit may be stored outdoors.
7. None of the vehicles or equipment parked or stored on the subject property related to the business allowed by the special use permit shall be considered agricultural vehicles or agricultural equipment.
8. All of the vehicles and equipment stored on the subject property related to the business allowed by the special use permit shall be maintained in good condition with no deflated tires and shall be licensed if required by law.
9. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated outdoor storage bins as shown on the site plan. The maximum height of the bins or “tents” shall be

thirty feet (30') and shall look substantial like the structures shown in the provided picture.

10. One (1) maximum four foot by eight foot (4' X 8') freestanding sign may be located on the subject property. The sign may be illuminated.

11. No landscape waste generated off the property can be burned on the subject property.

12. A maximum of fifteen (15) employees of the business allowed by this special use permit, including the owners of the business allowed by this special use permit, may report to this site for work. No employees shall engage in the sale of landscaping related materials on the property.

13. No retail customers of the business allowed by this special use permit shall be invited onto the property by anyone associated with the use allowed by this special use permit.

14. The hours of operation of the business allowed by this special use permit shall be Monday through Saturday from 6:00 a.m. until 5:00 p.m. Business operations may occur outside the hours of operation in the event of bad weather and snow removal. The owners of the business allowed by this special use permit may reduce these hours of operation.

15. 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.

16. At least one (1) functioning fire extinguisher and one (1) first aid kit shall be on the subject property. Applicable signage stating the location of the fire extinguisher and first aid kit shall be placed on the subject property.

17. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.

18. The conditions and restrictions contained in Ordinance 2014-29 shall be separate and enforceable from the conditions and restrictions contained in Ordinance 2007-10 and this major amendment to an existing special use permit.

19. The property owner and operator of the business allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business, including but not limited, the public health protection standards for properties in the floodplain contained in the Kendall County Stormwater Management Ordinance.

20. 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.

21. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

22. 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.

The number of people onsite will be decreasing.

Ms. Olson asked what types of equipment would be parked in the floodplain area. Gregg Ingemunson, Attorney for the Petitioner, said that only trailers would be parked in the floodplain area.

Chairman Gengler asked Mr. Klaas, if Route 126 got improved, would turning lanes be installed at the property. Mr. Klaas responded the State would do the evaluation. No immediate plans to widen Route 126 exist at this time.

The trail easement has been recorded.

The Petitioner was comfortable with having fifteen (15) employees.

Mr. Guritz made a motion, seconded by Mr. Klaas, to recommend approval of the amendment to an existing special use permit with the conditions proposed by Staff.

With a voice vote of eight (8) ayes, the motion carried.

The proposal goes to the Kendall County Regional Planning Commission on December 8, 2021.

PUBLIC COMMENT

None

ADJOURNMENT

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

With a voice vote of eight (8) ayes, the motion carried.

The ZPAC, at 9:23 a.m., adjourned.

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

Enc.

Matt Asselmeier

From: Alec Keenum <akeenum@oswegofire.com>
Sent: Wednesday, October 27, 2021 9:47 AM
To: Matt Asselmeier
Subject: [External]RE: Kendall County Zoning Petition 21-46

Matt,

- Fuel tanks – additions of fuel tanks shall be as per Office of the State Fire Marshal (OSFM) with applicable obtained permits, inspections, and approvals from the State
- Outside storage bins – storage heights of any wood chips, or other combustible materials shall be limited in height to 25' as per the International Fire Code (IFC 2015) section 2808.3
- Outside storage bins - shall not be used for miscellaneous storage of vehicles, machinery, equipment, etc.

Regards,

Capt. Alec J Keenum
Fire Marshal
Oswego Fire Protection District

KENDALL COUNTY
ZONING & PLATTING ADVISORY COMMITTEE
NOVEMBER 2, 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)
Greg Ingemunson	[redacted]	

KENDALL COUNTY
REGIONAL PLANNING COMMISSION

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

Unapproved - Meeting Minutes of December 8, 2021 - 7:00 p.m.

Chairman Ashton called the meeting to order at 7:01 p.m.

ROLL CALL

Members Present: Bill Ashton, Roger Bledsoe, Tom Casey, Karin McCarthy-Lange, Larry Nelson, Ruben Rodriguez, Bob Stewart, Claire Wilson, and Seth Wormley
Members Absent: Dave Hamman
Staff Present: Matthew H. Asselmeier, Senior Planner
Others Present: Greg Dady, Gregg Ingemunson, Brian Henrichs, Rick Porter, Chris Lannert, Pat Kelsey, Rick Porter, James Kohout, James Clune, Shabbir Shamsuddin, and Gerald Chase

PETITIONS

Petition 21 – 46 – Greg Dady on Behalf of DTG Investments, LLC and Robert A. Baish on Behalf of Baish Excavating, Inc.

Mr. Asselmeier summarized the request.

Greg Dady, on behalf of DTG Investments, LLC would like to sell the subject property to Baish Excavating. After exploring a text amendment to allow an excavating business on the subject property, the Petitioners decided to pursue a major amendment to the existing special use permit for a landscaping business at the subject property.

The application materials, aerial of the property, aerial with the flood zone, plat of survey, site plan, the court order regarding a previous excavating business at the property, and the special use permit for a landscaping business previously granted by Ordinance 2007-10 were provided.

The subject property is approximately five point five (5.5) acres in size.

Route 126 is a State maintained arterial; there is a trail planned along Route 126.

There is a floodplain on the north end of the property (Zone A-no base flood elevation determined).

The adjacent uses are agricultural or agricultural related.

The adjacent zonings are A-1. The zonings in the area are A-1, R-1, and A-1 with special use permits.

The Future Land Use Map calls for the area to be Rural Residential and Public Institutional.

The A-1 SU to the east is for a farm market, garden shop, winery, corn maze, and fall festival. The A-1 SU to the west is for a farm equipment sales and service business.

Oswego School District 308 owns the property southwest of the subject property.

Ten (10) existing houses are within one half (1/2) mile of the subject property.

Pictures of the property and area were provided.

EcoCAT Report submitted and consultation was terminated.

The LESA Score was 189 indicating a low level of protection.

Petition information was sent to Na-Au-Say Township on October 26, 2021.

Petition information was sent to the Village of Oswego on October 26, 2021. The property is inside Oswego's planning boundary.

Petition information was sent to the Village of Plainfield on October 26, 2021. The property is within one point five (1.5) miles of Plainfield.

The Oswego Fire Protection District was sent information on October 26, 2021. The Oswego Fire Protection District submitted an email on October 27, 2021, requesting that fuel tanks be installed, permitted, and inspected per applicable law, storage heights inside the storage bins be capped at twenty-five feet (25') in height, and no miscellaneous storage of vehicles, machinery, or equipment occur in the storage bins. The Petitioners were agreeable to these requests.

ZPAC reviewed this proposal at their meeting on November 2, 2021. The Petitioners stated that only trailers would be parked in the floodplain. No turning lanes off of Route 126 would be required. However, the Illinois Department of Transportation could review the need for turning lanes in the future. The Petitioners were agreeable to setting the maximum number of employees at fifteen (15). ZPAC recommended approval of the request with the conditions proposed by Staff by a vote of eight (8) in favor and zero (0) in opposition with two (2) members absent. The minutes of the meeting were provided.

The subject property has been used as a landscaping business and repair and restoration business. The Petitioner would like to retain the special use permit for a cleanup and restoration business at the property.

1. All vehicles, equipment and materials associated with a landscaping business shall be stored entirely within an enclosed structure, unless otherwise permitted under the terms of this Special Use Permit.

2. The business shall be located on, and have direct access to, a State, County or Collector Highway as identified in the County's LRMP, having an all-weather surface, designed to accommodate loads of at least 73,280 lbs, unless otherwise approved in writing by the agency having jurisdiction over said Highway. Such approvals shall establish limitations as to the number of employees and types of vehicles coming to and from the site that are engaged in the operation of the use (including delivery vehicles). These restrictions shall be included as controlling conditions of the Special Use.

3. No landscape waste generated off the property can be burned on this site.

If the County Board approves the outdoor storage of materials, the above conditions have been met.

According to the business plan, Baish Excavating, Inc. does excavation, concrete, landscaping, site maintenance, railroad and major pipeline work. Their work takes place offsite within a radius of approximately thirty-five (35) miles of Plainfield. They are relocating from their current location because their existing location has been sold.

The hours of operation are Monday through Friday from 6:00 a.m. until 5:00 p.m. The company operates outside these hours of operation during snowfalls and other emergencies. The company has eleven (11) employees, but this number could rise to fifteen (15) employees. Four (4) or five (5) of these employees work onsite while the remainder of employees work at job sites.

Equipment and trucks would be stored indoors as much as possible, but some equipment would be stored outside. Equipment consists of excavators, loaders, skid steers, track skids, two (2) semi dumps, and dump trailers. The site plan shows a sixty foot by one hundred foot (60' X 100') trailer parking area.

According the to the site plan, the Baish Excavating, Inc. would like to install three (3) fuel tanks on a concrete pad. The area would be twenty feet by thirty feet (20' X 30').

The site plan also calls for a twenty foot by sixty foot (20' X 60') outdoor storage bin area. This area would be used to store aggregates and salt in "tents". The "tents" would be a maximum of thirty feet (30') in height. The tents would be enclosed except for one (1) side. A picture of the "tent" was provided.

The existing special use permit for a landscaping business was granted on March 20, 2007, and included the following conditions and restrictions:

1. The maximum number of employees reporting to the site is 40.

2. The development of the site shall be in conformance with the submitted Site Enhancement Plan dated August 18, 2006 with a latest revision of date of March 9, 2007.

3. All commercial vehicles used for the special use are to be stored inside an accessory structure when not in use.

4. No construction activity can take place on the portion of the subject parcel located in Section 9 of Na-Au-Say Township until such time that a detailed flood plain study has been forwarded to PBZ staff and Strand Associates, to ensure that there are no negative impacts to Aux Sable Creek.

5. A site development permit will need to be secured prior to construction of the proposed parking stalls demonstrating that the post construction elevations of that portion of the parking lot located within the flood plain as depicted on the existing FEMA FIRM maps dated July 19, 1982 (Community Map Panel 170341 0100C) will not exceed the existing elevations of the existing grades on the site.

6. No construction activity shall take place and no permits (building, occupancy or site development) shall be issued for the subject property located in Section 9 of Na-Au-Say Township until such time that the required 15 foot Regional Trail easement, and the additional ROW along Route 126 per the previous Agreed Court Order, has been supplied and recorded.

7. All renovations to existing structures must conform to a commercial standard per the provisions of the Kendall County Building Code, including handicapped accessibility of the structures.

8. Other than the outside storage of non-growing landscaping materials, no outside storage shall be allowed on the site.

9. Occupancy in the existing residence will be restricted to an employee of the petitioner, for use as a caretaker's residence, and his/her immediate family members.

10. No composting will be done on-site. All grass clippings will be stored temporarily in a bin or dumpster and be hauled off the site periodically when the bin becomes full.

The Petitioner is requesting that conditions 1, 2, 3, and 8 be amended or repealed. Conditions 4, 6, and 7 have previously been met. The FEMA FIRM maps have been updated since the original special use permit was granted in 2007.

According to the site plan, there is one (1) approximately fourteen thousand (14,000) square foot metal building on the property that is used for office operations and maintenance. One (1) approximately one thousand six hundred (1,600) square foot wood frame machine shed is located on the northeast corner of the truck parking area. One (1) single-family home with a detached garage is located on the west side of the property.

Any new structures would require applicable building permits.

The property is served by well and septic.

There is floodplain as part of the Little Slough Creek on the property as shown on the flood zone aerial and plat of survey. This area is considered Zone A which means no flood elevation has been determined; therefore, this area is considered Floodway.

On October 26, 2021, the Petitioners and their engineer met with the Senior Planner, a representative of WBK, and the Planning, Building and Zoning Committee Chairman at the property. The Petitioners agreed that no hazardous or flammable materials would be stored in the floodway. The Kendall County Stormwater Management Ordinance forbids the storage of such materials in the floodway.

The property has two accesses off of Route 126. The western access would be used by the existing house and the eastern access would be used by the business operating out of the metal building.

According to the site plan, a parking area is shown north of the metal building. The parking area is gravel.

Contrary to the business plan, no additional lighting beyond the existing lighting on the building and light near the entrance is planned at this time. Section 11:02.F.12.A requires an illumination plan for parking lots with thirty (30) or more parking spaces.

There is one (1) existing four foot by eight foot (4'X8') freestanding sign. A light exists next to the sign. A picture of the sign was provided.

There is an existing wooden fence around the property and a single gate east of the metal building.

A berm and several mature trees are between the metal building and Route 126. Pictures of the landscaping were provided.

No information was provided regarding noise control.

No new odors are foreseen by the proposed use.

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 operation of the special use will not be

detrimental to the public health, safety, morals, comfort, or general welfare provided that the operator of the business allowed by this special use permit develops the site according to the submitted site plan, follows the agreed upon hours of operation, and follows the Kendall County Inoperable Vehicle Ordinance, Kendall County Junk and Debris Ordinance, and Kendall County Stormwater Management Ordinance, and related ordinances.

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. Provided that the business operates as proposed, no injury should occur to other property and property values should not be negatively impacted.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. Adequate utilities exist on the site based upon the number of proposed employees at the property. No additional buildings are planned for the site. The Petitioners are aware that parking cannot occur in the front yard setback. Route 126 is a State maintained road and should be able to handle the traffic. The Petitioners are aware that floodplain exists on the property and certain materials cannot be stored in the floodplain per the Kendall County Stormwater Management Ordinance.

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 because the Petitioners are not asking for any variances.

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 10-11 of the Kendall County Land Resource Management Plan which calls for "a strong base of agricultural, commercial and industry 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 major amendment to an existing special use permit subject to the following conditions and restrictions:

1. Conditions 1 (pertaining to number of employees), 2 (pertaining to the site plan), 3 (pertaining to outside storage of commercial vehicles), and 8 of Ordinance 2007-10 shall be repealed. The remaining conditions and restrictions in Ordinance 2007-10 shall remain in force and valid.
2. The site shall be developed substantially in accordance with the site plan. The property owner or operators of the business allowed by this special use permit may remove the frame residence, garage, wood frame machine shed, and corn crib without amending the site plan.
3. The owners of the business allowed by the special use permit shall maintain the parking areas shown on the site plan and in substantially the same location as depicted on the site plan. The parking area north of the building shall be gravel and the parking lot south of the building shall be asphalt. Any expansions of either parking lots shall require an amendment to the special use permit.

4. The owners of the businesses allowed by this special use permits shall diligently monitor the property for leaks from equipment and vehicles parked and stored on the subject property and shall promptly clean up the site if leaks occur.
5. Any new structures constructed or installed on the property shall not be considered for agricultural purposes and must secure applicable building permits.
6. Equipment and vehicles related to the business allowed by the special use permit may be stored outdoors.
7. None of the vehicles or equipment parked or stored on the subject property related to the business allowed by the special use permit shall be considered agricultural vehicles or agricultural equipment.
8. All of the vehicles and equipment stored on the subject property related to the business allowed by the special use permit shall be maintained in good condition with no deflated tires and shall be licensed if required by law.
9. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated outdoor storage bins as shown on the site plan. The maximum height of the bins or "tents" shall be thirty feet (30') and shall look substantial like the structures shown in the pictures. The maximum storage heights inside the storage bins shall be capped at twenty-five feet (25'). No miscellaneous storage of vehicles, machinery, or equipment shall occur in the storage bins.
10. One (1) maximum four foot by eight foot (4' X 8') freestanding sign may be located on the subject property. The sign may be illuminated.
11. No landscape waste generated off the property can be burned on the subject property.
12. A maximum of fifteen (15) employees of the business allowed by this special use permit, including the owners of the business allowed by this special use permit, may report to this site for work. No employees shall engage in the sale of landscaping related materials on the property.
13. No retail customers of the business allowed by this special use permit shall be invited onto the property by anyone associated with the use allowed by this special use permit.
14. The hours of operation of the business allowed by this special use permit shall be Monday through Saturday from 6:00 a.m. until 5:00 p.m. Business operations may occur outside the hours of operation in the event of bad weather and snow removal. The owners of the business allowed by this special use permit may reduce these hours of operation.
15. 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.

16. At least one (1) functioning fire extinguisher and one (1) first aid kit shall be on the subject property. Applicable signage stating the location of the fire extinguisher and first aid kit shall be placed on the subject property.

17. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.

18. The conditions and restrictions contained in Ordinance 2014-29 shall be separate and enforceable from the conditions and restrictions contained in Ordinance 2007-10 and this major amendment to an existing special use permit.

19. The property owner and operator of the business allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business, including but not limited, the public health protection standards for properties in the floodplain contained in the Kendall County Stormwater Management Ordinance.

20. 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.

21. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

22. 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.

Member Nelson asked how the building located in the floodplain on the northeast side of the property was used. Gregg Ingemunson, Attorney for the Petitioner, stated the building is not used and has been on the property for a long time. Mr. Ingemunson was agreeable that a condition be added that this building not be used as part of the special use permit.

Member Nelson made a motion, seconded by Member Rodriguez, to recommend approval of the major amendment to an existing special use permit with the conditions proposed by Staff and the additional condition that the building located in the floodplain not be utilized as part of the special use.

The votes were as follows:
Ayes (9): Ashton, Bledsoe, Casey, McCarthy-Lange, Nelson, Rodriguez, Stewart, Wilson, and Wormley
Nays (0): None
Absent (1): Hamman
Abstain (0): None

The motion carried.

This proposal will go to the Kendall County Zoning Board of Appeals on December 13, 2021.

CITIZENS TO BE HEARD/PUBLIC COMMENT

None

ADJOURNMENT

Member Rodriguez made a motion, seconded by Member Wilson, to adjourn. With a voice of nine (9) ayes, the motion carried.

The Kendall County Regional Planning Commission meeting adjourned at 9:53 p.m.

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

Enc.

KENDALL COUNTY
REGIONAL PLANNING COMMISSION
DECEMBER 8, 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)
Greg Ingemunson	[redacted]	
Boyd Ingemunson		
Chris Lannert		
Pat Kelsey		
Rick Porter		
James Kolbut		
James Coon		
Shabbir Shamsuddin		

Gerald Chase

DEPARTMENT OF PLANNING, BUILDING & ZONING
111 West Fox Street • Room 203
Yorkville, IL • 60560
(630) 553-4141 Fax (630) 553-4179

Petition 21-48
Brian Henrichs on Behalf of Baka Properties, LLC
Map Amendment Rezoning Property from A-1 to R-3

INTRODUCTION
The Petitioner is requesting a map amendment rezoning the subject property from A-1 Agricultural District to R-3 One Family Residential District.

The Petitioner plans to submit preliminary and final plats dividing the property into two (2) parcels in order to construct one (1) house on each new parcel.

The application materials are included as Attachment 1. The plat of survey is included as Attachment 2. The topographic survey of the property is included as Attachment 3. The aerial of the property is included as Attachment 4.

55 ILCS 5/5-12014(b)(B) allows for written protests signed by the owner or owners of land immediately touching, or immediately across a street, alley, or public right-of-way from, at least 20% of the perimeter of the land to be rezoned. In such cases, a three quarters (3/4) vote of the entire County Board is necessary to approve the map amendment. On November 30, 2021, this type of written protest was submitted to the County; the protest is included as Attachment 7.

Following the Kendall County Regional Planning Commission meeting, upon further review, the subject property is an agriculturally zoned lot in a recorded subdivision established before Kendall County adopted a zoning ordinance and is eligible for one (1) single-family house per Section 5:15.B of the Kendall County Zoning Ordinance which states the following:

"A lot which was established in an agricultural district by recorded deed or is part of an approved plat of subdivision, or was otherwise legally established on or before the adoption of this amendatory ordinance, may be used for single family residence purposes provided that the yard requirements of the R-2 District are complied with."

SITE INFORMATION
PETITIONER Brian Henrichs on Behalf of Baka Properties, LLC

ADDRESS 55 Riverside Street, Yorkville (Lot 183 Fox River Gardens)

LOCATION Intersection of Riverside Street and Yorkville Road

TOWNSHIP Bristol

PARCEL # 02-34-130-004

LOT SIZE 2.7 +/- Acres

EXISTING LAND USE Vacant (Former Horse Pasture Site)

ZONING A-1 Agricultural District

LRMP

Current Land Use	Vacant (Former Horse Pasture Site)
Future Land Use	Suburban Residential (Max 1.00 Du/Acre) (County) Estate/Conservation Residential (Yorkville)
Roads	Riverside Street and Yorkville Road are Private Streets.
Trails	None
Floodplain/ Wetlands	There is floodplain on the property, see Attachments 5 and 6. There are no wetlands on the property.

REQUESTED ACTION Map Amendment Rezoning Property from A-1 to R-1

APPLICABLE REGULATIONS Section 13:07 – Map Amendment Procedures

SURROUNDING LAND USE

Location	Adjacent Land Use	Adjacent Zoning	Land Resource Management Plan	Zoning within ½ Mile
North	Single-Family Residential	A-1 and R-3	Suburban Residential (Max 1.00 DU/Acre)	A-1 SU and R-3 (County)

			(County) Estate/Conservation Residential (Yorkville)	R-2 and OS-2 (Yorkville)
South	Single-Family Residential	A-1	Suburban Residential (County) Estate/Conservation Residential (Yorkville)	A-1 and R-3
East	Single-Family Residential	A-1	Suburban Residential (County) Estate/Conservation Residential (Yorkville)	A-1 and R-2
West	Single-Family Residential	A-1	Suburban Residential (County) Estate/Conservation Residential (Yorkville)	A-1, R-1, R-2, and R-3

The A-1 special use to the north is for a campground (Hide-A-Way Lakes).

PHYSICAL DATA

ENDANGERED SPECIES REPORT

EcoCat submitted on November 10, 2021. Protected resources may be in the vicinity, but adverse impacts were unlikely and consultation was terminated (see Attachment 1, Page 7).

NATURAL RESOURCES INVENTORY

NRI application submitted on November 12, 2021 (see Attachment 1, Page 6). The draft LESA Score was 120 indicating a low level of protection.

ACTION SUMMARY

BRISTOL TOWNSHIP

Bristol Township was emailed information on November 16, 2021.

UNITED CITY OF YORKVILLE

The United City of Yorkville was emailed information on November 16, 2021. The Yorkville Economic Development Committee reviewed this proposal on December 7, 2021, and did not issue a recommendation. The Yorkville Planning and Zoning Commission reviewed this proposal on December 8, 2021, and had no objections to the request. Emails regarding these actions are included as Attachments 8.

BRISTOL-KENDALL FIRE PROTECTION DISTRICT

The Bristol-Kendall Fire Protection District was emailed information on November 16, 2021.

ZPAC

ZPAC reviewed this proposal at their meeting on December 7, 2021. Discussion occurred about floodplain on the lot and restrictions about building in the floodplain. Appropriate federal, state, and local permits would be needed to build in the floodplain and applicable insurance would be required. An alternative septic system would likely be needed.

Rick Porter, Attorney for the Objectors, presented an objection to the requested rezoning from several neighbors. He felt having a R-3 zoned property in the area was inappropriate. He noted the exemptions in the Zoning Ordinance that allows houses on A-1 zoned properties. He noted the deed restrictions and argued that only one (1) home was allowed on Lot 183. The density would not be compatible with area. He noted that wetlands are located on the property. He noted the area and streets are prone to flooding with odor issues from septic systems and sanitary issues will worsen. He also noted the large amount of hydric soils on the property. Additional buildings will create additional flooding on downstream property owners. He also stated that the Petitioner has a history of not complying with County regulations. The trend of development is not toward increased density. Mr. Porter said the Committee could recommend R-1 zoning under the Zoning Ordinance.

Chris Lannert said development of the site was difficult. He argued that the previous rezoning in the area was probably illegal. He noted that fill had been placed on the property. He said it was a beautiful natural area. The Petitioner should not be able to build more than one (1) house on the parcel. Only a small portion of the lot was buildable. He advised the Committee not to be put into a position to accept the subdivision because the rezoning was approved.

Boyd Ingemunson, Attorney for the Petitioner, noted that the lot and neighboring lot merged Parcel Identification Numbers, otherwise the Petitioner could build one (1) house. He noted that every lot in the area was challenging to build. He noted that the request meets the Land Resource Management Plan and the intent of the subdivision. Mr. Asselmeier asked if the Petitioner was aware that, if the request was approved, two (2) houses might not be able to be built on the lot. Mr. Ingemunson acknowledged that the lot has challenges and will have to meet regulations.

Mr. Klaas questioned the nature of the Petition. Mr. Asselmeier responded the present request is to rezone the property. If the rezoning was approved, the Petitioner could pursue a subdivision with the intent of placing two (2) houses on the existing parcel. Mr. Ingemunson said the Petitioner would ideally like to have the ability to build two (2) houses. The item before the County is rezoning the property. Mr. Klaas felt the Petition was flawed with the possibility that more than one (1) house could be placed on the parcel. He felt that the parcel should be entitled to one (1) and only one (1) house.

Mr. Guritz noted that deed restrictions exist. Discussion occurred regarding the deed restrictions. The question was raised regarding which entity enforces the deed restrictions.

Mr. Asselmeier noted that agricultural activities could occur on all of the properties in the area. He also noted that, if the rezoning was approved, a future property owner could decide to do a subdivision.

Dee Studler described the neighborhood. She noted the animals in the area. She noted the people admiring natural beauty when traveling in their kayaks down the river. The area was not high density. She said the Petitioner has already violated the deed restrictions and will not follow the rules. Mr. Asselmeier asked Ms. Studler if she would be fine if the Petitioner used the property for a cattle or hog farm. Ms. Studler responded yes.

Mr. Asselmeier explained how the property was originally zoned A-1.

James Kohoot, Dave Morgan, and Gerald Chase stated they were in favor of allowing the Petitioner to have one (1) house, but were opposed to multiple houses on the property.

Dave Morgan and JoAnn Willingham express concerns about stormwater runoff and standing water.

Dave Morgan also expressed concerns related to property values, lighting, and traffic congestion.

Shabbir Shamsuddin expressed concerns regarding the width of the road and septic issues.

Mr. Asselmeier asked Mr. Ingemunson if the Petitioner would be interested in obtaining a conditional use permit for single-family home while retaining the A-1 zoning. Mr. Ingemunson responded that he would need to discuss the matter with the Petitioner.

Chairman Gengler felt that only one (1) house should be on the property.

ZPAC recommended denial of the request map amendment by a vote of seven (7) against the proposal, one (1) in favor of the proposal and two (2) members absent. The minutes are included as Attachment 9.

RPC
The Kendall County Regional Planning Commission reviewed this proposal at their meeting on December 8, 2021.

Mr. Asselmeier noted that the County does not enforce or interpret the deed restrictions and the Petitioner might attempt to divide the property through a Plat Act exemption if the rezoning was approved.

Commissioners discussed the buildability of the lot and floodplain on the property.

Boyd Ingemunson, Attorney for the Petitioner, restated much of the same information that he said at ZPAC. He further noted that a mechanical septic system probably would be required and the buildability of the lot had not been determined. He also discussed the rights of property owners to rezone their property. He discussed the previous rezoning that occurred on the Petitioner's neighboring property in 2005. He stated the subject property was not suitable for agricultural uses. He stated that his clients have not violated any laws related to the placement of fill and the neighbors did like the Petitioner.

Rick Porter, Attorney for the Objectors, restated much of the same information that he said at ZPAC. He stated that his clients favor having one (1) home on the property only and, if the property was going to be rezoned, it should be rezoned to R-1 or R-2. He stated that fill had been placed on the property and a River Street experienced flooding. He said neighbors did not receive notification for the previous rezoning in 2005. He also discussed the facts required in order to prove the need for a rezoning.

Chris Lannert restated much of the same information that he said a ZPAC. He called the development of two (2) lots on the property unnecessary and noted the limited amount of land available on the property for even one (1) house.

Pat Kelsey provided a picture of the fill on the property. He discussed the drainage and plants in the area. He discussed the difficulty of putting septic systems in hydric soils and in the area. He discussed the engineering and earthwork that would need to occur to raise buildings out of the floodplain. He said the subject property was lower than the nearby houses along the Fox River. He said a wet stream flowed through the property and approximately twenty-five percent (25%) of the property was in wetlands. He also stated there was a culvert for the stream to flow through under Yorkville Road.

Brian Henrichs, Petitioner, stated he wanted the rezoning in order to keep his kids and grandchildren in the area. He also explained the water table in the area and said that he has not had any issues with his septic system. He also said no wetlands were located on the property.

Chairman Ashton noted the deed restrictions did not matter.

Dee Studler restated much of the same information that she said at ZPAC. She provided information regarding a recent judgement related to a tree dispute.

James Kohout restated much of the same information that he said at ZPAC. He stated that he still uses his property for agriculture. He favored one (1) house on the property and was opposed to two (2) houses on the property.

A neighbor said the southern portion of Fox River Gardens was different than the northern portion of Fox River Gardens. He noted the frequency of his sump pump running. He noted issues exist between neighbors. He was concerned about property values. He did not object to one (1) house on the property. The neighbors just want to protect and preserve the neighborhood.

James Clune was opposed to any buildings on the property because of the floodplain, stormwater, and mosquitos. He was concerned about the neighborhood getting a bad reputation with Realtors.

Shabbir Shamsuddin restated much of the same information that he said at ZPAC. He was not against the Petitioner. He did not receive notice of the rezoning in 2005. He discussed the septic issues he has at his property. His yard was underwater when it rains. He said building one (1) home will cause issues with hydrology. He was also concerned about property values and increased traffic.

Gerald Chase restated much of the same information that he said at ZPAC. He said that he had not received notice of the previous zoning change. He was concerned about drainage and the impact of a second on the water situation.

Member Rodriguez felt that one (1) house was enough for the property and discussed the challenges of building multiple houses on the property.

Mr. Asselmeier provided the minimum square footages for R-1, R-2, and R-3 zoned properties. The subject property is less than the minimum one hundred thirty-thousand (130,000) square foot lot size required in the R-1.

The Kendall County Regional Planning recommended rezoning the property R-2 instead of R-3 by a vote of seven (7) in favor and two (2) in opposition with one (1) member absent. The minutes are included as Attachment 10.

GENERAL INFORMATION
The Petitioner desires to rezone the subject property in order to subdivide the property into (2) parcels and construct one (1) house on each of the two (2) new parcels created for a total of two (2) new houses.

Section 8:07.H of the Kendall County Zoning Ordinance does not allow properties larger than ten (10) acres in size to rezone to the R-3 One Family Residential District. The subject property is less than ten (10) acres in size.

The minimum lot size in the R-3 One Family Residential District is forty-five thousand (45,000) square feet.

BUILDING CODES
Any new homes or accessory structures would be required to meet applicable building codes.

According to the Plat of Survey (Attachment 2), there is one (1) existing steel and frame pole building and one (1) frame stable on the property.

UTILITIES
No public or private utilities are onsite. Electricity is at Yorkville Road and Riverside Street.

ACCESS
The property fronts Yorkville Road and Riverside Street, two (2) private roads.

PARKING AND INTERNAL TRAFFIC CIRCULATION
Any new driveways constructed would be for residential purposes. Any new driveways would have to meet applicable regulations and secure proper permits.

ODORS
No new odors are foreseen.

LIGHTING
Any new lighting would be for residential use only.

LANDSCAPING AND SCREENING
Any fencing, landscaping, or screening would be for residential purposes.

SIGNAGE
Any signage would be residential in nature.

NOISE CONTROL
No noise is anticipated.

STORMWATER
Any new homes would have to be constructed per Kendall County's Stormwater Management Ordinance.

FINDINGS OF FACT
§13:07.F of the Zoning Ordinance outlines findings that the Zoning Board of Appeals must make in order to recommend in favor of the applicant on map amendment applications. They are listed below in *italics.* Staff has provided findings in **bold** below based on the recommendation:

Existing uses of property within the general area of the property in question. **The surrounding properties are used for single-family residential uses.**

The Zoning classification of property within the general area of the property in question. **The surrounding properties are zoned A-1 or R-3.**

The suitability of the property in question for the uses permitted under the existing zoning classification. **The property is presently zoned A-1. The property is less than forty (40) acres and does not qualify for any agricultural housing allocations. One (1) single-family residential home could be constructed on the subject property under the provision outlined in Section 5:15.B of the Kendall County Zoning Ordinance pertaining to non-conforming lots on agricultural zoned properties in certain subdivisions.**

The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was in its present zoning classification. The Zoning Board of Appeals shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and is not solely for the interest of the applicant. The Zoning Board of Appeals may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification than that requested by the applicant. For the purpose of this paragraph the R-1 District shall be considered the highest classification and the M-2 District shall be considered the lowest classification. **The trend of development in the area is single-family residential uses found in rural settings with wooded lots.**

Consistency with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. **The Future Land Use Map in the Land Resource Management Plan classifies this property as Suburban Residential. The maximum density for the Suburban Residential classification is one density unit per acre (1.00 DU/Acre). The minimum lot size for R-3 One Family Residential District zoned land is slightly over one (1) acre at forty-five thousand (45,000) square feet. Accordingly, the R-3 One Family Residential District is consistent with the Suburban Residential classification.**

RECOMMENDATION
Staff recommends approval of the proposed map amendment because the proposal is consistent with the Land Resource Management Plan.

ATTACHMENTS
1. Application Materials
2. Plat of Survey
3. Topographic Survey
4. Aerial
5. November 13, 2021, WBK Email
6. Approximate Floodplain Aerial
7. Written Protest
8. Yorkville Emails
9. December 8, 2021 ZPAC Minutes (This Petition Only)
10. December 9, 2021 Kendall County Regional Planning Commission Minutes (This Petition Only)

DEPARTMENT OF PLANNING, BUILDING & ZONING
111 West Fox Street • Yorkville, IL • 60560
(630) 553-4141 Fax (630) 553-4179

APPLICATION

PROJECT NAME _____ **FILE #:** 21-48

NAME OF APPLICANT		
BRIAN HENRICHS		
CURRENT LANDOWNER/NAME(s)		
BRIAN AND KELLEY HENRICHS		
SITE INFORMATION		
ACRES	SITE ADDRESS OR LOCATION	ASSESSOR'S ID NUMBER (PIN)
2.7 AC	YORKVILLE ROAD	02-34-130-004
EXISTING LAND USE	CURRENT ZONING	LAND CLASSIFICATION ON LRMP
AGRICULTURE	A-1	SUBURBAN RESIDENTIAL - MAX DENSITY 1.00 DU ACRES

REQUESTED ACTION (Check All That Apply):

___ SPECIAL USE	X MAP AMENDMENT (Rezone to R-3)	___ VARIANCE
___ ADMINISTRATIVE VARIANCE	___ A-1 CONDITIONAL USE for:_____	___ SITE PLAN REVIEW
___ TEXT AMENDMENT	___ RPD (___Concept; ___ Preliminary; ___ Final)	___ ADMINISTRATIVE APPEAL
___ PRELIMINARY PLAT	___ FINAL PLAT	___ OTHER PLAT (Vacation, Dedication, etc.)
___ AMENDMENT TO A SPECIAL USE (____ Major; ____ Minor)		

[1]PRIMARY CONTACT	**PRIMARY CONTACT MAILING ADDRESS**	**PRIMARY CONTACT EMAIL**
BRIAN HENRICHS	[redacted]	[redacted]
PRIMARY CONTACT PHONE #	**PRIMARY CONTACT FAX #**	**PRIMARY CONTACT OTHER #**(Cell, etc.)
[redacted]		
[2]ENGINEER CONTACT	**ENGINEER MAILING ADDRESS**	**ENGINEER EMAIL**
ENGINEER PHONE #	**ENGINEER FAX #**	**ENGINEER OTHER #** (Cell, etc.)

I UNDERSTAND THAT BY SIGNING THIS FORM, THAT THE PROPERTY IN QUESTION MAY BE VISITED BY COUNTY STAFF & BOARD/ COMMISSION MEMBERS THROUGHOUT THE PETITION PROCESS AND THAT THE PRIMARY CONTACT LISTED ABOVE WILL BE SUBJECT TO ALL CORRESPONDANCE ISSUED BY THE COUNTY.

I CERTIFY THAT THE INFORMATION AND EXHIBITS SUBMITTED ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND THAT I AM TO FILE THIS APPLICATION AND ACT ON BEHALF OF THE ABOVE SIGNATURES.

SIGNATURE OF APPLICANT [redacted] **DATE** 11/10/2021

FEE PAID:$ 500 CC
CHECK #: 1440

[1]*Primary Contact will receive all correspondence from County*
[2]*Engineering Contact will receive all correspondence from the County's Engineering Consultants*

Last Revised:
12.15.20

Date Stamp Here If Checklist Is Complete

Please fill out the following findings of fact to the best of your capabilities. § 13:07.F of the Zoning Ordinance lists the Finding of Fact criteria the Zoning Board of Appeals must answer in order to make a recommendation to the County Board on any **map amendment** request. They are as follows:

Existing uses of property within the general area of the property in question.

RESIDENTIAL USE / SINGLE FAMILY

The Zoning classification of property within the general area of the property in question.

EXISTING ZONING IS A-1 WANT TO REZONE TO R-3 IN WHICH THE WHOLE NORTHERN PORTION OF THE SUBDIVISION IS ZONE R-3

The suitability of the property in question for the uses permitted under the existing zoning classification.

EXISTING USE IS A-1 WAS USED AS A HORSE PASTURE, HORSES ARE GONE NOW

The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was in its present zoning classification. The Zoning Board of Appeals shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and is not solely for the interest of the applicant. The Zoning Board of Appeals may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification than that requested by the applicant. For the purpose of this paragraph the R-1 District shall be considered the highest classification and the M-2 District shall be considered the lowest classification.

THE WHOLE NORTHERN PORTION (75+ HOMES) ZONED R-3 AND WE MEET YOUR FUTURE ZONING

Consistency with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies.

Legal Description

Lot 183 in Fox River Gardens in Bristol Township, Kendall County, Illinois

QUIT CLAIM DEED
(Illinois Statutory)

After Recording Mail To
Joshua A Nesser
Lavelle Law, Ltd
180 N LaSalle #2503
Chicago, IL 60601

Send Subsequent Tax Bills To
Baka Properties, LLC – Series 5
55 Riverside St
Yorkville, IL 60560

201600006850

DEBBIE
GILLETTE
KENDALL COUNTY, IL

RECORDED: 5/17/2016 9:05 AM
QCD: 49.00 RHSPS FEE: 10.00
PAGES: 2

THE GRANTORS, **BRIAN A HENRICHS AND KELLEY J HENRICHS**, husband and wife, as joint tenants, of 55 Riverside Street, City of Yorkville, County of Kendall, State of Illinois, for and in consideration of Ten and 00/100 Dollars, and other good and valuable consideration in hand paid, CONVEY and QUIT CLAIM to **BAKA PROPERTIES, LLC – SERIES 5**, an Illinois series limited liability company, all interest in the following described Real Estate situated in Kendall County, Illinois, to wit

Legal Description attached

Permanent Real Estate Index Number. 02-34-130-003
Address of Real Estate Vacant Lot 183, Yorkville Road, Yorkville, IL 60560

SUBJECT TO General real estate taxes not due and payable at the time of Closing, covenants, conditions and restrictions of record, and building lines and easements, if any, provided they do not interfere with the current use and enjoyment of the Real Estate

TO HAVE AND TO HOLD said premises forever

[redacted]
Brian A. Henrichs

Dated this 22 day of April, 2016

[redacted]
Kelley J. Henrichs

Dated this 22 day of April, 2016

STATE OF ILLINOIS, COUNTY OF COOK, SS.

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, CERTIFY THAT Brian A Henrichs and Kelley J Henrichs, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead

Given under my hand and official seal, this 22nd day of April, 2016

[redacted] (SEAL)
NOTARY PUBLIC

"OFFICIAL SEAL"
Matthew D. Baier
Notary Public, State of Illinois
My Commission Expires October 17, 2018

State of Illinois
DEPARTMENT OF REVENUE
STATEMENT OF EXEMPTION UNDER REAL ESTATE TRANSFER TAX ACT
I hereby declare that the attached deed represents a transaction exempt under provisions of paragraph e, Section 4, of the real Estate Transfer Tax Act Dated this 22nd day of April, 2016

[redacted]
Signature of Buyer-Seller or their Representative

Prepared by Lavelle Law, Ltd , 180 N LaSalle #2503, Chicago, IL 60601
S:\7751 8000\7795\001 Corp Formation\Quit Claim Deeds\QCD Lot 183 Baka 5.doc

LEGAL DESCRIPTION

LOT 183 IN FOX RIVER GARDENS IN BRISTOL TOWNSHIP, KENDALL COUNTY, ILLINOIS

"OFFICIAL SEAL"
Matthew D. Baier
Notary Public, State of Illinois
My Commission Expires October 17, 2018

Kendall County Soil & Water Conservation District

7775A Route 47, Yorkville, Illinois 60560 • (630)553-5821 extension 3

www.kendallswcd.org

NATURAL RESOURCE INFORMATION (NRI) REPORT APPLICATION

Petitioner: Brian Henrichs [redacted] **Contact Person:**

Address: [redacted]

City, State, Zip: [redacted]

Phone Number: [redacted] ( )

Email: [redacted]

Please select: How would you like to receive a copy of the NRI Report? ☒ Email ☐ Mail

Site Location & Proposed Use

Township Name BRISTOL Township 37N N, Range R7E E, Section(s) 34

Parcel Index Number(s) 02-34-130-004

Project or Subdivision Name FOX RIVER GARDENS Number of Acres 2.7

Current Use of Site FIELD Proposed Use RESIDENTIAL

Proposed Number of Lots 2 Proposed Number of Structures 4

Proposed Water Supply WELL Proposed type of Wastewater Treatment SEPTIC

Proposed type of Storm Water Management N/A

Type of Request

- ☐ Change in Zoning from A1 to R3
- ☐ Variance (Please describe fully on separate page)
- ☐ Special Use Permit (Please describe fully on separate page)

Name of County or Municipality the request is being filed with: KENDALL

In addition to this completed application form, please including the following to ensure proper processing:

- ☒ **Plat of Survey/Site Plan** – showing location, legal description and property measurements
- ☐ **Concept Plan** - showing the locations of proposed lots, buildings, roads, stormwater detention, open areas, etc.
- ☐ If available: topography map, field tile map, copy of soil boring and/or wetland studies
- ☒ **NRI fee** (Please make checks payable to Kendall County SWCD)

The NRI fees, as of July 1, 2010, are as follows:

Full Report: $375.00 for five acres and under, plus $18.00 per acre for each additional acre or any fraction thereof over five.

Executive Summary Report: $300.00 (KCSWCD staff will determine when a summary or full report will be necessary.)

Fee for first five acres and under	$ 375.00
_____ Additional Acres at $18.00 each	$ 0
Total NRI Fee	$ 375.00

NOTE: Applications are due by the 1st of each month to be on that month's SWCD Board Meeting Agenda. Once a completed application is submitted, please allow 30 days for inspection, evaluation and processing of this report.

I (We) understand the filing of this application allows the authorized representative of the Kendall County Soil and Water Conservation District (SWCD) to visit and conduct an evaluation of the site described above. The completed NRI report expiration date will be 3 years after the date reported.

[redacted]

Petitioner or Authorized Agent 11/10/2021 **Date**

RECEIVED NOV 12 2021

This report will be issued on a nondiscriminatory basis without regard to race, color, religion, national origin, age, sex, handicap or marital status.

BY: [redacted]

FOR OFFICE USE ONLY

NRI#_____ Date initially rec'd _____ Date all rec'd _____ Board Meeting _____

Fee Due $_____ Fee Paid $ _____ Check #_____ Over/Under Payment _____ Refund Due_____

Illinois Department of
Natural Resources

One Natural Resources Way Springfield, Illinois 62702-1271
http://dnr.state.il.us

JB Pritzker, Governor
Colleen Callahan, Director

November 10, 2021

Brian Henrichs
brian henrichs
[redacted]

RE: lot 183 fox river gardens subdivision
Project Number(s): 2206927 [001]
County: Kendall

Dear Applicant:

This letter is in reference to the project you recently submitted for consultation. The natural resource review provided by EcoCAT identified protected resources that may be in the vicinity of the proposed action. The Department has evaluated this information and concluded that adverse effects are unlikely. Therefore, consultation under 17 Ill. Adm. Code Part 1075 is terminated.

This consultation is valid for two years unless new information becomes available that was not previously considered; the proposed action is modified; or additional species, essential habitat, or Natural Areas are identified in the vicinity. If the project has not been implemented within two years of the date of this letter, or any of the above listed conditions develop, a new consultation is necessary.

The natural resource review reflects the information existing in the Illinois Natural Heritage Database at the time of the project submittal, 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, you must comply with the applicable statutes and regulations. Also, note that termination does not imply IDNR's authorization or endorsement of the proposed action.

Please contact me if you have questions regarding this review.

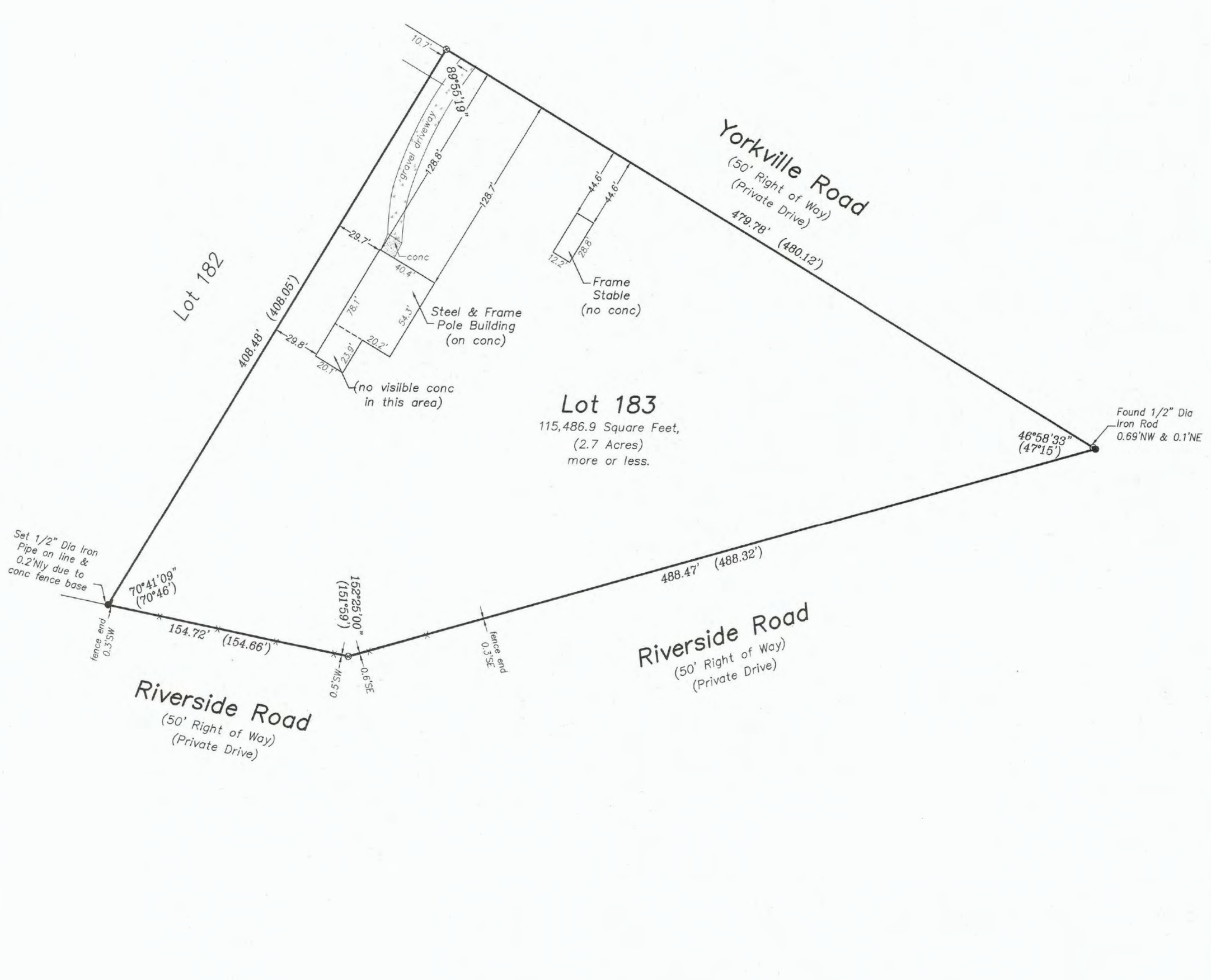
[redacted]

Kyle Burkwald
Division of Ecosystems and Environment
217-785-5500

PLAT OF SURVEY

LOT 183 IN FOX RIVER GARDENS, IN BRISTOL TOWNSHIP, KENDALL COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 55 RIVERSIDE ROAD, YORKVILLE, ILLINOIS.



STATE OF ILLINOIS)
) SS
COUNTY OF KENDALL)

WE, CORNERSTONE SURVEYING, P.C., AN ILLINOIS PROFESSIONAL DESIGN FIRM LAND SURVEYOR CORPORATION NO. 184.006522, DO HEREBY CERTIFY THAT THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.

DATED AT YORKVILLE, ILLINOIS ON NOVEMBER 03, 2021.

PROFESSIONAL LAND SURVEYOR
ERIC C. POKORNY
[redacted]
YORKVILLE, IL
STATE OF ILLINOIS

Scale: 1" = 50'

⊗=Found 1/2" Dia. Iron Pipe
●=Set Iron Pipe 1/2" Dia. x 24"
(XX.XX')= Record Distance
XX.XX'= Measured Distance
N= North E= East
S= South W= West
-X-X-X- = Fence
= Concrete/Asphalt

Michel C. Ensalaco, P.L.S. [redacted] Exp. 11/30/2022
Eric C. Pokorny, P.L.S. [redacted] Exp. 11/30/2022

TODD SURVEYING
Professional Land Surveying Services
"Cornerstone Surveying PC"
759 John Street, Suite D
Yorkville, IL 60560
Phone: 630-892-1309 Fax: 630-892-5544

Survey is only valid if original seal is shown in red.

Client: BAKA Properties
Book #: sheets | Drawn By: JLH.JJH | Plat #: 1751
Reference:
Field Work Completed: 11/02/2021

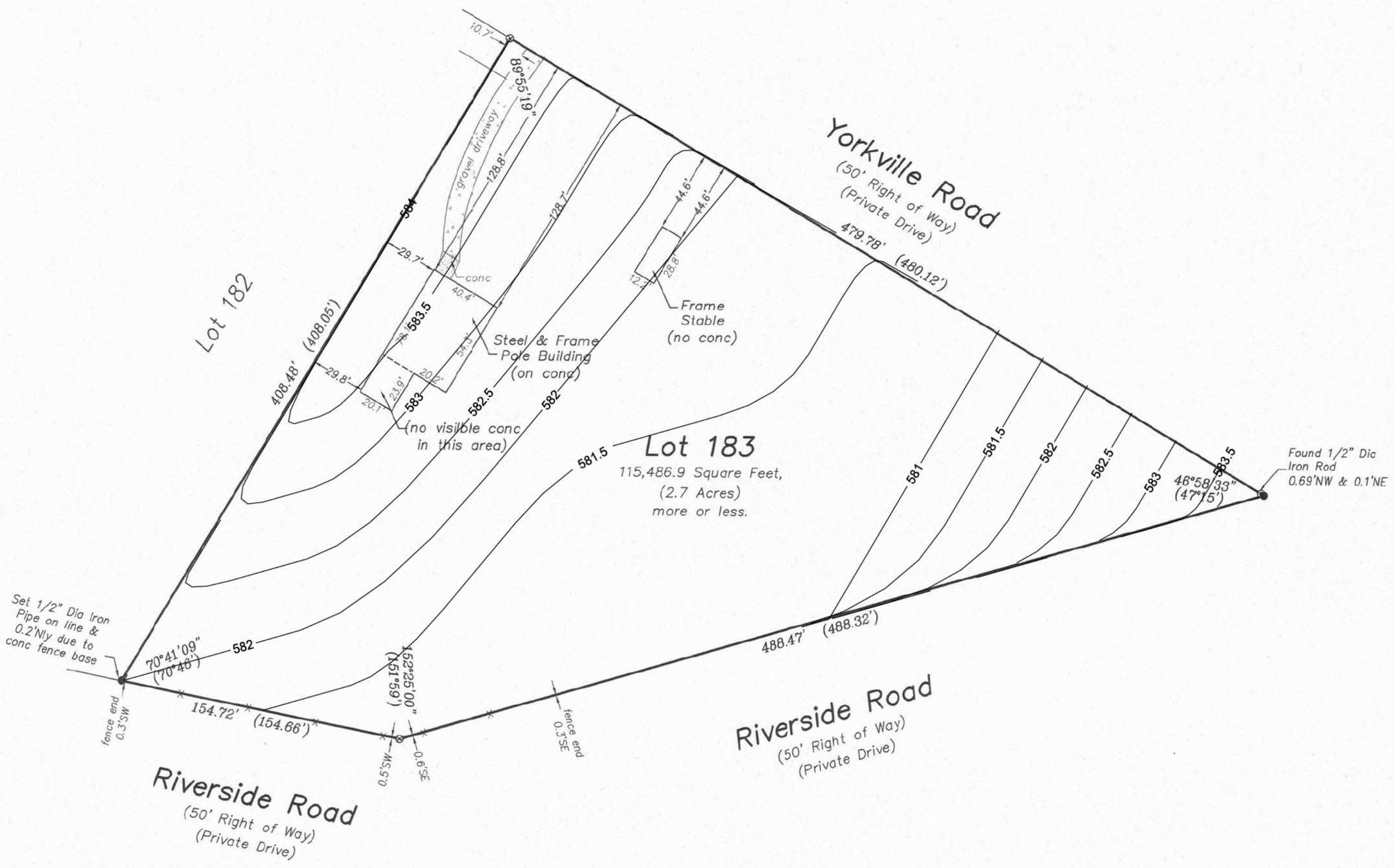
Rev. Date	Rev. Description

Project Number: 2021-1486

PLAT OF SURVEY

LOT 183 IN FOX RIVER GARDENS, IN BRISTOL TOWNSHIP, KENDALL COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 55 RIVERSIDE ROAD, YORKVILLE, ILLINOIS.



STATE OF ILLINOIS)
) SS
COUNTY OF KENDALL)

WE, CORNERSTONE SURVEYING, P.C., AN ILLINOIS PROFESSIONAL DESIGN FIRM LAND SURVEYOR CORPORATION NO. 184.006522, DO HEREBY CERTIFY THAT THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.

DATED AT YORKVILLE, ILLINOIS ON NOVEMBER 03, 2021.

PROFESSIONAL LAND SURVEYOR
ERIC C. POKORNY
[redacted]
YORKVILLE, IL
STATE OF ILLINOIS

Scale: 1" = 50'

⊗=Found 1/2" Dia. Iron Pipe
●=Set Iron Pipe 1/2" Dia. x 24"
(XX.XX')= Record Distance
XX.XX'= Measured Distance
N= North E= East
S= South W= West
-X-X-X- = Fence
= Concrete/Asphalt

Michel C. Ensalaco, P.L.S. [redacted] Exp. 11/30/2022
Eric C. Pokorny, P.L.S. [redacted] Exp. 11/30/2022

TODD SURVEYING
Professional Land Surveying Services
"Cornerstone Surveying PC"
759 John Street, Suite D
Yorkville, IL 60560
Phone: 630-892-1309 Fax: 630-892-5544

Survey is only valid if original seal is shown in red.

Client:	BAKA Properties
Book #: sheets	Drawn By: JLH. JJH | Plat #: 1751
Reference:	
Field Work Completed:	11/02/2021

Rev. Date	Rev. Description

Project Number: 2021-1486

Attachment 4

November 12, 2021

Kendall County Address Points

Parcels

Ownership Parcel

1:1,680

0 0.01 0.02 0.04 mi

0 0.01 0.03 0.06 km

Kendall County Web GIS

View GIS Disclaimer at https://www.co.kendall.il.us/departments/geographic-information-systems/gis-disclaimer-page/.

Attachment 5

Matt Asselmeier

From: Greg Chismark <gchismark@wbkengineering.com>
Sent: Saturday, November 13, 2021 4:29 PM
To: Matt Asselmeier
Subject: RE: [External]RE: Unincorporated Kendall County

Yes, I have a comment.
The base flood elevation of the Fox River in proximity to this lot is 582. The County GIS contours indicates there is hydraulic connectivity from the Fox River to the property. The survey submitted shows elevations lower than 582 which documents floodplain exists on the property.
Unless the petitioner can provide a survey that depicts ground elevation at or above 582 between the lot and the Fox River, my opinion is that there is floodplain on the lot. Let me know if you need anything formal on this.
Greg

Greg Chismark, PE
President
Direct: (630) 338-8527| Main: (630) 443-7755
gchismark@wbkengineering.com

WBK Engineering, LLC
116 W. Main Street, Suite 201, St. Charles, IL 60174

Part of Bodwé Professional Services

From: Matt Asselmeier <masselmeier@co.kendall.il.us>
Sent: Friday, November 12, 2021 8:49 AM
To: Greg Chismark <gchismark@wbkengineering.com>
Subject: RE: [External]RE: Unincorporated Kendall County

Greg:

The owner of Lot 183 in Fox River Gardens is submitting an application to rezone the property R-3 in order to build 2 houses.

The Petitioner submitted the attached topographic survey and is claiming no floodplain and no BFE on the property.

Do you have any comments on this?

Thanks,

Matthew H. Asselmeier, AICP, CFM
Senior Planner
Kendall County Planning, Building & Zoning
111 West Fox Street
Yorkville, IL 60560-1498
PH: 630-553-4139
Fax: 630-553-4179

WBK engineering

November 28, 2021

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

Subject: Lot 183 Fox River Gardens (WBK Project 19-102)

Dear Mr. Asselmeier:

We have reviewed the topographic survey dated November 3, 2021 prepared by Todd Surveying. The Kendall County Stormwater Management Ordinance identifies how floodplain is determined in Section 401 *Floodplain, Regulatory Floodplain, Base Flood Elevation (BFE) and Regulatory Floodway Locations.* "The BFE shall be delineated onto the site topography to establish the Regulatory Floodplain area limits for regulation under this Ordinance." The base flood elevation of the Fox River in proximity to this lot is 582 based on FEMA regulatory documents. The survey submitted depicts elevations lower than 582. It is our opinion that any area within the lot lower than elevation 582 is considered regulatory floodplain in accordance with the Kendall County Stormwater ordinance.

If you have any questions or comments, please contact us at (630) 443-7755.

Sincerely,

[redacted]

WBK Engineering, LLC

WBK Engineering, LLC
WBKEngineering.com
Part of the Mno-Bmadsen Family

St. Charles Office
116 West Main Street, Suite 201
St. Charles, IL 60174
630.443.7755

Aurora Office
8 East Galena Boulevard, Suite 402
Aurora, IL 60506
630.701.2245

Aerial for 02-34-130-004

Approximate floodplain area below 582'. Please see topographic survey for exact area.

N

0 50 100 200

Feet

Kendall County GIS
111 West Fox Street - Room 308
Yorkville, Illinois 60560
630.553.4212

HINSHAW

ATTORNEYS AT LAW
151 North Franklin Street
Suite 2500
Chicago, IL 60606

312-704-3000
312-704-3001 (fax)
www.hinshawlaw.com

Dean E. Parker
312-704-3117
dparker@hinshawlaw.com

November 29, 2021

VIA UPS OVERNIGHT

Matt Asselmeir, AICP, CFM, Senior Planner
Kendall County
Planning, Building & Zoning
111 West Fox Street
Yorkville, IL 60560

Re: Petition Submitted to the County Board Objecting to Rezoning Petition 21-48 Gerald Chase, John Willingham, DM Studler, David Morgan and Kent Hanna

Dear Mr. Asselmeir:

Attached please find an original executed Petition.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

HINSHAW & CULBERTSON LLP

[redacted]

Dean E. Parker

DEP:gar

cc: Debbie Gillette, Kendall County Clerk
Michael P. Adams
Donald L. Mrozek

PETITION SUBMITTED TO THE COUNTY BOARD OF THE COUNTY OF KENDALL, STATE OF ILLINOIS, SUBMITTED PURSUANT TO SECTION 13.07 G.2 OF THE KENDALL COUNTY ZONING ORDINANCE

The undersigned have been advised that that BAKA Properties LLC – Series 5 the owner of the property commonly known as Lot 183 Fox River Gardens (tax parcel number 02-34-130-004), (the "Development Parcel"), in unincorporated Kendall County, Illinois, pursuant to Petition 21-48, has requested that Kendall County pass a map amendment ordinance changing the zoning applicable to the Development Parcel from Ag-1 to R-3. The undersigned, being more than twenty percent of the owners of the frontage immediately adjoining or across an alley, street or public right-of-way from the Development Parcel, wish to notify the County Board of the County of Kendall that they protest and object to the rezoning of the Development Parcel from its existing zoning classification of Ag-1.

1. [redacted] (Signature)

Gerald Chase FOR 5150, LLC
Print Name

40 Riverside St.
Address
Tax Parcel Number 02-34-204-005

2. [redacted] (Signature)

JoAnn M. Willingham
Print Name

56 Riverside St.
Address
Tax Parcel Number 02-34-204-002

3. [redacted] (Signature)

DM Studler
Print Name

34 Riverside St.
Address
Tax Parcel Number 02-34-176-003

The undersigned have been advised that that BAKA Properties LLC – Series 5 the owner of the property commonly known as Lot 183 Fox River Gardens (tax parcel number 02-34-130-004), (the "Development Parcel"), in unincorporated Kendall County, Illinois, pursuant to Petition 21-48, has requested that Kendall County pass a map amendment ordinance changing the zoning applicable to the Development Parcel from Ag-1 to R-3. The undersigned, being more than twenty percent of the owners of the frontage immediately adjoining or across an alley, street or public right-of-way from the Development Parcel, wish to notify the County Board of the County of Kendall that they protest and object to the rezoning of the Development Parcel from its existing zoning classification of Ag-1.

4. [redacted] (Signature)

David A. Morgan
Print Name

16 Yorkville Road
Address
Tax Parcel Number 02-34-130-005

5. [redacted] (Signature)

KEVIN HANNA
Print Name

15 YORKVILLE ST.
Address
Tax Parcel Number 02-34-129-006

6. _____ (Signature)

_____
Print Name

_____
Address
Tax Parcel Number 02-34-___-___

Matt Asselmeier

From: Jason Engberg <jengberg@yorkville.il.us>
Sent: Thursday, December 9, 2021 1:01 PM
To: Matt Asselmeier
Cc: Krysti Barksdale-Noble
Subject: RE: [External]55 Riverside Street - Meeting Materials

Hi Matt,

The PZC had no objections to the rezone. This is still planned to go to City Council on January 11th for final review.

Thanks for the update.
Jason

From: Matt Asselmeier <masselmeier@co.kendall.il.us>
Sent: Thursday, December 9, 2021 1:00 PM
To: Jason Engberg <jengberg@yorkville.il.us>
Cc: Krysti Barksdale-Noble <knoble@yorkville.il.us>
Subject: RE: [External]55 Riverside Street - Meeting Materials

Jason:

Did the PZC issue a recommendation.

The Kendall County Regional Planning Commission recommended that the property be zoned R-2 instead of the requested R-3 by a vote of 7-2 with 1 person absent.

Matthew H. Asselmeier, AICP, CFM
Senior Planner
Kendall County Planning, Building & Zoning
111 West Fox Street
Yorkville, IL 60560-1498
PH: 630-553-4139
Fax: 630-553-4179

From: Jason Engberg [mailto:jengberg@yorkville.il.us]
Sent: Wednesday, December 8, 2021 12:46 PM
To: Matt Asselmeier <masselmeier@co.kendall.il.us>
Cc: Krysti Barksdale-Noble <knoble@yorkville.il.us>
Subject: RE: [External]55 Riverside Street - Meeting Materials

Hi Matt,

The committee did not have any recommendations or objections regarding the request. Both the petitioner and neighbor's lawyer spoke at the meeting. Since there were no comments about the request, it will go to PZC tonight for review and then to the January 11th City Council.

One comment made was that it seemed like the objections against the property (like the wetlands) would be resolved by the County when it came time for the land to be developed. I agreed and said the City is just reviewing whether or not a rezone to residential is appropriate for our future land use designation, which it is.

I'll let you know how tonight's meeting goes but I am sure it will be more of the same.

Thanks,
Jason

From: Matt Asselmeier <masselmeier@co.kendall.il.us>
Sent: Wednesday, December 8, 2021 12:38 PM
To: Jason Engberg <jengberg@yorkville.il.us>
Cc: Krysti Barksdale-Noble <knoble@yorkville.il.us>
Subject: RE: [External]55 Riverside Street - Meeting Materials

Jason:

What was the EDC Committee's recommendation regarding this rezoning request?

Thanks,

Matthew H. Asselmeier, AICP, CFM
Senior Planner
Kendall County Planning, Building & Zoning
111 West Fox Street
Yorkville, IL 60560-1498
PH: 630-553-4139
Fax: 630-553-4179

From: Matt Asselmeier
Sent: Tuesday, December 7, 2021 1:07 PM
To: Jason Engberg <jengberg@yorkville.il.us>
Cc: Krysti Barksdale-Noble <knoble@yorkville.il.us>
Subject: RE: [External]55 Riverside Street - Meeting Materials

Jason:

ZPAC voted to recommend denial of this request by a vote of 7 against and 1 in favor. I was the only yes vote.

Thanks,

Matthew H. Asselmeier, AICP, CFM
Senior Planner
Kendall County Planning, Building & Zoning
111 West Fox Street
Yorkville, IL 60560-1498
PH: 630-553-4139
Fax: 630-553-4179

From: Jason Engberg [mailto:jengberg@yorkville.il.us]
Sent: Monday, December 6, 2021 9:40 AM

ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC)
December 7, 2021 – Unapproved Meeting Minutes

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

Present:
Matt Asselmeier – PBZ Department
Meagan Briganti – GIS Department
Greg Chismark – WBK Engineering, LLC
Scott Gengler – PBZ Committee Chair
David Guritz – Forest Preserve
Brian Holdiman – PBZ Department
Fran Klaas – Highway Department
Undersheriff Bobby Richardson – Sheriff's Department
Aaron Rybski – Health Department

Absent:
Brian Holdiman – PBZ Department
Alyse Olson – Soil and Water Conservation District

Audience:
Rick Porter, Chris Lannert, James Kohoot, Dan Morgan, JoAnn Willingham, Shabbir Shamsuddin, Gerald Chase, DM Studler, Boyd Ingemunson, Scott Koeppel, Dan Kramer, and John Tebrugge

PETITIONS

Petition 21-48 Brian Henrichs on Behalf of Baka Properties, LLC
Mr. Asselmeier summarized the request.

The Petitioner is requesting a map amendment rezoning the subject property from A-1 Agricultural District to R-3 One Family Residential District.

The Petitioner plans to submit preliminary and final plats dividing the property into two (2) parcels in order to construct one (1) house on each new parcel.

The application materials, plat of survey, topographic survey, and aerial of the property were provided.

The property is addressed as 55 Riverside Street and is Lot 183 in the Fox River Gardens Subdivision.

The property is approximately two point seven (2.7) acres in size.

The current land is Vacant; the property was previously used as horse pasture.

The Kendall County Future Land Use Map called for the property to be Suburban Residential (Max 1.00 DU/Acre). Yorkville's Future Land Use Map called for the property to be Estate/Conservation Residential.

Yorkville Road and Riverside Street are private streets.

Mr. Asselmeier read an email from Greg Chismark noting floodplain on the property and provided a map showing the approximate locations of the floodplain. There were no wetlands on the property.

The adjacent land uses were Single-Family Residential.

The adjacent properties were zoned A-1 and R-3.

The Kendall County Future Land Use Map called for the area to be Suburban Residential (Max 1.00 DU/Acre). Yorkville's Future Land Use Map called for the area to be Estate/Conservation Residential.

Zoning districts within one half (1/2) of a mile included A-1, A-1 SU, R-1, R-2, and R-3 in the unincorporated area. Properties inside Yorkville were zoned R-2 and OS-2.

The A-1 special use to the north was for a campground (Hide-A-Way Lakes).

EcoCat submitted on November 10, 2021. Protected resources may be in the vicinity, but adverse impacts were unlikely and consultation was terminated.

NRI application submitted on November 12, 2021. The draft LESA Score was 120 indicating a low level of protection.

Bristol Township was emailed information on November 16, 2021.

The United City of Yorkville was emailed information on November 16, 2021.

The Bristol-Kendall Fire Protection District was emailed information on November 16, 2021.

The Petitioner desired to rezone the subject property in order to subdivide the property into (2) parcels and construct one (1) house on each of the two (2) new parcels created for a total of two (2) new houses.

Section 8:07.H of the Kendall County Zoning Ordinance does not allow properties larger than ten (10) acres in size to rezone to the R-3 One Family Residential District. The subject property is less than ten (10) acres in size.

The minimum lot size in the R-3 One Family Residential District is forty-five thousand (45,000) square feet.

Any new homes or accessory structures would be required to meet applicable building codes.

According to the Plat of Survey, there is one (1) existing steel and frame pole building and one (1) frame stable on the property.

No public or private utilities are onsite. Electricity is at Yorkville Road and Riverside Street.

The property fronts Yorkville Road and Riverside Street, two (2) private roads.

Any new driveways constructed would be for residential purposes. Any new driveways would have to meet applicable regulations and secure proper permits.

No new odors are foreseen.

Any new lighting would be for residential use only.

Any fencing, landscaping, or screening would be for residential purposes.

Any signage would be residential in nature.

No noise is anticipated.

Any new homes would have to be constructed per Kendall County's Stormwater Management Ordinance.

The proposed Findings of Fact were as follows:

Existing uses of property within the general area of the property in question. The surrounding properties are used for single-family residential uses.

The Zoning classification of property within the general area of the property in question. The surrounding properties are zoned A-1 or R-3.

The suitability of the property in question for the uses permitted under the existing zoning classification. The property is presently zoned A-1. The property is less than forty (40) acres and does not qualify for any agricultural housing allocations. No new single-family homes can be constructed on the subject property without a map amendment.

The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was in its present zoning classification. The Zoning Board of Appeals shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and is not solely for the interest of the applicant. The Zoning Board of Appeals may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification than that requested by the applicant. For the purpose of this paragraph the R-1 District shall be considered the highest classification and the M-2 District shall be considered the lowest classification. The trend of development in the area is single-family residential uses found in rural settings with wooded lots.

Consistency with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. The Future Land Use Map in the Land Resource Management Plan classifies this property as Suburban Residential. The maximum density for the Suburban Residential classification is one density unit per acre (1.00 DU/Acre). The minimum lot size for R-3 One Family Residential District zoned land is slightly over one (1) acre at forty-five thousand (45,000) square feet. Accordingly, the R-3 One Family Residential District is consistent with the Suburban Residential classification.

Staff recommended approval of the proposed map amendment because the proposal is consistent with the Land Resource Management Plan.

Chairman Gengler asked about the floodplain on the property. Mr. Chismark said the lot does contain floodplain from the Fox River based on the elevations contained on the plat of survey and FEMA floodmaps.

Chairman Gengler asked about restrictions regarding building in the floodplain. Mr. Chismark responded that the property was not in the regulatory floodway. The property owner would have to comply with the Kendall County Stormwater Management Ordinance. There were many lots in Kendall County that have floodplain, but also have houses.

Aaron Rybski agreed with Mr. Chismark. He noted the regulations related to septic systems. An alternative system will likely be required. The wellhead must be extended above the flood elevation.

Mr. Asselmeier read the Soil and Water Conservation District; see attachment. The NRI Report goes to the Soil and Water Conservation Board the week of December 13th.

Mr. Klaas asked if structures built in floodplains require flood insurance forever. Mr. Chismark responded that flood insurance would be likely. Structures would have to meet all applicable provisions of the Stormwater Management Ordinance.

Rick Porter, Attorney, presented an objection to the requested rezoning; see attachment. He felt having a R-3 zoned property in area zoned A-1 was inappropriate. He noted the subdivision was platted in 1927. He noted the exemptions in the Zoning Ordinance that allows houses on A-1 zoned properties. He noted the deed restrictions and argued that only one (1) home was allowed on Lot 183. He noted that almost all of the neighbors have objected to this request; meaning the map amendment will require a three-quarter (3/4) vote of the County Board and the request was unpopular in the neighborhood due to density concerns. The density would not be compatible with area. He noted that wetlands are located on the property. The property is a challenged property. He noted the area and streets are prone to flooding with odor issues from septic systems and sanitary issues will worsen. He also noted the large amount of hydric soils on the property with limited buildability. Additional buildings will create additional flooding on downstream property owners. He noted retail uses that could be allowed on R-3 zoned property. He also stated that the Petitioner has a history of not complying with County regulations. The existing uses are larger density. The property and area is zoned A-1. The trend of development is not toward increased density.

Chris Lannert, Lannert Group Land Use Planner, said the how to development the site was difficult. He provided exhibits, see attachments. Mr. Lannert agreed with the overview, but, when discussing the specific site, the situation becomes difficult. He argued that the previous rezoning in the area was probably illegal. He noted that fill had been placed on the property. He said it was a beautiful natural area. The Petitioner should not be able to build more than one (1) house on the parcel. Only a small portion of the lot was buildable. He advised the Committee not to be put into a position to accept the subdivision because the rezoning was approved.

Boyd Ingemunson, Attorney for the Petitioner, noted that the lot and neighboring lot merged Parcel Identification Numbers, otherwise the Petitioner could build one (1) house. He noted that every lot in the area was challenging to build. He noted that the request meets the Land Resource Management Plan and the intent of the subdivision.

Mr. Asselmeier asked if the Petitioner was aware that, if the request was approved, two (2) houses might not be able to be built on the lot. Mr. Ingemunson acknowledged that the lot has challenges and will have to meet regulations.

Mr. Klaas questioned the nature of the Petition. Mr. Asselmeier responded the present request is to rezone the property. If the rezoning was approved, the Petitioner could pursue a subdivision with the intent of placing two (2) houses on the existing parcel. Mr. Ingemunson said the Petitioner would ideally like to have the ability to build two (2) houses. The item before the County is rezoning the property.

Mr. Asselmeier explained that the parcel lost its grandfathering to have one (1) house and a rezoning was required in order to construct one (1) house.

Mr. Guritz noted that deed restrictions exist. Mr. Guritz asked if the owner of the property can build on the parcel without rezoning. Mr. Asselmeier responded no and that, if other property owners wanted a similar rezoning, all of the properties should be zoned R-3.

Mr. Asselmeier noted that agricultural activities could occur on all of the properties in the area. He also noted that, if the rezoning was approved, a future property owner could decide to do a subdivision.

Discussion occurred regarding the deed restrictions. The question was raised regarding which entity enforces the deed restrictions.

Mr. Klaas felt the Petition was flawed with the possibility that more than one (1) house could be placed on the parcel. He felt that the parcel should be entitled to one (1) and only one (1) house.

Dee Studler, neighbor and local business owner, described the neighborhood. She noted the animals in the area. She noted the people admiring natural beauty when traveling in their kayaks down the river. The area was not high density. She said the Petitioner has already violated the deed restrictions and will not follow the rules. She requested proper building.

Chairman Gengler asked how the property was zoned A-1. Mr. Asselmeier said that the County zoned the area during one (1) of the Countywide zoning. The subdivision was in place prior to the enactment of the first Countywide zoning ordinance.

Mr. Asselmeier asked Ms. Studler if she would be fine if the Petitioner used the property for a cattle or hog farm. Ms. Studler responded yes.

James Kohoot said that he had no problem allowing (1) house on the subject property. He was opposed to having two (2) houses on the property. He was concerned that third (3rd) home could go on the property. He questioned whether the Petitioner would have cattle or hogs on the property.

Dave Morgan, neighbor, explained why he moved to the neighborhood. He favored allowing the Petitioner to build one (1) house on the property. He expressed concerns that the property values will decline. He was also concerned with lighting and increased traffic congestion. He also had concerns regarding stormwater runoff.

JoAnn Willingham, neighbor, discussed the concerns about standing water in the wetlands. The area has a lot of bugs and snakes. She was against the rezoning.

Shabbir Shamsuddin, neighbor, has lived in the area since the early 1990s. He said the area was not designed for large densities. He had concerns about the width of the road. He said the Petitioner uses the road as a racetrack. He discussed the issues related to get a septic permit. He said the development and area is their life.
Mr. Asselmeier asked Mr. Ingemunson if the Petitioner would be interested in obtaining a conditional use permit for single-family home while retaining the A-1 zoning. Mr. Ingemunson responded that he would need to discuss the matter with the Petitioner.

Mr. Porter said the Committee could recommend R-1 zoning under the Zoning Ordinance.

Gerald Chase did not object to allowing one (1) home on the property. He had concerns about standing water issues.

Chairman Gengler felt that only one (1) house should be on the property.

Chairman Gengler made a motion, seconded by Mr. Klaas**,** to recommend approval of the map amendment rezoning the property to R-3.

The votes were follows
Ayes (1): Asselmeier
Nays (7): Briganti, Chismark, Gengler, Guritz, Klaas, Richardson, and Rybski
Abstain (0): None
Absent (2): Holdiman and Olson

The motion failed.

The proposal goes to the Kendall County Regional Planning Commission on December 8, 2021.

CORRESPONDENCE

None

PUBLIC COMMENT

None

ADJOURNMENT

Mr. Klaas made a motion, seconded by Undersheriff Richardson, to adjourn.

With a voice vote of eight (8) ayes, the motion carried.

The ZPAC, at 10:35 a.m., adjourned.

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

Encs

KENDALL COUNTY
ZONING & PLATTING ADVISORY COMMITTEE
DECEMBER 7, 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)
RICK PORTER		R PORTER@HINSHAWLAW.COM
JAMES KOHOUT		KOHOUT
Dan Moya		
John Willingham		
SHABBIR SHAMSUDDIN	[redacted]	
Gerald Chmelik		
DM Stutler		
Dan Kelly		

JOHN TEBRUGGE

DEPARTMENT OF PLANNING, BUILDING AND ZONING
KENDELL COUNTY, ILLINOIS

In Re: Petition of Baka Properties, LLC Map Amendment Rezoning of 55 Riverside Street Yorkville, Illinois (Lot 183 Fox River Gardens)	)))))	Petition 21-48

STUDLER, MUND AND SISO LLC OBJECTION TO PETITION 21-48

NOW COME Objectors, DM Studler, Ronald G. Mund, and SISO, LLC., by and through their attorneys Hinshaw & Culbertson and for their Objection to Petition 21-48 state as follows:

I. INTRODUCTION

The Petition for Rezoning should be rejected by the Department of Planning and Zoning and by the Members of the Kendell County Board for the following reasons:

1. The subdivision and specific lot of the Applicant has a deed restriction which limits the property to only one single family home and the purpose of the R-3 zoning request of allowing two homes cannot be met and thus the zoning must be denied.

2. The density that will be permitted is not compatible with the surrounding properties of single family homes on large parcels of land and the R-3 zoning change is objected to by the majority of surrounding landowners.

3. The property in question includes wetlands that will be destroyed if the development that is planned goes through.

4. The property is in a flood plain which will create flooding problems if developed as requested.

5. There is no available municipal sanitary sewer to the site and, if developed with the septic tanks, odor and sanitation problems will develop and be exacerbated because of site conditions.

6. The amount of floodplain and lack of street access of the site will not permit two houses to be situated on the property.

7. A R-3 designation includes retail and office uses, albeit with a special use permit, that are wholly inappropriate for the surrounding community.

8. The Petitioner has a history of failing to comply with the County's ordinances and intrusion upon neighbors and their properties.

9. The Petitioner has not satisfied the conditions required by the Zoning Ordinance for a Map Amendment.

II. BASIS FOR OBJECTION

1. THE LOT WHICH IS THE SUBJECT OF THE PETITION IS PART OF A SUBDIVISION PLAT AND THE DEED HAS RESTRICTIONS OF ONE DWELLING ONLY.

The lot at issue is part of a subdivision which was platted in 1927. **(See Subdivision Plat attached hereto as Ex. A)**. After the subdivision was platted deeds were issued with covenants, conditions and restrictions one of which explicitly provides that on the subdivided lots "only one such [single family residence] shall be erected on any lot..." **See April 22, 1030 Deed – Restriction No. 6 – attached hereto As Ex. B**. It has been stated by the Applicant that the purpose of the R-3 zoning change is to seek to build two homes on Lot 183 as R-3 zoning allows for a home per 45,000 sq. ft. However, the subdivision plat and deed covenants and restrictions explicitly disallow more than one home on the land designated lot 183 and thus the zoning change would be improper and serve no purpose.

2. THE DENSITY OF THE PROPOSED SUBDIVISION IS NOT COMPATIBLE WITH THE SURROUNDING COMMUNITY

The surrounding community was developed under the Ag-1 zoning though the lots, as originally laid out, may be developed with one single family residence pursuant to Section 7.01

C. 18. c. of the Zoning Ordinance. This has created a unique living experience for those that reside in the homes and is entitled to protection against incompatible density like any other established neighborhood. The majority of surrounding landowners have estate parcels that substantially exceed 45000 sq. ft and smaller lots (in violation of the subdivision restrictive covenants) would detract from the rural nature of the neighborhood. A majority of surrounding landowners object Petition 21-48. **See Petition Submitted to the County Board of the County of Kendall, State of Illinois, Submitted Pursuant to Section 13.07G.2 of the Kendall County Zoning Ordinance attached hereto as Ex. C and Map of Objector Parcels attached hereto as Exhibit D).**

3. THE PROPERTY IN QUESTION INCLUDES WETLANDS THAT WILL BE DESTROYED IN THEE DEVELOPMENT OF THE PROPERTY IN QUESTION.

Pursuant to the **Deuchler Engineering Wetlands Reconnaissance Report Dated July 17, 2020, attached hereto as Ex. E,** the subject property includes a significant area of hydric soils that qualify to be classified jurisdictional wetlands much of which have been covered by fill material by the Applicant. Upon information and belief, that fill material was placed without any Kendall County or Army Corps of Engineers permits. If the property is developed in the manner planned by Applicant the Wetlands would be destroyed. This area, immediately adjacent to and a part of the Fox River flowage, is extremely sensitive due to that proximity.

4. A SIGNIFICANT PART OF THE PROPERTY IN QUESTION IS LOCATED IN A FLOODPLAIN AND FURTHER DEVELOPMENT OF THE PROPERTY WILL CAUSE THE FLOODING IN THE AREA TO WORSEN.

The majority of lot 183 is located within floodplain as it is below the flood zone elevation of 582 MSL and the County has hired an engineer that has confirm same. **See Email from Engineer Chismark attached hereto as Ex. F and Flood Plain Map of Lot 183 attached hereto as Ex. G**. To build residences in the floodplain will require that the site be elevated by

bringing in even more fill. Elevating the property in question will substantially increase the water that is discharged during a storm. The neighborhood, being so close to the Fox River, is already prone to flooding events. **(See Photo of Flooded Riverside Road attached hereto as Ex. H)**. The development of the property in question as planned will only make that worse, not only because of the increased elevation but also because of the increase in impervious surfaces such as driveways, homes, patios, decks and walkways that inevitably come with new development.

The Petitioner has, over the last two years, dumped over 40 semi-trailer loads of dirt onto the property in question, and upon information and belief, without any county or Army Corps permits, which has increased the chance of more water discharging from the site, contributing to an increased chance of flooding. **(See Photos of Filling of Lot 183, attached hereto as Group Ex. I)** Despite that filling over ¾ of the property is still below the flood zone of 582 MSL per Ex. G. If the subdivision is approved, the subsequent development of the property will only make matters worse because of the significant increase in impervious surfaces. Because the Petitioner has not submitted a site plan with its application, the Board cannot evaluate the impact of the zoning change on the flooding problem.

5. IF ALLOWED TO BE DEVELOPED AS REQUESTED, THE SANITARY CONDITIONS IN THE AREA WILL WORSEN.

There is no sanitary sewer available to the property in question or the surrounding neighborhood. The soil cannot support more septic tanks and fields. Presently, after significant storms, the septic tanks and the fields they drain into fail to function properly, creating noxious odors and unsanitary conditions. Because of the wetlands and the fact that a majority of the property is located within a floodplain, adding additional septic tanks and fields will exacerbate this public health problem.

6. THE AMOUNT OF FLOODPLAIN, AND LACK OF BUILDABLE SOILS AND LACK STREET ACCESS MAKE CONSTRUCTION OF TWO HOMES ON THE SUBJECT PROPERTY IMPOSSIBLE AND R-3 ZONING IMPROPER.

In order to further fill floodplain and wetland it is legally required that 1 ½ times of land mitigation be provided and per the expert opinion of land planner Chris Lannert there is insufficient buildable land to do so. Further, the Kendall County Soil & Water Conservation District has drafted a Natural Resources Inventory (NRI) Report and concluded that almost all of the property is comprised of hydric soils. **(See Hydric Soils Map Lot 183, attached hereto as Ex. J)**. In that same NRI report it was also found that almost all of the property has the most restrictive soil rating of being "very limited" for building purposes such that dwellings cannot have basements and the land is primarily useful for only lawn or landscape. **(See Very Limited Building Capability Lot 183, attached hereto as Ex. K).** Finally, the deed restriction only allows one dwelling and thus there is no road access for multiple dwellings.

Because Lot 183 cannot support a dwelling on every 45,000 sq. ft zoning as M-3 would be improper.

7. A R-3 DESIGNATION INCLUDES RETAIL AND OFFICE USES.

A R-3 designation includes retail and office uses, albeit with a special use permit, that are wholly inappropriate for the surrounding community. While there is a requirement that a special use permit be obtained, there is nevertheless a threat of increased commercial use of the property in question by changing the zoning designation as requested by the petitioner.

8. THE PETITIONER HAS A HISTORY OF FAILING TO COMPLY WITH THE COUNTY'S ORDINANCES AND INFRINGING UPON NEIGHBORS AND THEIR PROPERTIES

As explained above upon information and belief, no permits were acquired for the filling of the wetlands and floodplain on lot 183. Further, upon information and belief the Applicant

has been involved in conflict with several neighbors and been the subject of petitions for order of protection which have been granted to neighbors.

9. THE PETITIONER HAS FAILED TO SATISFY THE CONDITIONS FOR A MAP AMENDMENT.

The following are the criteria that must be satisfied by the Petitioner to allow for the County Board to approve a Map Amendment and the Petitioner has failed to satisfy that criteria: *FINDING OF FACT AND RECOMMENDATION OF THE ZBA. Within thirty (30) days after the close of the hearing on a proposed amendment, the ZBA shall make written findings of fact and shall submit same together with its recommendation to the County Board of Kendall County. Where the purpose and effect of the proposed amendment is to change the Zoning classification of particular property, the Zoning Board of Appeals shall make findings based upon evidence presented to it in each specific case with respect to the following matters Amended 9/15/20):*

1. *Existing uses of property within the general area of the property in question.*

While the surrounding property is residential, it is not of the density as that proposed. The R-3 zoning allowing a dwelling on every 45,000 sq. ft of land as proposed by the Petitioner is wholly inconsistent with the surrounding properties. Further, the addition of impermeable surfaces such as driveways, patios, decks and multiple dwellings is inconsistent with the existing uses and poses odor, health and flooding issues.

2. *The Zoning classification of property within the general area of the property in question.*

The surrounding property is primarily Ag-1. While there is a parcel that is zoned R-3 (by the Applicant previously), the vast majority of the surrounding properties are zoned Ag-1.

3. *The suitability of the property in question for the uses permitted under the existing zoning classification.*

The property is wholly unsuitable for R-3 uses of a dwelling on every 45,000 sq. ft. The soils are almost entirely hydric, the property contains wetlands, the property is in flood plain and the existing area is already prone to flooding and odor and thus cannot support more septic systems. Further, the subdivision plat and restrictive covenants do not allow for multiple homes on the land no multiple access points to roadways.

4. *The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was in its present zoning classification.*

There is no trend toward increased density. To the contrary, the subdivision is well established and those properties at lower elevations nearer the Fox River are larger parcels with estate homes. The subdivision plan, relied upon by all of the owners of land in the subdivision does not allow for multiple dwellings on the site and limits access. Further, the Land Resource Management Plan discourages conversion of agricultural land to residential zoning.

The ZBA shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and is not solely for the interest of the applicant. The ZBA may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification than that requested by the applicant. For the purpose of this paragraph the R-1 District shall be considered the highest classification and the M-213-14 District shall be considered the lowest classification.

Clearly changing the zoning from A-1 to R-3 is not in the public's interest at this location and the majority of surrounding landowners object to dame. The Subdivision Plat has been in place for nearly 100 years and explicitly allows for only one dwelling per lot. That plan has been relied upon by all owners of property in the subdivision and there is no public purpose served in amending it. Further, the impermeable surfaces on this flood plain area of hydric soils and

wetlands will detrimentally affect the neighbors and the public by exacerbating flooding, odors and unhealthful conditions.

5. *Consistency with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies.*

The Land Resource Management Plan encourages the protection of Agricultural lands and discourages "spot" zoning which create inherently contradictory land uses within each zone.

III. CONCLUSION

For the foregoing reasons the Petition 21-48 for a Map Amendment should be denied.

Date: 12-7-2021

Respectfully Submitted,

HINSHAW & CULBERTSON LLP,

By: _____
Richard S. Porter
One of their Attorneys

Richard S. Porter ARDC #6209751
rporter@hinshawlaw.com
HINSHAW & CULBERTSON LLP
100 Park Avenue
Rockford, IL 61101
Phone: (815) 490-4900


FOX RIVER GARDENS
TOWN OF BRISTOL
KENDALL CO.
ILLINOIS
NORTH PARK DRIVE
PRIVATE PARK
SOUTH PARK ROAD
WEST ROAD
OAK LANE
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171
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SCALE - 1"=100'
SURVEYED BY
WELLS ENGINEERING CO.
SURVEYORS AND SUBDIVIDERS
GENEVA, ILLINOIS
Unofficial

EXHIBIT
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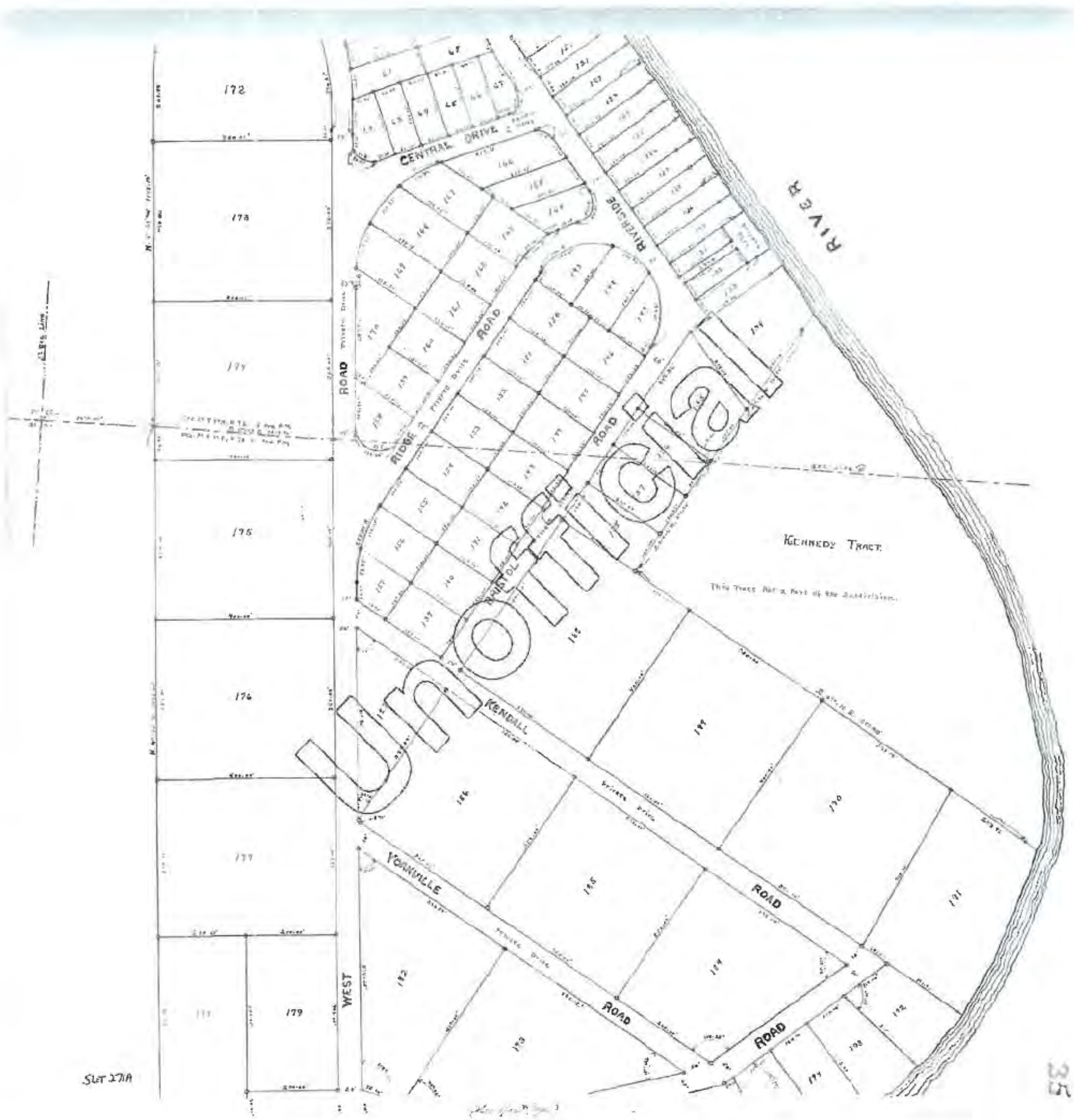
CENTRAL DRIVE
RIVERSIDE
RIVER
ROAD
RIDGE ROAD
BRISTOL
KENDALL
Private Drive
ROAD
YORKVILLE
Private Drive
ROAD
ROAD
WEST
KENNEDY TRACT
This Tract Not a Part of the Subdivision.
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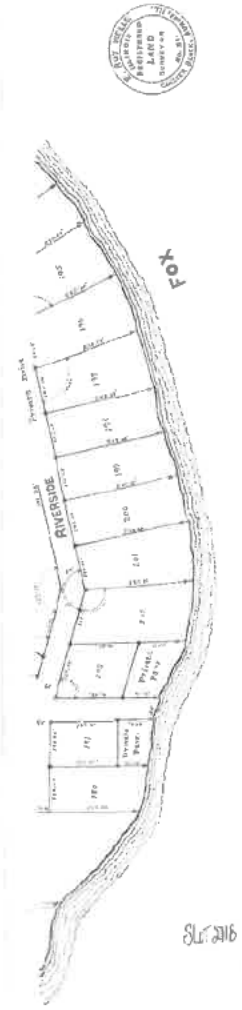

418

JOINT TENANCY DEED

Frank Tuma and Anna Tuma, his wife

to

Ewan Michalek and Mary Michalek

This Indenture Witnesseth, That the Grantors FRANK TUMA and ANNA TUMA, his wife of the City of Berwyn in the County of Cook and State of Illinois for and in consideration of the sum of One and no/100 ($1.00) Dollar in hand paid, CONVEY and WARRANT to EWAN MICHALEK and MARY MICHALEK, his wife, not in tenancy in common but in Joint Tenancy, of the City of Berwyn, County of Cook and State of Illinois, the following described real estate; to-wit: Lots 1 to 4 both inclusive, 6, 10, 11, 12, 17 to 35 both inclusive, 40, 41, 42, 45 to 63 both inclusive, 67 to 113 both inclusive, 115 to 123 both inclusive, 126 to 149 both inclusive, 151, 152, 153, 155 to 170 both inclusive, 172, 173, 174, 175, 176 (except the South 18-½ feet), 182 to 203 both inclusive, in Fox River Gardens, same being part of Sections Twenty-seven (27), twenty eight (28) and thirty-four (34), Township thirty-seven (37) North, Range seven (7), East of the third (3rd) Principal Meridian, situated in the Town of Bristol County of Kendall in the State of Illinois hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois.

This conveyance is subject to the following covenants, conditions and restrictions:

(1st) No part or parts of any lots in the subdivision aforesaid are to be sold or leased by the purchasers thereof or by the heirs, executors, administrators or assigns of any such purchasers for road or any other purpose without the consent or approval of the first party.

(2nd) Each and every residence built in the subdivision aforesaid must have a sanitary toilet.

(3rd) No building or any part thereof erected on said premises shall extend toward the street in front of said lot beyond a line parallel to and twenty feet distant from said street.

(4th) No trees on the premises herein described at the date hereof shall be removed without the consent of first party, except dead trees and those which may impede the construction of buildings.

(5th) No tents may be erected on said premises for commercial purposes.

(6th) No building shall be built on any of the lots in the subdivision aforesaid except private residences for the use and occupancy of one family only and only one such building shall be erected on any lot in said subdivision containing not to exceed one acre. At or after the erection of a residence as aforesaid, a garage or other out-building necessary or appurtenant thereto may be erected. That no garage, barn, or other building, erected on said lot, shall at any time be used as a residence.

(7th) All purchasers or owners of lots in Fox River Gardens Subdivision aforesaid and their families shall have free and unrestricted access to the community beach as shown upon the plat of said Subdivision.

(8th) Should the grantee herein improve the premises herein described with a residence, the cost of such residence shall not be less than $1,500.00.

(9th) It is expressly agreed that the premises herein described shall not be conveyed or leased by the grantee or any of the successors in title of the grantee, to any person who is not a Caucasian, that neither the premises herein described nor any of the improvements thereon shall be occupied by anyone who is not a Caucasian; and that in the event that the premises herein described shall be

EXHIBIT B

conveyed or leased by the grantee or any of the successors in title of the grantee , to any person who is not a Caucasian or in the event that said premises or any improvements erected thereon shall at any time be occupied by a person who is not a Caucasian, the property herein described shall revert to the grantor herein free and clear from any claim of the grantee or the successors in title of the grantees. To have and to hold the above granted premises unto the said parties of the second part forever not in tenancy in common, but in joint tenancy.

DATED this first (Ist) day of May A. D. 1930

Frank Tuma (SEAL)

Anna Tuma (SEAL)

(SEAL)

(SEAL)

STATE OF ILLINOIS }
COUNTY OF COOK } ss. I, Charles T. Salak Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that FRANK TUMA and ANNA TUMA, his wife, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and notarial seal this first (Ist) day of May A. D. 1930

Charles T. Salak

Notary Public

Filed for record on the 3rd day of May A. D. 1930 at 11-25 o'clock A. M.

Recorder of Deeds.

PETITION SUBMITTED TO THE COUNTY BOARD OF THE COUNTY OF KENDALL, STATE OF ILLINOIS, SUBMITTED PURSUANT TO SECTION 13.07 G.2 OF THE KENDALL COUNTY ZONING ORDINANCE

The undersigned have been advised that that BAKA Properties LLC – Series 5 the owner of the property commonly known as Lot 183 Fox River Gardens (tax parcel number 02-34-130-004), (the "Development Parcel"), in unincorporated Kendall County, Illinois, pursuant to Petition 21-48, has requested that Kendall County pass a map amendment ordinance changing the zoning applicable to the Development Parcel from Ag-1 to R-3. The undersigned, being more than twenty percent of the owners of the frontage immediately adjoining or across an alley, street or public right-of-way from the Development Parcel, wish to notify the County Board of the County of Kendall that they protest and object to the rezoning of the Development Parcel from its existing zoning classification of Ag-1.

1. _____ (Signature)

Gerald Chase FOR 5150, LLC
Print Name

40 Riverside St.
Address
Tax Parcel Number 02-34-204-005

2. _____ (Signature)

JoAnn M. Willingham
Print Name

56 Riverside St.
Address
Tax Parcel Number 02-34-204-002

3. _____ (Signature)

DM Studler
Print Name

34 Riverside St.
Address
Tax Parcel Number 02-34-176-003

EXHIBIT
C

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1038862\309504858.v1

The undersigned have been advised that that BAKA Properties LLC – Series 5 the owner of the property commonly known as Lot 183 Fox River Gardens (tax parcel number 02-34-130-004), (the "Development Parcel"), in unincorporated Kendall County, Illinois, pursuant to Petition 21-48, has requested that Kendall County pass a map amendment ordinance changing the zoning applicable to the Development Parcel from Ag-1 to R-3. The undersigned, being more than twenty percent of the owners of the frontage immediately adjoining or across an alley, street or public right-of-way from the Development Parcel, wish to notify the County Board of the County of Kendall that they protest and object to the rezoning of the Development Parcel from its existing zoning classification of Ag-1.

4. _____ (Signature)

David A. Morgan
Print Name

16 Yorkville Road
Address
Tax Parcel Number 02-34-130-005

5. _____ (Signature)

KENT HANNA
Print Name

15 YORKVILLE ST.
Address
Tax Parcel Number 02-34-129-006

6. _____ (Signature)

Print Name

Address
Tax Parcel Number 02-34-____-____

Black arrows indicate the location of the parcels owned by the objectors. The parcels highlighted in orange below are also owned by the applicant. The parcel "004" outlined in blue is the parcel that is the subject of the proposed map amendment.

WETLAND RECONNAISSANCE REPORT

55 RIVERSIDE DRIVE, YORKVILLE
KENDALL COUNTY, ILLINOIS

JULY 17, 2020

Prepared for:

Hinshaw & Culbertson, LLP
151 N Franklin St Suite 2500, Chicago, IL 60606

Deuchler Engineering Corporation

230 Woodlawn Avenue | Aurora, Illinois 60506

TABLE OF CONTENTS

1.0 INTRODUCTION

A Wetland Reconnaissance was performed on atypical conditions in the common area immediate adjacent to the subject property, *BAKA Properties, LLC, Trust: Series 5, 55 Riverside Street, Yorkville, IL (Parcel Identification Number 02-34-130-00)*. The purpose of the investigation was to determine the likelihood of fill having been placed in a wetland on the subject parcel. This project is in unincorporated Bristol Township in Section 34 of Township 37, North, Range 7 East in Kendall County, Illinois. See Site Location Map included as **Figure 1**.

Deuchler Engineering Corporation (DEC) was contracted by Hinshaw & Culbertson, LLP to conduct a wetland delineation survey of the subject site. The project site evaluated is an open field in Fox River Gardens, a rural residential subdivision in unincorporated Yorkville, IL. Field work for the project was completed on July 1, 2020. Aerial Photograph analysis was completed on July 14 and 15, 2020.

2.0 METHODS

A wetland reconnaissance was performed by Deuchler Engineering Corporation (DEC) in accordance with the Corps of Engineers Wetland Delineation Manual (1987) and the Midwest Regional Supplement to 1987 Wetland Delineation Manual (2010). The scope of work performed by Deuchler staff includes the following:

2.1 Map and Aerial Photograph Review

Prior to the field survey, a preliminary site evaluation was performed to identify the physical setting of the subject area utilizing an aerial photographs, National Wetland Inventory Mapping Tool (NWI), and Natural Resources Conservation Service (NRCS) Web Soil Survey and the FEMA Flood Insurance Rate Mapping Tool (Firmette).

2.2 Field Survey

The site was visually and physically observed to determine if any jurisdictional wetlands exist within the site by examining the soil, hydrology, and vegetation. A USACE Routine Wetland Delineation Data Sheet was completed for a data point.in the potential wetland and a comparative data point was taken from the surrounding upland.

To be considered a jurisdictional wetland, an area must meet minimum criteria in all three of the following categories: soils, hydrology, and vegetation. These criteria are discussed as follows:

1) Soil:
   The soil criterion for a wetland is met when the soils have been classified as hydric. Field indicators of hydric soils include: a) organic soils, b) specific low chroma soil color (gleyed matrix with or without bright mottles), c) presence

of a histic epipedon (high organic content in the surface horizon), d) presence of sulfidic material (the soil smells like hydrogen sulfide), e) aquic or peraquic moisture regime (the soil is saturated for long periods), and f) reduced soil conditions (soil contains reduced iron).

Soil borings were taken to a minimum depth of 18 inches below existing grade and soil properties were recorded, at locations of concern. Soil color (matrix), and redoximorphic features (if present) were determined using the Munsell Soil Color Charts (1990).

2) Hydrology:
The hydrology criterion for a wetland is met when the area is inundated either permanently or periodically at a maximum water depth of 6.6 feet, or the soil is saturated to the surface for at least 5% of the growing season. Indicators include drainage patterns, drift lines, sediment deposition, watermarks, stream gage data and flood prediction, historic records, visual observation of saturated soils, and visual observation of inundation. Hydrologic indicators were recorded.

3) Vegetation:
The vegetation criteria for a wetland is met when more than 50% of the dominant plant species are classified as hydrophytic. Hydrophytes are plants which can grow in water or on a substrate that is at least periodically deficient in oxygen because of excessive water content. A *Regional List of Plant Species that Occur in Wetlands* has been prepared by the U.S. Fish and Wildlife Service (USFWS). Wetland plants are categorized into three classes based on wetland indicator status: (1) obligate wetland species (OBL), (2) facultative wetland species (FACW), or (3) facultative species (FAC). Dominant plant species were recorded for each data point.

2.3 Report

DEC prepared a Wetland Reconnaissance Report documenting the findings of the wetland investigation. This Report includes sources and documents supporting the analysis, opinions, and conclusions.

3.0 PROJECT DESCRIPTION

The subject property is a 2.68-acre open field and lies on a minor terrace of the Fox River in Fox River Gardens subdivision, unincorporated Yorkville, IL The northeast side of the property is bounded by Yorkville Street and the southern edge of the property is bounded by Riverside Street. The rest of the property is bounded by residential lots. The property contains recently placed fill over a large portion of the open area of the parcel. The parcel also contains a single drainageway that has a Silver Maple Swamp (forested wetland) on either side of the bed and bank channel.

The investigation was undertaken to determine if the limits of fill extended into the wetland. The fill appears to cover about half of the open field. It extends under the Silver Maple branches and stops at the limit of a white plastic 3 rail fence. The fill appears to be several feet in thickness at the edge of the Silver Maple swamp. Standing water was present in the wetland as well as the stream channel on the day of the site investigation.

A data point was taken just outside the fill in the Yorkville Street road easement where wetlands vegetation was like that seen at the base of the fill. An upland data point was taken along the road easement several feet in elevation higher than the data point where the vegetation appeared to be hydric. The description of the field investigation can be found in Section 5.0.

4.0 MAP AND AERIAL PHOTOGRAPH REVIEW

Aerial photography, Kendall County LIDAR topographic mapping, National Wetland Inventory mapping, NRCS Web Soil Survey, and FEMA Flood Insurance Rate Mapping, were reviewed to evaluate topographic conditions and whether any wetlands have been identified within the project area.

4.1 National Wetland Inventory Map (Figure 2)

The United States Fish and Wildlife Service (USFWS) conducted a wetland inventory of the wetland locations within the United States. That data has been aggregated into a national data tool, the NWI Mapper. The subject property is not identified by the NWI as having wetlands.

It should be noted that the "National Wetland Inventory" was compiled via review of high-altitude aerial photography over a period of the last 30 years and may not accurately represent current conditions. Therefore, the presence of potential wetlands was field investigated by DEC.

4.2 Kendall County Topographic Map (Figure 3a)

The Kendall County GIS topographic data was reviewed for the physical setting conditions of the subject property. According to the Topographic Map, the general topography of the subject area and its surroundings is a river valley with broad floodplain and terraces on either side of the river. The project site is at the bottom of the bluff and the creek on the property comes down the bluff from the upland above.

The topographic map show that much of the subject property lies between the elevations of 582 and 584 ft msl. The creek and wetland are at elevations below 582 ft msl. During heavy precipitation events the channel shows evidence of overbank flooding.

4.3 FEMA Flood Insurance Rate Map (Figure3b)

The FEMA Flood Mapping Tool produces a Firmette of the project site and surrounding area. The Firmette of the site is derived from the Kendall County FIRM Panel 17093C0045H, effective date 1/8/2014. The 1% chance of recurrence (100-year flood elevation) is elevation 582 ft msl. The subject property is mapped by FEMA as Zone X, outside the 100-year floodplain. However, portions of the wetland on the property are below elevation 582.

4.4 NRCS Web Soil Survey Map (Figure 4)

The NRCS Soil Survey Map of the area was reviewed as a preliminary evaluation to identify soils which exist within the subject area. These soils were identified as hydric or non-hydric using the National Hydric Soils Database. The NRCS Soil Survey Map indicated that the project site was mapped as 8082A Millington silt loam, a floodplain soil map unit.

4.5 Aerial Photographic Maps (Figure 5)

Using aerial photography, the project site was reviewed for the presence of wetland and open water visual signatures. Historic aerial photography was reviewed for the period1998-2019. This type of aerial reconnaissance review is how the USDA-NRCS and US Fish and Wildlife Service screen parcels for potential wetlands prior to a field investigation. In this project, a time-series of wetlands was evaluated, and an approximate wetland boundary was drawn on each aerial examined.

The years examined include a range of wetness conditions from very wet years to droughty years. The specific years that photos were evaluated for are 1998, 2002, 2005, 2008, 2013, 2015, 2017, 2018 and 2019. The approximate limits of the wetland signature in any given year is outlined in yellow on each of the aerial photographs in Figure 5.

The aerial interpretation of each photo shows evidence of two wetland types in most years: an herbaceous wetland either sedge meadow or wet meadow dominated by sedges and grasses surrounding the incipient Silver Maple swamp. The bed and bank of the creek is evident in all years. The size of the trees in the swamp have grown significantly over the last twenty-two years. While the size of the wetland signature varies by year, which is typical, there was wetland on the property prior to any development on the parcel. Those wetlands remain today and are the subject of the field investigation portion of this report.

Based upon the 2019 Kendall County Geographic Information System Parcel Viewer Data, there were 3 3 wetland signatures on the subject property when the 2019 aerial photograph was flown. Table 1 summarizes their size and percentage of parcel coverage

Table 1. Wetland Signatures from 2019 Aerial Photography Interpretation

Wetland Signature	Area (Square Feet)	Area (Acres)	Parcel Coverage (%)
1	21,880	0.502	18.7
2	550	0.013	0.49
3	2,300	0.053	1.98

5.0 FIELD INVESTIGATION

The purpose of the field investigation was to determine if any jurisdictional wetlands existed within the site, and if so, their approximate size and boundaries. Potential jurisdictional areas encountered in the field were delineated using the USACE Corps of Engineers Wetlands Delineation Manual (1987) and the Midwest Regional Supplement to the Wetland Delineation Manual (2010).

One data point was selected to represent the conditions in the project site area. The project site is approximately 2.7 acres. The site investigation was performed on July 1, 2020 by Patrick Kelsey, CPSS/SC. Dominant plants, soil type, and evidence of wetland hydrologic indicators were recorded on USACE Wetland Delineation Data Sheets for the Midwest Regional Supplement. The data sheets are included in **Appendix A**.

Following are the results of the field survey:

Data Point 1

Data Point #1 is located on the northeast side of the subject property. The Data Point 1 plant community was dominated by hydrophytic plant species including Silver Maple (*Acer saccharinum*). Box Elder (*Acer negundo*), Crested Sedge (*Carex cristatella*), and Barnyard Grass (*Echinochloa crus-galli*). The soil observed at Data Point 1 was determined to be Millington silt loam, a poorly drained and hydric soil This is also the soil map unit determined by the public soil survey. Primary wetland hydrology indicators observed included surface water, sediment deposits, and drift deposits.

Data Point 1 is identified as a single wetland with two distinct communities: A Silver Maple swamp on either side of a small creek and a wet meadow dominated by sedges and grasses.

Data Point 1A

Data Point 1A was selected in the adjacent upland to capture the difference between the wetland and non-wetland conditions. Data Point 1A is located along Yorkville Street approximately 2 ft in elevation above the wetland. The two sites are approximately 125 ft apart. The vegetation surveyed was decidedly upland in nature and was dominated by planted turf grasses including Fescue (Festuca elatior), Perennial Ryegrass (Lolium perenne), and Kentucky Bluegrass (Poa pratensis). The soil identified is Dresden silt loam, a non-hydric soil. No indicators of wetland hydrology were found at Data Point 1.

6.0 SUMMARY AND CONCLUSIONS

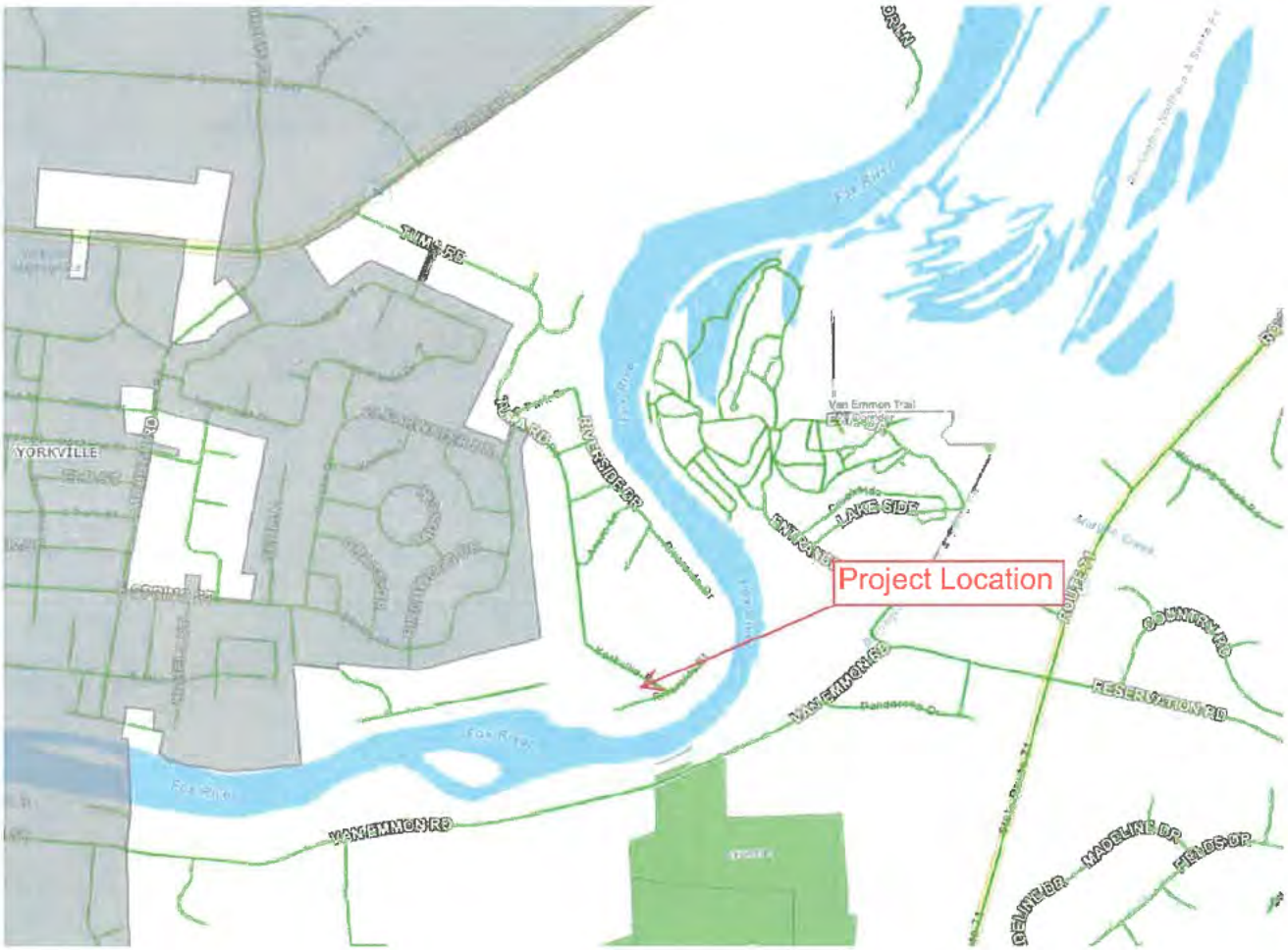
Deuchler Engineering Corporation (DEC) conducted a routine wetland reconnaissance of 55 Riverside Street, unincorporated Yorkville, IL. The purpose of this wetland reconnaissance was to determine if any jurisdictional wetlands or Waters of the US exist within the project site, and if so, whether recently placed fill was placed within boundaries of these wetlands.

The project site contains one Wetland (as defined in 33 CFR Part 328 and 40 CFR Parts 110, 112, 116, 117, 120, 122, 230, 232, 300, 302, and 401, inclusively). It is our professional opinion that fill has been placed over hydric soils and that wetland hydrology is present within the limits of the fill that has been placed. Based on the requirements for atypical wetland conditions, there is more than adequate evidence that the fill placed also had hydrophytic vegetation.

The limits of encroachment can only be identified by excavating the fill to the depth of the original soil/vegetation line at the original ground surface. The extent of the wetland encroachment is likely not more than 50 feet along the northeast-southwest fence line based upon review of historic aerial photographs. These same photographs and the Web Soil Survey map suggest that the limit of hydric soils in this field is likely up near the pole barn structure along the northern boundary of the subject property.

Though a jurisdictional determination has not been performed by the USACE Rock Island District, it is likely that the wetland is jurisdictional under the current rules for determining federal jurisdiction. The conclusion is drawn by the evidence of an overland flow connection to a bed and bank stream with hydrologic connection to the Fox River, a traditional navigable waterway.

FIGURES



DEUCHLER
CIVIL | STRUCTURAL | ELECTRICAL | ENVIRONMENTAL

REVISIONS
1.
2.
3.
4.

DATE:	7-16-2020	DESIGNED:	PK
SCALE:	NTS	DRAWN:	AS
JOB NO.	555-20035-00	CHECKED:	PK
FIELD BOOK NO.:	N/A	APPROVED:	PK

55 RIVERSIDE DRIVE
YORKVILLE, IL
LOCATION MAP

1
SHT 1
OF 9

ILLINOIS DESIGN FIRM #184.001830 230 WOODLAWN AVENUE, AURORA, IL 60506 PH. 630-897-4651 FAX 630-897-5696 www.deuchler.com

Plotted: 7/16/2020 9:28:42 AM

U.S. Fish and Wildlife Service
National Wetlands Inventory

55 Riverside Drive, Yorkville, IL

July 15, 2020

Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site

National Wetlands Inventory (NWI)
This page was produced by the NWI mapper

Plotted: 7/16/2020 9:26:42 AM

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FIELD BOOK NO.: N/A | APPROVED: PK

55 RIVERSIDE DRIVE
YORKVILLE, IL
NWI MAP

2
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OF 9

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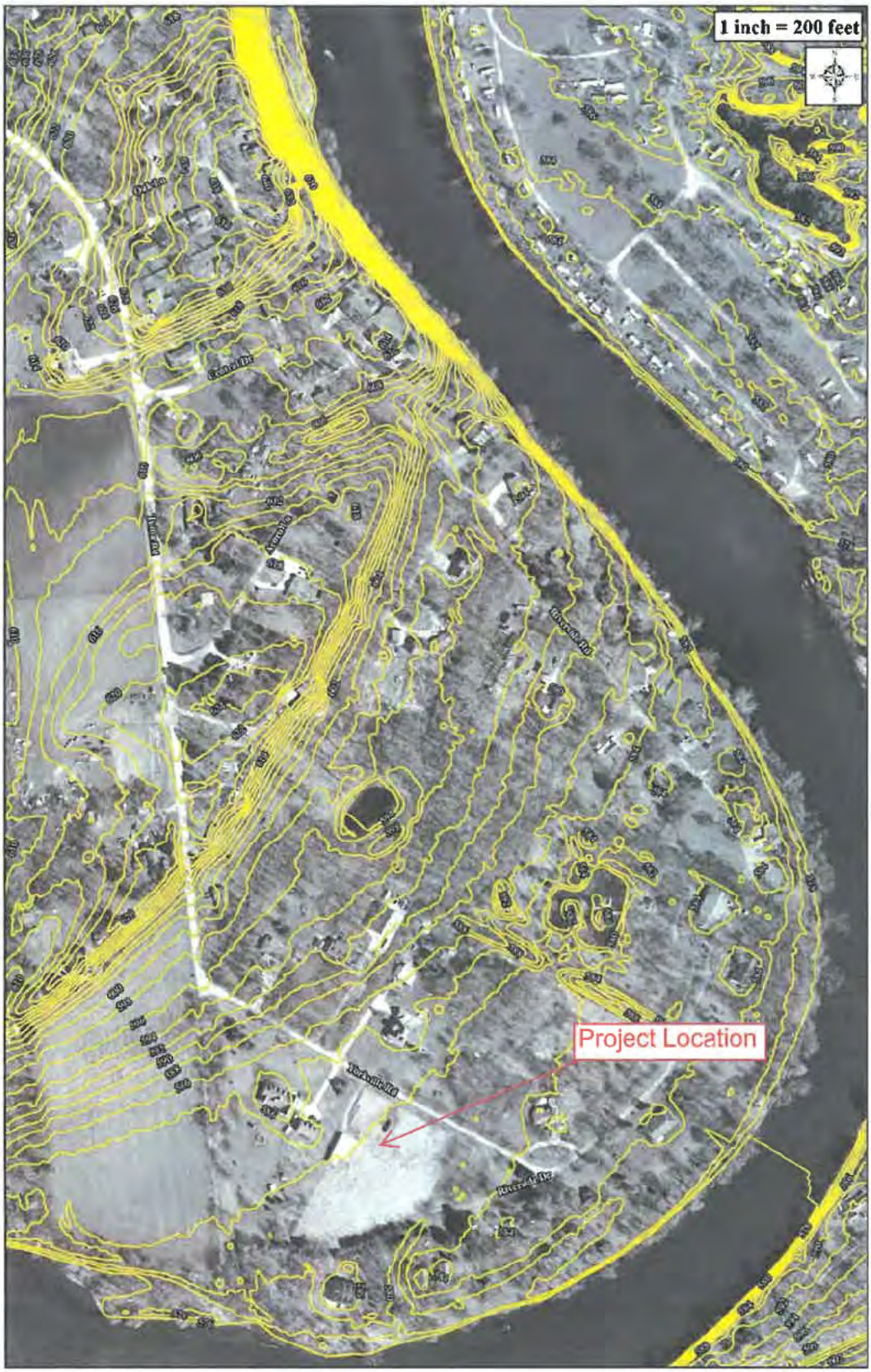

DEUCHLER CIVIL | STRUCTURAL | ELECTRICAL | ENVIRONMENTAL	REVISIONS 1. 2. 3. 4.	DATE: 7-16-2020 SCALE: NTS JOB NO. 555-20035-00 FIELD BOOK NO.: N/A	DESIGNED: PK DRAWN: AS CHECKED: PK APPROVED: PK	**55 RIVERSIDE DRIVE YORKVILLE, IL TOPOGRAHIC MAP**	3a SHT 3a OF 9

ILLINOIS DESIGN FIRM #184.001830 230 WOODLAWN AVENUE, AURORA, IL 60506 PH: 630-897-4651 FAX 630-897-5696 www.deuchler.com

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National Flood Hazard Layer FIRMette

Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

- SPECIAL FLOOD HAZARD AREAS
  - Without Base Flood Elevation (BFE)
  - With BFE or Depth
  - Regulatory Floodway
- OTHER AREAS OF FLOOD HAZARD
  - 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile
  - Future Conditions 1% Annual Chance Flood Hazard
  - Area with Reduced Flood Risk due to Levee. See Notes.
  - Area with Flood Risk due to Levee
- OTHER AREAS
  - Area of Minimal Flood Hazard
  - Effective LOMRs
  - Area of Undetermined Flood Hazard
- GENERAL STRUCTURES
  - Channel, Culvert, or Storm Sewer
  - Levee, Dike, or Floodwall
- OTHER FEATURES
  - Cross Sections with 1% Annual Chance
  - Water Surface Elevation
  - Coastal Transect
  - Base Flood Elevation Line (BFE)
  - Limit of Study
  - Jurisdiction Boundary
  - Coastal Transect Baseline
  - Profile Baseline
  - Hydrographic Feature
- MAP PANELS
  - Digital Data Available
  - No Digital Data Available
  - Unmapped

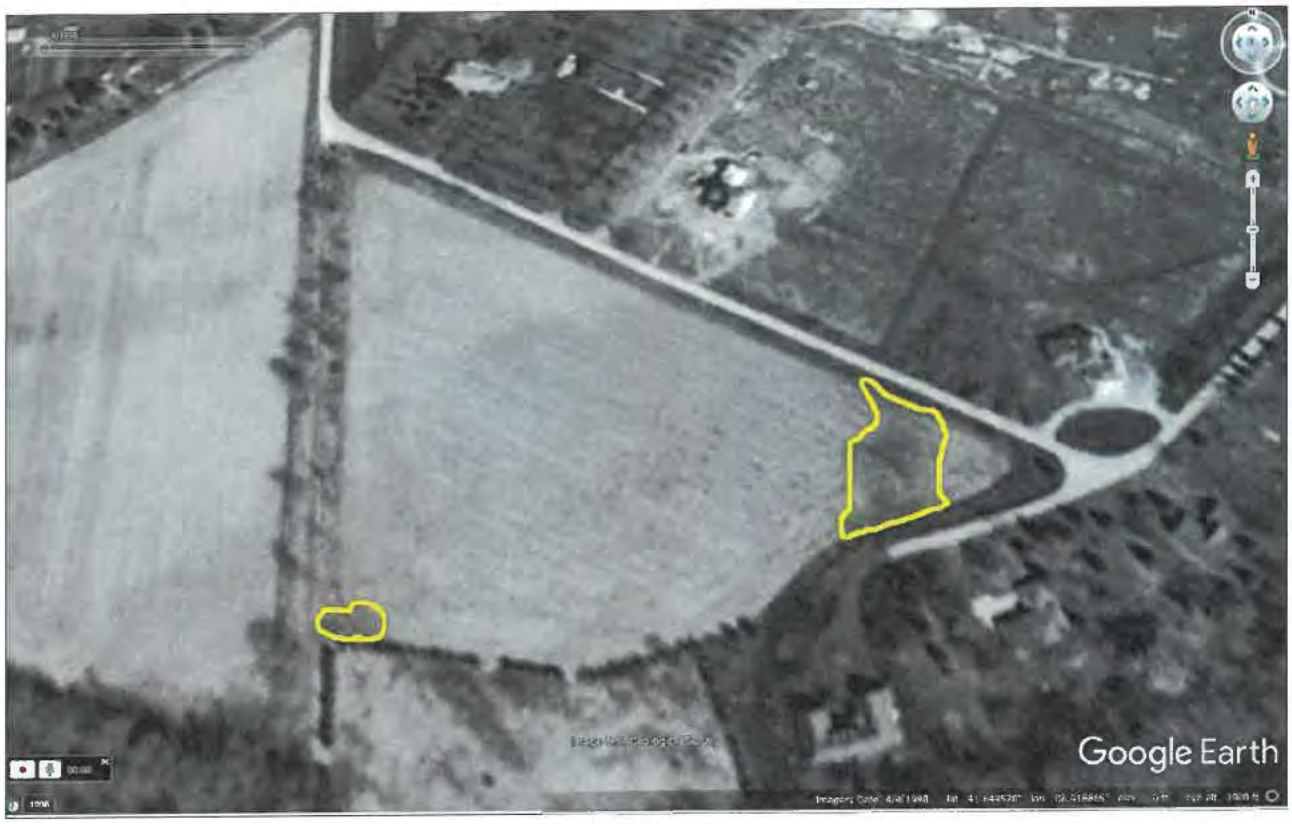
The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 6/8/2020 at 9:42:16 AM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

Map Unit Symbol	Map Unit Name	Acres in AOI
8082A	Millington silt loam, 0 to 2 percent slopes, occasionally flooded	53.6
8321A	Du Page silt loam, 0 to 2 percent slopes, occasionally flooded	39.2
W	Water	45.9
Totals for Area of Interest		**403.4**



1998

2002

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DATE:	7-16-2020
SCALE:	NTS
JOB NO.	555-20035-00
FIELD BOOK NO.:	N/A

DESIGNED:	PK
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55 RIVERSIDE DRIVE
YORKVILLE, IL

5
SHT 5
OF 9

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2005

2008

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55 RIVERSIDE DRIVE
YORKVILLE, IL

5
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2013

2015

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REVISIONS
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JOB NO.	555-20035-00	CHECKED:	PK
FIELD BOOK NO.:	N/A	APPROVED:	PK

55 RIVERSIDE DRIVE
YORKVILLE, IL

5
SHT 7
OF 9

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2017

2018

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REVISIONS
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DATE:	7-16-2020	DESIGNED:	PK
SCALE:	NTS	DRAWN:	AS
JOB NO.	555-20035-00	CHECKED:	PK
FIELD BOOK NO.:	N/A	APPROVED:	PK

55 RIVERSIDE DRIVE
YORKVILLE, IL

5
SHT 8
OF 9

ILLINOIS DESIGN FIRM #184.001830 230 WOODLAWN AVENUE, AURORA, IL 60506 PH. 630-897-4651 FAX 630-897-5696 www.deuchler.com

2019

Wetland Signatures

1 21,850 SF

2 550 SF

3 2,300 SF

Source: Kendall County GIS Parcel Viewer

DEUCHLER
ENGINEERING | STRUCTURAL | ELECTRICAL | ENVIRONMENTAL
ILLINOIS DESIGN FIRM #184.001839

REVISIONS
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DATE: 7-16-2020 | DESIGNED: PK
SCALE: NTS | DRAWN: AS
JOB NO. 555-20035-00 | CHECKED: PK
FIELD BOOK NO.: N/A | APPROVED: PK

55 RIVERSIDE DRIVE
YORKVILLE, IL

5
SHT 9
OF 9

230 WOODLAWN AVENUE, AURORA, IL 60506 PH. 630-897-4651 FAX 630-897-5696 www.deuchler.com

APPENDIX A

USACE Midwest Regional Data Sheets

WETLAND DETERMINATION DATA FORM – Midwest Region

Project/Site: 55 Riverside Street | City/County: Yorkville/Kendall | Sampling Date: 07/01/2020
Applicant/Owner: Hinshaw & Culbertson, LLP | State: IL | Sampling Point: 1
Investigator(s): Patrick Kelsey Deuchler Engineering Corp. | Section, Township, Range: 34, T37N, R7E
Landform (hillslope, terrace, etc.): Floodplain | Local relief (concave, convex, none): none
Slope (%): 0-2% | Lat: | Long: | Datum: NADV 88
Soil Map Unit Name: Millington silt loam | NWI classification: None
Are climatic / hydrologic conditions on the site typical for this time of year? Yes ____ No ____ (If no, explain in Remarks.)
Are Vegetation X, Soil X, or Hydrology ____ significantly disturbed? Are "Normal Circumstances" present? Yes ____ No ____
Are Vegetation ____, Soil ____, or Hydrology ____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes X	No ____	Is the Sampled Area within a Wetland? Yes X No ____
Hydric Soil Present?	Yes X	No ____	
Wetland Hydrology Present?	Yes X	No ____	

Remarks:
Area has been recently filled in part.

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: 9.0 m2)	Absolute % Cover	Dominant Species?	Indicator Status
1. Acer saccharinum	30	x	FAC
2. Acer negundo	5		FACW
3.			
4.			
5.			
	= Total Cover		
Sapling/Shrub Stratum (Plot size: 4.0 m2)			
1.			
2.			
3.			
4.			
5.			
	= Total Cover		
Herb Stratum (Plot size: 1.0 m2)			
1. Carex cristatella	25	x	FACW
2. Cyperus esculentus	5		FACW
3. Echinochloa crus-galli	30	x	FACW
4. Juncus effusus	5		OBL
5.			
6.			
7.			
8.			
9.			
10.			
	= Total Cover		
Woody Vine Stratum (Plot size: ____)			
1.			
2.			
	= Total Cover		

Dominance Test worksheet:
Number of Dominant Species That Are OBL, FACW, or FAC: 3 (A)
Total Number of Dominant Species Across All Strata: 3 (B)
Percent of Dominant Species That Are OBL, FACW, or FAC: 100 (A/B)

Prevalence Index worksheet:

Total % Cover of:		Multiply by:	
OBL species	5	x 1 =	5
FACW species	65	x 2 =	130
FAC species	30	x 3 =	90
FACU species		x 4 =	
UPL species		x 5 =	
Column Totals:	100 (A)		215 (B)

Prevalence Index = B/A = 2.15

Hydrophytic Vegetation Indicators:
X 1 - Rapid Test for Hydrophytic Vegetation
X 2 - Dominance Test is >50%
X 3 - Prevalence Index is ≤3.0[1]
__ 4 - Morphological Adaptations[1] (Provide supporting data in Remarks or on a separate sheet)
__ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes X No ____

Remarks: (Include photo numbers here or on a separate sheet.)
Vegetation is hydrophytic.

SOIL

Sampling Point: _____

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix Color (moist)	%	Redox Features Color (moist)	%	Type	Loc[2]	Texture	Remarks
0-18	N2.5/0						sil	Saturated at 8 inches
18-24	10YR3/1						sicl	

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators:

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5)
- ___ 2 cm Muck (A10)
- ___ Depleted Below Dark Surface (A11)
- X Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ 5 cm Mucky Peat or Peat (S3)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ___ Coast Prairie Redox (A16)
- ___ Dark Surface (S7)
- ___ Iron-Manganese Masses (F12)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed):

Type: _____

Depth (inches): _____

Hydric Soil Present? Yes X No ____

Remarks:

Soil is a Cumulic Endoaquoll. Soil is on the County hydric Soil List.

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required: check all that apply)

- ___ Surface Water (A1)
- X High Water Table (A2)
- X Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- X Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Sparsely Vegetated Concave Surface (B8)
- ___ Water-Stained Leaves (B9)
- ___ Aquatic Fauna (B13)
- ___ True Aquatic Plants (B14)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres on Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Gauge or Well Data (D9)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Surface Soil Cracks (B6)
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Stunted or Stressed Plants (D1)
- ___ Geomorphic Position (D2)
- ___ FAC-Neutral Test (D5)

Field Observations:

Surface Water Present? Yes X No ____ Depth (inches): in channel

Water Table Present? Yes X No ____ Depth (inches): 8 inches

Saturation Present? (includes capillary fringe) Yes X No ____ Depth (inches): 8 inches

Wetland Hydrology Present? Yes X No ____

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

The hydrology criterion is met by water table depth, soil saturation, and one additional primary indicator.

WETLAND DETERMINATION DATA FORM – Midwest Region

Project/Site: 55 Riverside Street City/County: Yorkville/Kendall Sampling Date: 07/01/2020

Applicant/Owner: Hinshaw & Culbertson, LLP State: IL Sampling Point: 1A

Investigator(s): Patrick Kelsey Deuchler Engineering Corp. Section, Township, Range: 34, T37N, R7E

Landform (hillslope, terrace, etc.): Floodplain Local relief (concave, convex, none): none

Slope (%): 0-2% Lat: Long: Datum: NADV 88

Soil Map Unit Name: Millington silt loam NWI classification: None

Are climatic / hydrologic conditions on the site typical for this time of year? Yes ____ No ____ (If no, explain in Remarks.)

Are Vegetation X, Soil X, or Hydrology ____ significantly disturbed? Are "Normal Circumstances" present? Yes ____ No ____

Are Vegetation ____, Soil ____, or Hydrology ____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes X	No ____	Is the Sampled Area within a Wetland? Yes X No ____
Hydric Soil Present?	Yes X	No ____	
Wetland Hydrology Present?	Yes X	No ____	

Remarks:
Area has been recently filled in part.

VEGETATION – Use scientific names of plants.

	Absolute % Cover	Dominant Species?	Indicator Status
Tree Stratum (Plot size: 9.0 m2)			
1.			
2.			
3.			
4.			
5.			
	____ = Total Cover		
Sapling/Shrub Stratum (Plot size: 4.0 m2)			
1.			
2.			
3.			
4.			
5.			
	____ = Total Cover		
Herb Stratum (Plot size: 1.0 m2)			
1. Bromus inermis	5		UPL
2. Digitaria sanguinalis	10		FACU
3. Festuca elatior	25	x	FACU
4. Hordeum jubatum	5		FAC
5. Lolium perrene	25	x	FACU
6. Plantago lanceolata	5		FACU
7. Poa pratensis	25	x	FAC
8.			
9.			
10.			
	____ = Total Cover		
Woody Vine Stratum (Plot size: ____)			
1.			
2.			
	____ = Total Cover		

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC: 1 (A)

Total Number of Dominant Species Across All Strata: 3 (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 33% (A/B)

Prevalence Index worksheet:

Total % Cover of:	Multiply by:	
OBL species	x 1 =	
FACW species	x 2 =	
FAC species 30	x 3 =	90
FACU species 65	x 4 =	260
UPL species 5	x 5 =	25
Column Totals: 100 (A)		375 (B)

Prevalence Index = B/A = 3.75

Hydrophytic Vegetation Indicators:

___ 1 - Rapid Test for Hydrophytic Vegetation

___ 2 - Dominance Test is >50%

___ 3 - Prevalence Index is ≤3.0[1]

___ 4 - Morphological Adaptations[1] (Provide supporting data in Remarks or on a separate sheet)

___ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes ____ No X

Remarks: (Include photo numbers here or on a separate sheet.)
Hydrophytic vegetation criterion is not met

SOIL

Sampling Point: _____

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix Color (moist)	%	Redox Features Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks
0-12	10YR 2/2						sil	
12-18	10YR5/4		10YR2/1	<2	MnO		cl	

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators:

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5)
- ___ 2 cm Muck (A10)
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ 5 cm Mucky Peat or Peat (S3)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ___ Coast Prairie Redox (A16)
- ___ Dark Surface (S7)
- ___ Iron-Manganese Masses (F12)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed):

Type: _____

Depth (inches): _____

Hydric Soil Present? Yes _____ No X

Remarks:

Soil is not hydric.

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required; check all that apply)

- ___ Surface Water (A1)
- ___ High Water Table (A2)
- ___ Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- ___ Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Sparsely Vegetated Concave Surface (B8)
- ___ Water-Stained Leaves (B9)
- ___ Aquatic Fauna (B13)
- ___ True Aquatic Plants (B14)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres on Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Gauge or Well Data (D9)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Surface Soil Cracks (B6)
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Stunted or Stressed Plants (D1)
- ___ Geomorphic Position (D2)
- ___ FAC-Neutral Test (D5)

Field Observations:

Surface Water Present? Yes _____ No X Depth (inches): in channel

Water Table Present? Yes _____ No X Depth (inches): 8 inches

Saturation Present? (includes capillary fringe) Yes _____ No X Depth (inches): 8 inches

Wetland Hydrology Present? Yes _____ No X

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

Hydrology indicator is not met.

APPENDIX B

Floristic Quality Assessments

FLORISTIC QUALITY ASSESSMENT DATA POINT 1

SITE: 55 Riverside DP1
LOCALE:
BY: PDK
NOTES:

CONSERVATISM-BASED METRICS		ADDITIONAL METRICS	
MEAN C (NATIVE SPECIES)	1.67	SPECIES RICHNESS (ALL)	6
MEAN C (ALL SPECIES)	1.67	SPECIES RICHNESS (NATIVE)	6
MEAN C (NATIVE TREES)	0.50	% NON-NATIVE	0.00
MEAN C (NATIVE SHRUBS)	n/a	WET INDICATOR (ALL)	-1.00
MEAN C (NATIVE HERBACEOUS)	2.25	WET INDICATOR (NATIVE)	-1.00
FQAI (NATIVE SPECIES)	4.08	% HYDROPHYTE (MIDWEST)	1.00
FQAI (ALL SPECIES)	4.08	% NATIVE PERENNIAL	0.83
ADJUSTED FQAI	16.67	% NATIVE ANNUAL	0.17
% C VALUE 0	0.50	% ANNUAL	0.17
% C VALUE 1-3	0.17	% PERENNIAL	0.83
% C VALUE 4-6	0.33		
% C VALUE 7-10	0.00		

SPECIES ACRONYM	SPECIES NAME (NWPL/ MOHLENBROCK)	SPECIES (SYNONYM)	COMMON NAME	C VALUE	MIDWEST WET INDICATOR	NC-NE WET INDICATOR	WET INDICATOR (NUMERIC)	HABIT	DURATION	NATIVITY
aceneg	Acer negundo	Acer negundo var. violaceum	Ash-Leaf Maple		0 FAC	FAC	0	Tree	Perennial	Native
acesai	Acer saccharinum	Acer saccharinum	Silver Maple		1 FACW	FACW	-1	Tree	Perennial	Native
CXCRIS	Carex cristatella	Carex cristatella	Crested Sedge		4 FACW	FACW	-1	Sedge	Perennial	Native
cypesc	Cyperus esculentus	Cyperus esculentus	Chufa		0 FACW	FACW	-1	Sedge	Perennial	Native
echcru	Echinochloa crus-galli	Echinochloa crusgalli	Large Barnyard Grass		0 FACW	FAC	-1	Grass	Annual	Native
juneff	Juncus effusus ssp. solutus	Juncus effusus	Lamp Rush		5 OBL	OBL	-2	Forb	Perennial	Native

FLORISTIC QUALITY IASSESSMENT DATA POIT 1A

SITE: 55 Riverside DP1A
LOCALE:
BY: PDK
NOTES:

CONSERVATISM-BASED METRICS	
MEAN C (NATIVE SPECIES)	0.00
MEAN C (ALL SPECIES)	0.00
MEAN C (NATIVE TREES)	n/a
MEAN C (NATIVE SHRUBS)	n/a
MEAN C (NATIVE HERBACEOUS)	0.00
FQAI (NATIVE SPECIES)	0.00
FQAI (ALL SPECIES)	0.00
ADJUSTED FQAI	0.00
% C VALUE 0	1.00
% C VALUE 1-3	0.00
% C VALUE 4-6	0.00
% C VALUE 7-10	0.00

ADDITIONAL METRICS	
SPECIES RICHNESS (ALL)	7
SPECIES RICHNESS (NATIVE)	1
% NON-NATIVE	0.86
WET INDICATOR (ALL)	0.71
WET INDICATOR (NATIVE)	0.00
% HYDROPHYTE (MIDWEST)	0.29
% NATIVE PERENNIAL	0.14
% NATIVE ANNUAL	0.00
% ANNUAL	0.14
% PERENNIAL	0.86

SPECIES ACRONYM	SPECIES NAME (NWPL/ MOHLENBROCK)	SPECIES (SYNONYM)	COMMON NAME	C VALUE	MIDWEST WET INDICATOR	NC-NE WET INDICATOR	WET INDICATOR (NUMERIC)	HABIT	DURATION	NATIVITY
broine	Bromus inermis	BROMUS INERMIS	Smooth Brome		0 FACU	UPL	1	Grass	Perennial	Adventive
digsan	Digitaria sanguinalis	DIGITARIA SANGUINALIS	Hairy Crab Grass		0 FACU	FACU	1	Grass	Annual	Adventive
horjub	Hordeum jubatum	HORDEUM JUBATUM	Fox-Tail Barley		0 FAC	FAC	0	Grass	Perennial	Native
LOLPER	Lolium perenne	LOLIUM PERENNE	Perennial Rye Grass		0 FACU	FACU	1	Grass	Perennial	Adventive
plalan	Plantago lanceolata	PLANTAGO LANCEOLATA	English Plantain		0 FACU	FACU	1	Forb	Perennial	Adventive
poapra	Poa pratensis	POA PRATENSIS	Kentucky Blue Grass		0 FAC	FACU	0	Grass	Perennial	Adventive
fesela	Schedonorus pratensis	FESTUCA ELATIOR	Meadow False Rye Grass		0 FACU	FACU	1	Grass	Perennial	Adventive

Matt Asselmeier

From: Greg Chismark <gchismark@wbkengineering.com>
Sent: Saturday, November 13, 2021 4:29 PM
To: Matt Asselmeier
Subject: RE: [External]RE: Unincorporated Kendall County

Yes, I have a comment.
The base flood elevation of the Fox River in proximity to this lot is 582. The County GIS contours indicates there is hydraulic connectivity from the Fox River to the property. The survey submitted shows elevations lower than 582 which documents floodplain exists on the property.
Unless the petitioner can provide a survey that depicts ground elevation at or above 582 between the lot and the Fox River, my opinion is that there is floodplain on the lot. Let me know if you need anything formal on this.
Greg

Greg Chismark, PE
President
Direct: (630) 338-8527| Main: (630) 443-7755
gchismark@wbkengineering.com

WBK Engineering, LLC
116 W. Main Street, Suite 201, St. Charles, IL 60174

Part of Bodwé Professional Services

From: Matt Asselmeier <masselmeier@co.kendall.il.us>
Sent: Friday, November 12, 2021 8:49 AM
To: Greg Chismark <gchismark@wbkengineering.com>
Subject: RE: [External]RE: Unincorporated Kendall County

Greg:

The owner of Lot 183 in Fox River Gardens is submitting an application to rezone the property R-3 in order to build 2 houses.

The Petitioner submitted the attached topographic survey and is claiming no floodplain and no BFE on the property.

Do you have any comments on this?

Thanks,

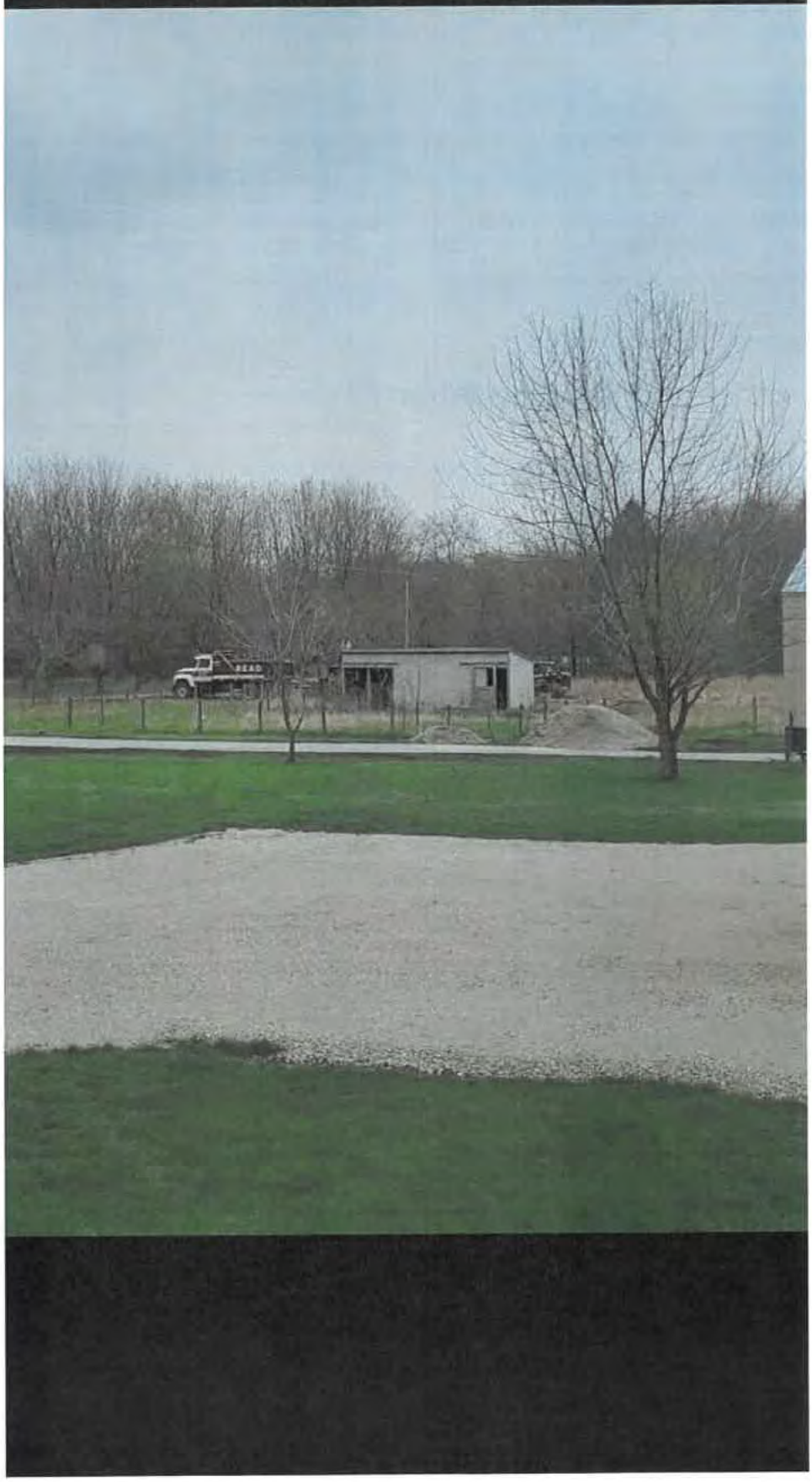
Matthew H. Asselmeier, AICP, CFM
Senior Planner
Kendall County Planning, Building & Zoning
111 West Fox Street
Yorkville, IL 60560-1498
PH: 630-553-4139
Fax: 630-553-4179

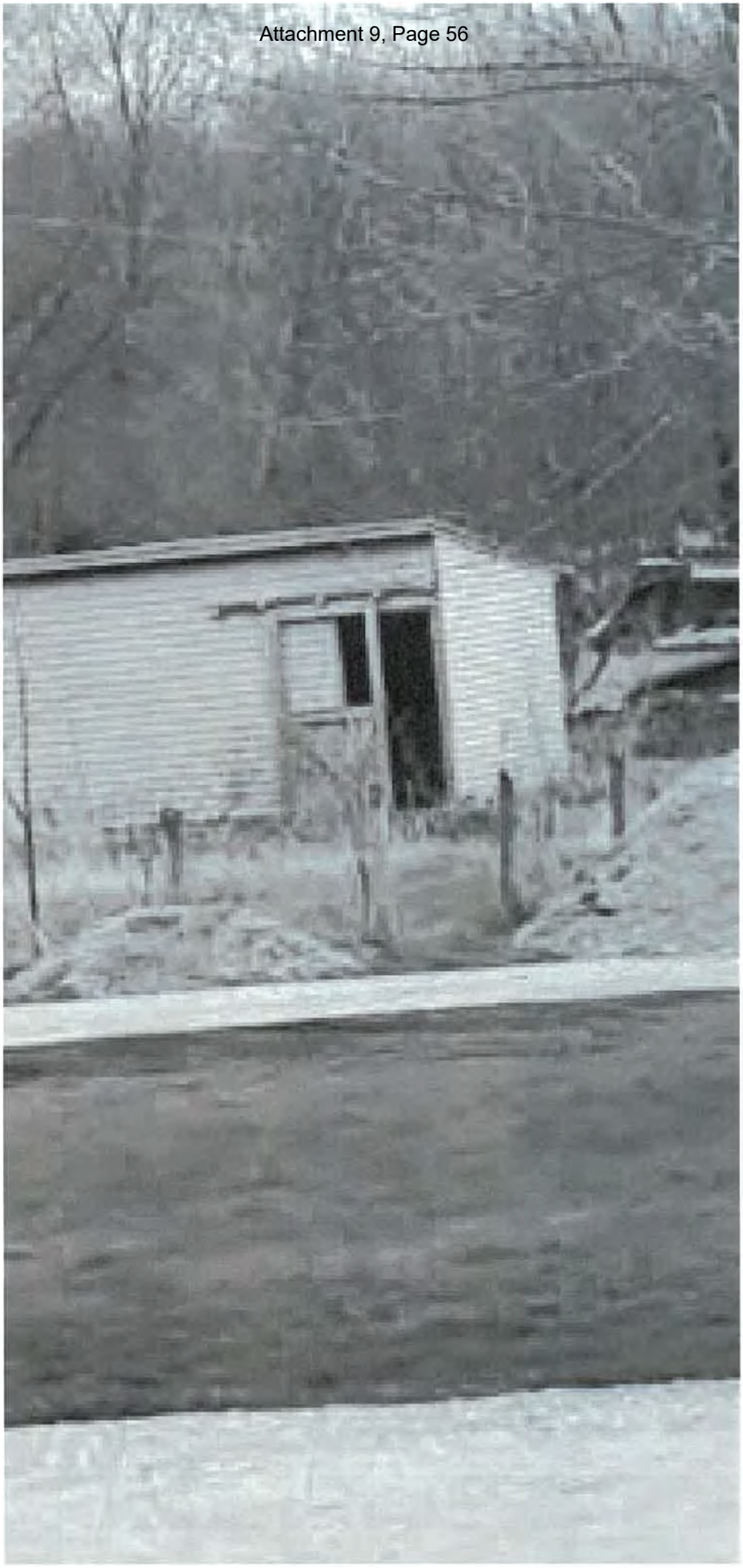

Attachment 6
Aerial for
02-34-130-004
YORKVILLE RD
02-34-129-005
02-34-129-010
02-34-130-005
16 YORKVILLE RD
02-34-130-004
RIVERSIDE ST
44 RIVERSIDE ST
02-34-204-006
RIVERSIDE ST
02-34-204-005
02-34-176-003
Approximate floodplain area below 582'. Please see topographic survey for exact area.
N
0
50
100
200
Feet
Kendall County GIS
111 West Fox Street - Room 308
Yorkville, Illinois 60560
630.553.4212

EXHIBIT
G


EXHIBIT
H


10:33 AT&T
84%
20210409_0832...
CC
GIF
2:05
3:04
EXHIBIT
I





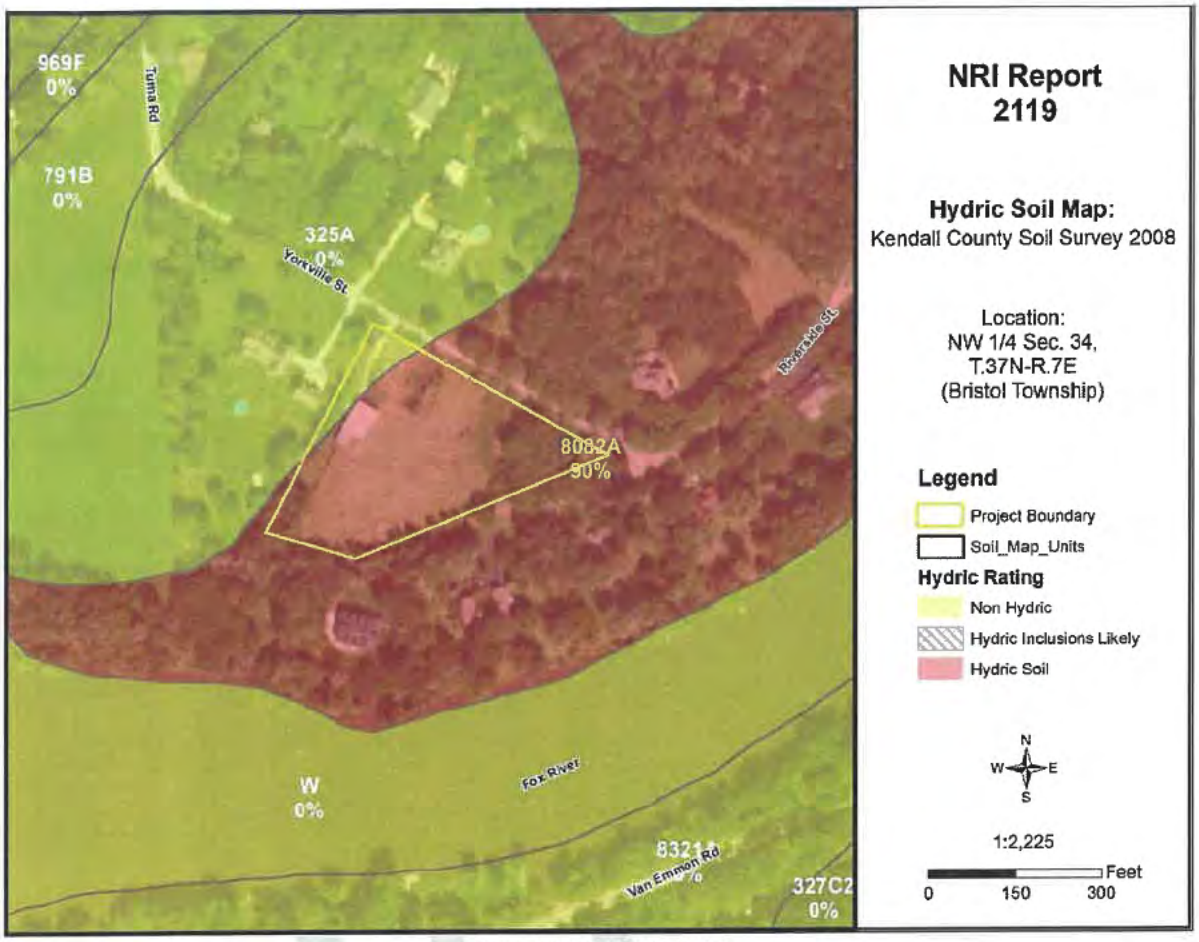


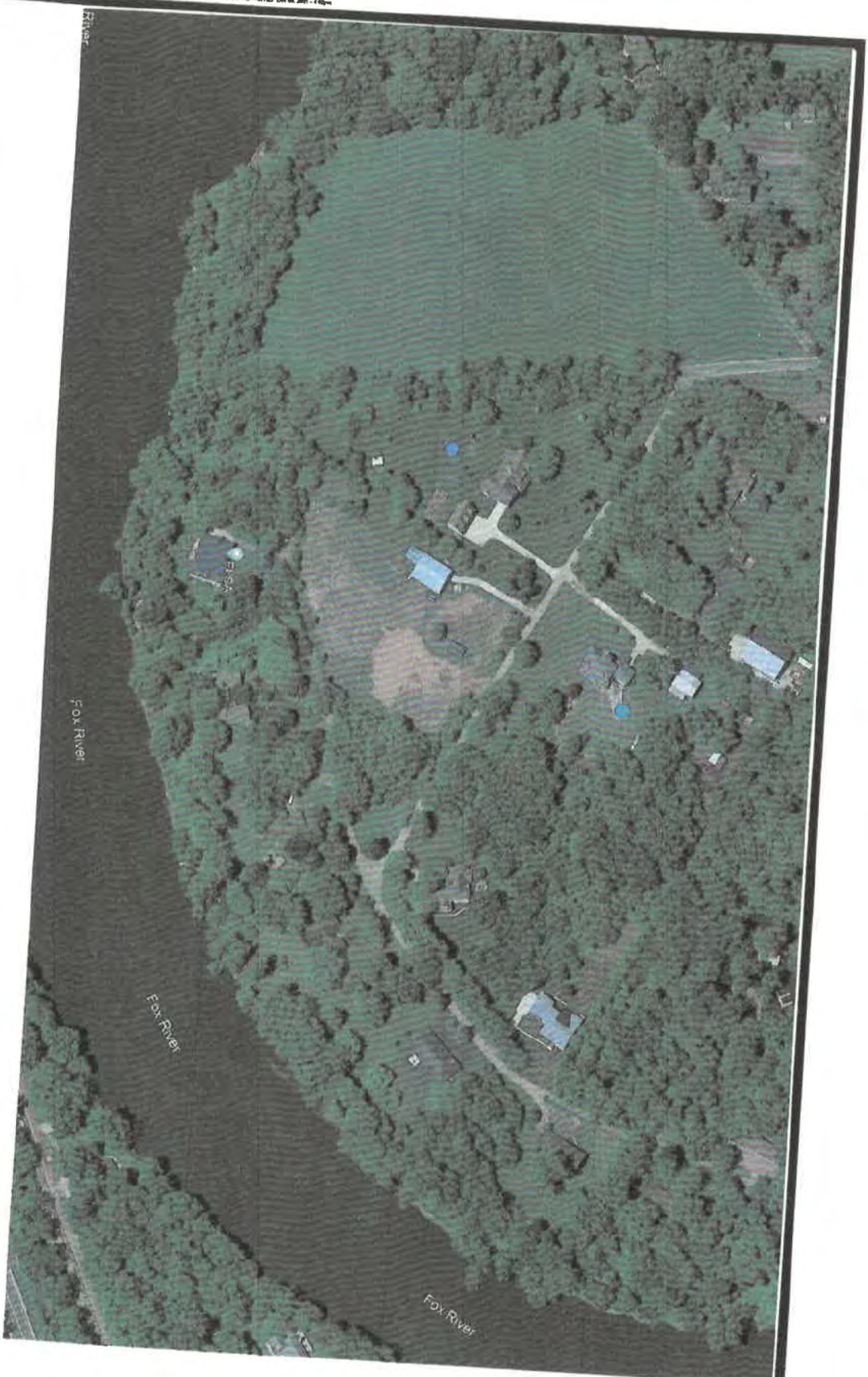
Figure 11: Hydric Soil Map

EXHIBIT
J

NRI 2119 December 2021

Figure 6B: Map of Building Limitations – Dwellings without Basements, Shallow Excavations, and Lawns/Landscaping

EXHIBIT
K



CONTEXT AERIAL

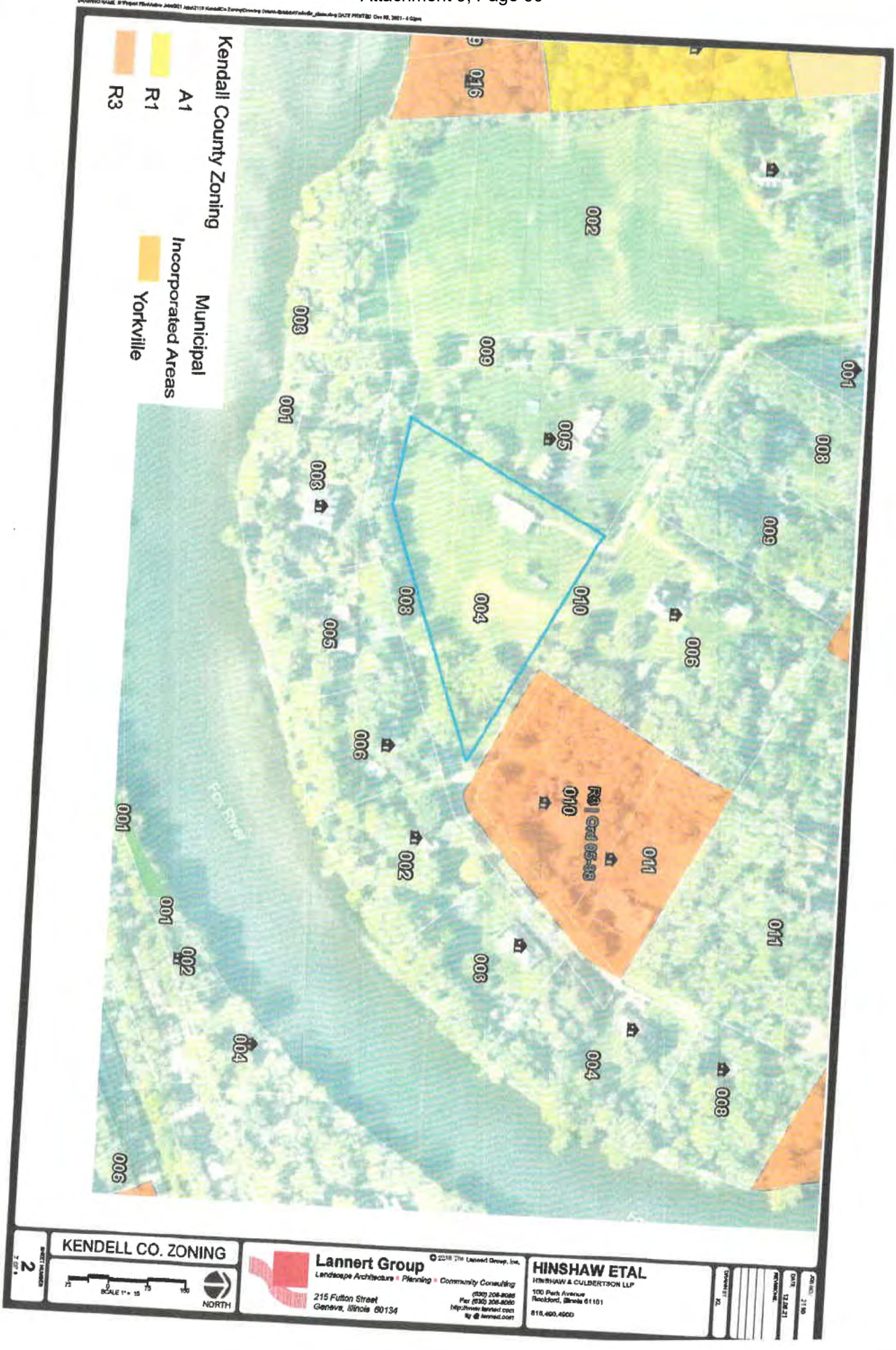
SCALE 1" = 75'

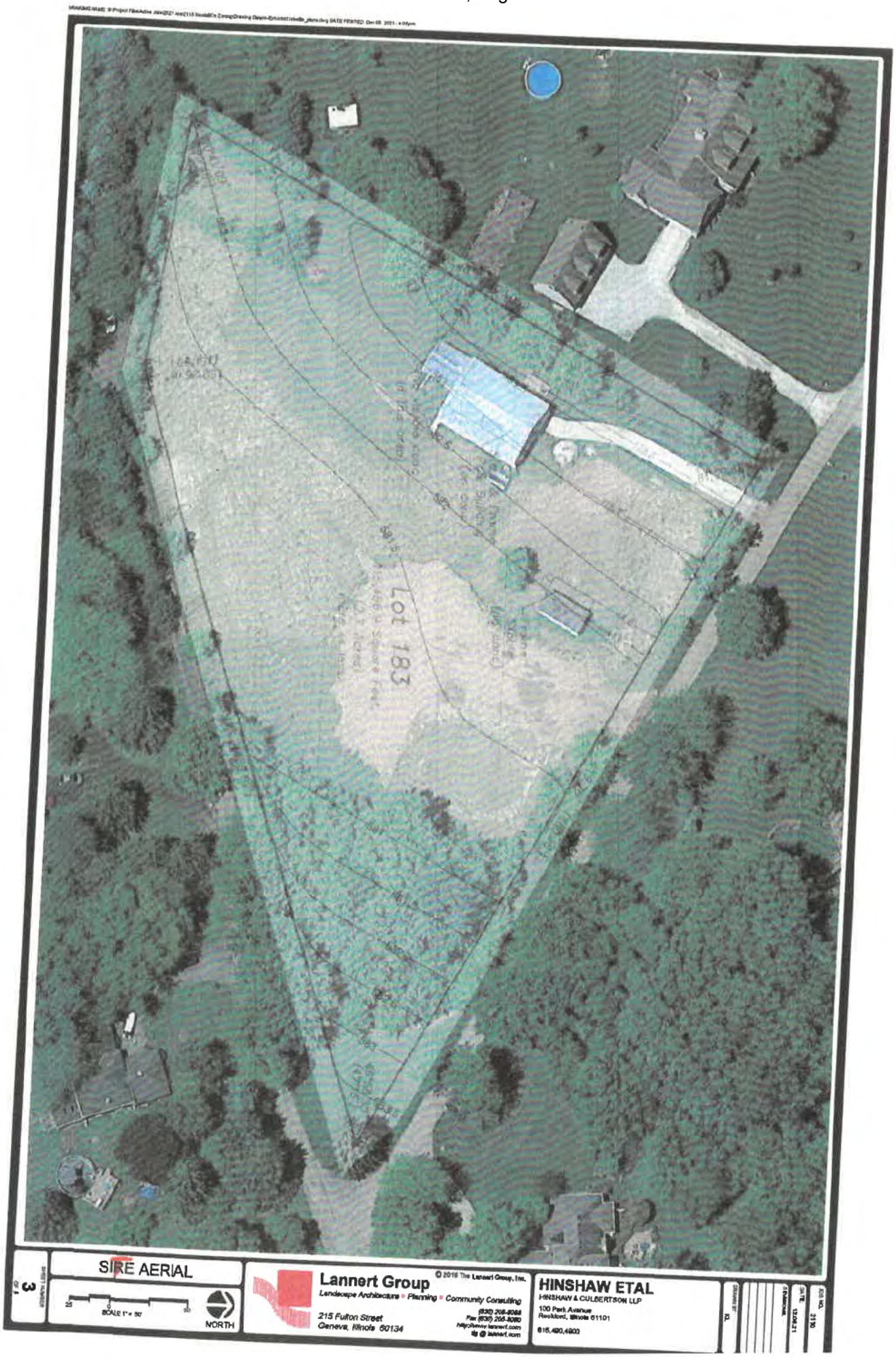
NORTH

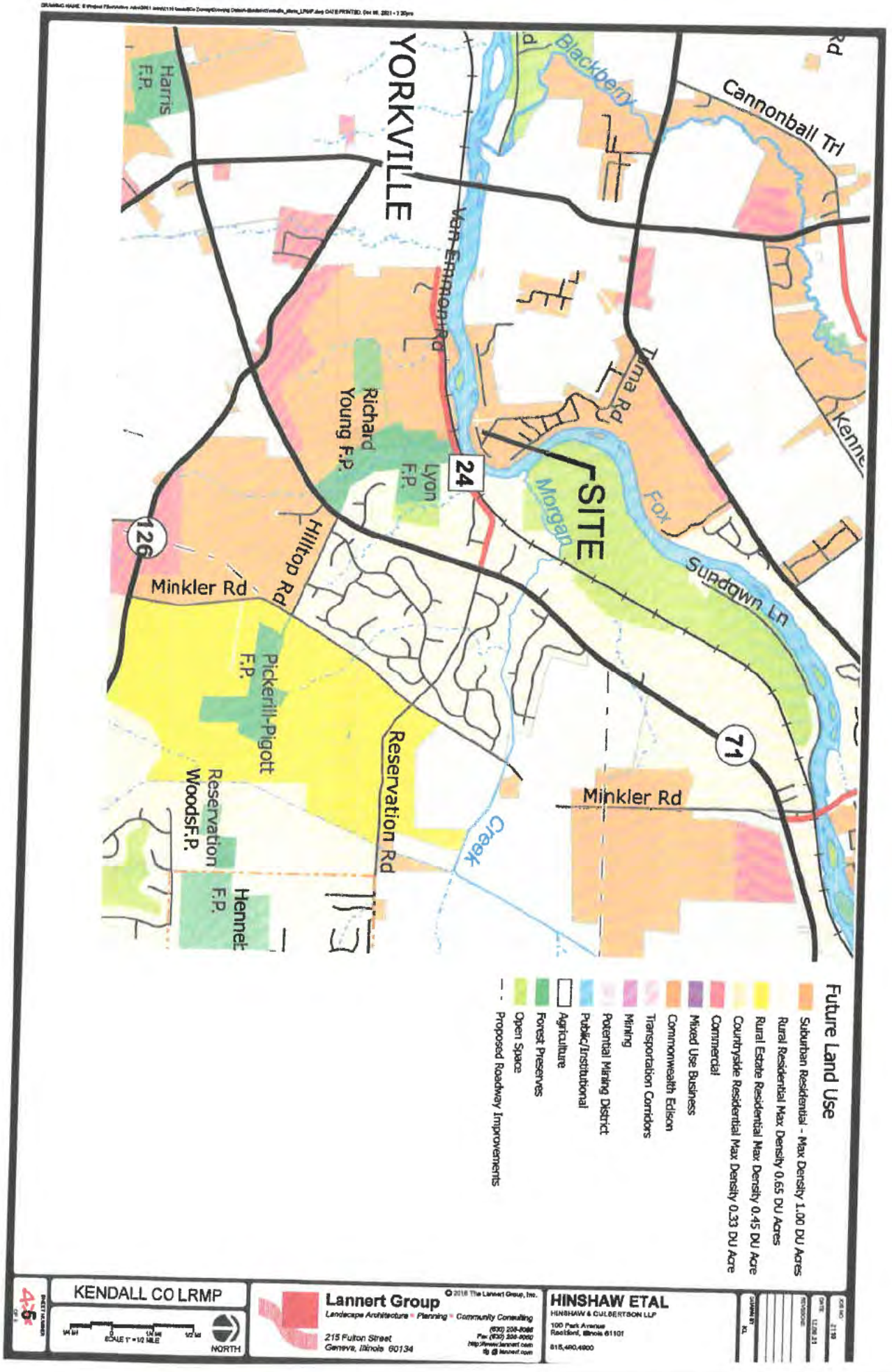
Lannert Group
Landscape Architecture • Planning • Community Consulting
215 Fulton Street
Geneva, Illinois 60134
(630) 208-8055
Fax: (630) 208-8050
http://www.lannert.com
lg@lannert.com

HINSHAW ETAL
HINSHAW & CULBERTSON LLP
100 Park Avenue
Rockford, Illinois 61101
815.490.4900

DATE: 12/06/21


Kendall County Zoning
A1
R1
R3
Municipal
Incorporated Areas
Yorkville
R3 | Ord 05-13
Fox River
KENDELL CO. ZONING
SCALE 1" = 150'
NORTH
Lannert Group
Landscape Architecture • Planning • Community Consulting
215 Fulton Street
Geneva, Illinois 60134
HINSHAW ETAL
HINSHAW & CULBERTSON LLP
100 Park Avenue
Rockford, Illinois 61101
815.490.4900


Lot 183
SITE AERIAL
SCALE 1" = 50'
NORTH
Lannert Group
Landscape Architecture • Planning • Community Consulting
215 Fulton Street
Geneva, Illinois 60134
HINSHAW ETAL
HINSHAW & CULBERTSON LLP
100 Park Avenue
Rockford, Illinois 61101
815.490.4900


YORKVILLE
Harris F.P.
Blackberry
Cannonball Trl
Van Emmon Rd
Tuma Rd
Richard Young F.P.
Lyon F.P.
24
SITE
Morgan
Fox
Sundown Ln
126
Minkler Rd
Hilltop Rd
Pickerill-Pigott F.P.
Reservation Rd
Reservation Woods F.P.
Hennet F.P.
71
Minkler Rd
Creek
Future Land Use
Suburban Residential - Max Density 1.00 DU Acres
Rural Residential Max Density 0.65 DU Acres
Rural Estate Residential Max Density 0.45 DU Acre
Countryside Residential Max Density 0.33 DU Acre
Commercial
Mixed Use Business
Commonwealth Edison
Transportation Corridors
Mining
Potential Mining District
Public/Institutional
Agriculture
Forest Preserves
Open Space
Proposed Roadway Improvements
KENDALL CO LRMP
SHEET NUMBER
4 of 5
SCALE 1" = 1/2 MILE
NORTH
Lannert Group
Landscape Architecture • Planning • Community Consulting
215 Fulton Street
Geneva, Illinois 60134
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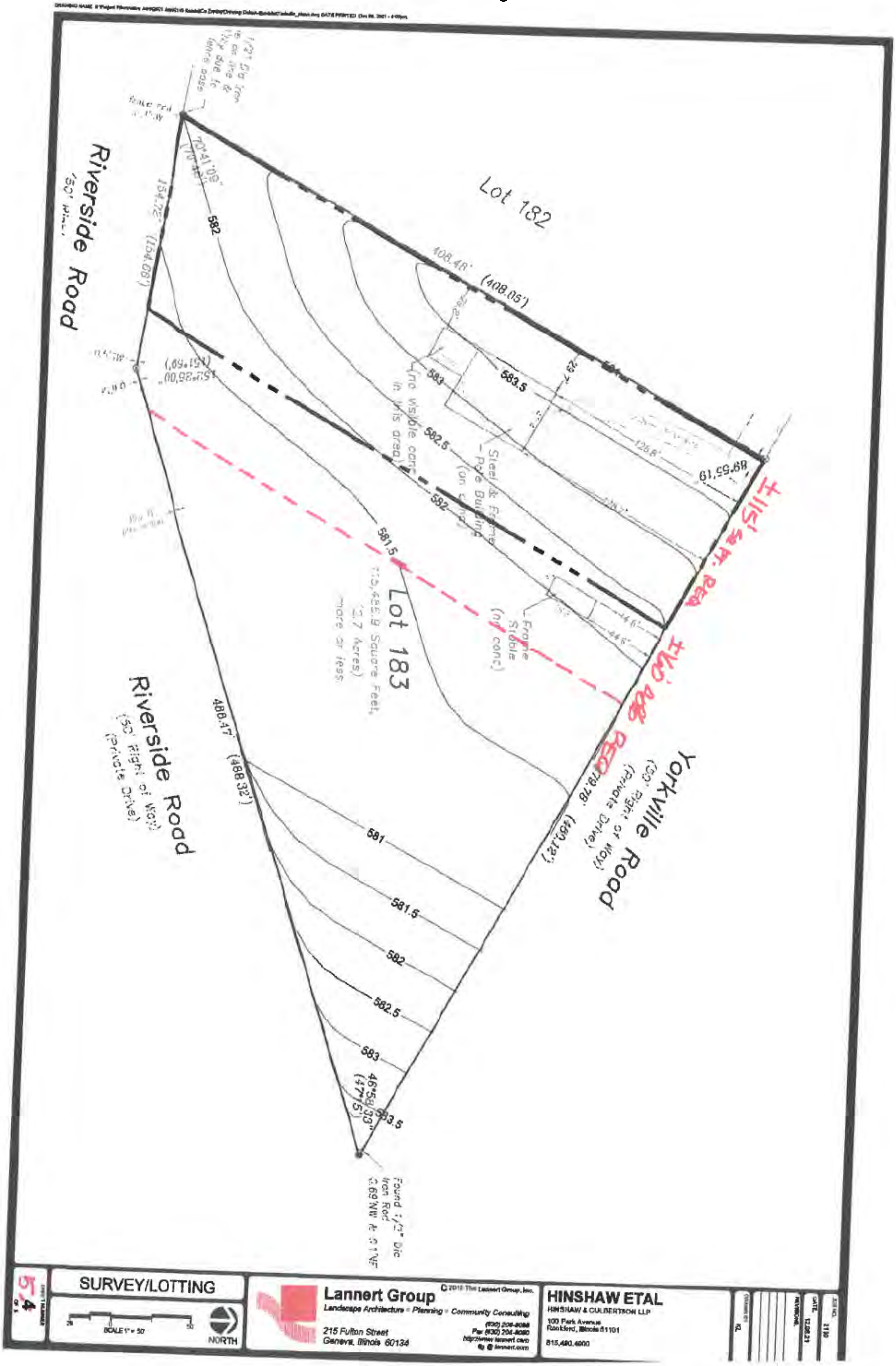
Lot 182
408.48'
(408.05')
Riverside Road
154.72'
(154.66')
70°41'09"
152°26'00"
(151°69')
Steel & Frame
Pole Building
(on conc)
(no visible conc in this area)
125.8'
89°55'19"
Frame
Stable
(no conc)
44.6'
Lot 183
115,486.9 Square Feet,
(2.7 Acres)
more or less
Riverside Road
(50' Right of Way)
(Private Drive)
488.47'
(488.32')
Yorkville Road
(50' Right of Way)
(Private Drive)
479.78'
(480.12')
#115 SEPT. REQ
#140 400 REQ
46°58'33"
(47°15')
Found 1/2" Dia
Iron Rod
0.69'NW & 0.1'NE
582
583.5
583
582.5
582
581.5
581
581.5
582
582.5
583
583.5
SURVEY/LOTTING
SCALE 1" = 50'
NORTH
5.4
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Rockford, Illinois 61101
815.490.4900
12.08.21
2190

Matt Asselmeier

From: Alyse Olson <aolson.kcswcd@gmail.com>
Sent: Friday, December 3, 2021 9:32 AM
To: Matt Asselmeier
Subject: [External]Re: December 7 ZPAC Packet

Hi Matt,

I will not be able to attend Tuesday's ZPAC meeting. I have prepared comments for each petition. They are listed below.

Petition 21-48: Brian Henrichs on Behalf of Baka Properties, LLC (NRI Report 2119)

- A draft of the NRI report is complete but still needs to be approved by the Kendall County Soil & Water Conservation (SWCD) Board. Once approved it will be sent to the petitioner, township, & county.
- The site does not contain mapped wetlands or floodplain. The Fox River, however, is located a few hundred feet south of the parcel. The petitioner should consult with the Illinois Department of Natural Resources Office of Water Resources (IDNR OWR) and the U.S. Army Corps of Engineers to determine if any permits are needed prior to construction.
- The SWCD recommends having a soil erosion and sediment control plan in place for protecting nearby waters/wetlands during construction. If construction is an acre or more in size, the petitioner should obtain the proper NPDES permit from the Illinois Environmental Protection Agency (IEPA) for construction activities.
- About 93% of the parcel contains hydric soils, which can lead to building limitations. Most of the site is classified as very limited for dwellings with basements, dwellings without basements, shallow excavations, and lawns/landscaping. Soil types with severe limitations do not preclude the ability to develop the site for the proposed use, but it is important to note that the limitation may require soil reclamation, special design/engineering, or maintenance to obtain suitable soil conditions to support the development.

Petition 21-49: Irma Loya Quezada (NRI Report 2120)

- A draft of the NRI report is complete but still needs to be approved by the Kendall County Soil & Water Conservation (SWCD) Board. Once approved it will be sent to the petitioner, township, & county.
- The SWCD recommends having a soil erosion and sediment control plan in place for protecting nearby waters/wetlands during construction. If construction is an acre or more in size, the petitioner should obtain the proper NPDES permit from the IEPA for construction activities.
- The whole site contains soils that are classified as very limited for constructing dwellings with basements and for shallow excavations. This does not preclude the ability to develop the site for the proposed use, but it is important to note that the limitation may require soil reclamation, special design/engineering, or maintenance to obtain suitable soil conditions to support the development.

Petition 21-50: Tim Raymond on Behalf of TMF Plastic Solutions, LLC

- The site does not contain mapped wetlands or floodplain. Big Rock Creek, however, is located a couple hundred feet west of the parcel. The petitioner should consult with the Illinois Department of Natural Resources Office of Water Resources (IDNR OWR) and the U.S. Army Corps of Engineers to determine if any permits are needed.
- The SWCD recommends having a soil erosion and sediment control plan in place for protecting nearby waters/wetlands during construction.

KENDALL COUNTY
REGIONAL PLANNING COMMISSION

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

Unapproved - Meeting Minutes of December 8, 2021 - 7:00 p.m.

Chairman Ashton called the meeting to order at 7:01 p.m.

ROLL CALL

Members Present: Bill Ashton, Roger Bledsoe, Tom Casey, Karin McCarthy-Lange, Larry Nelson, Ruben Rodriguez, Bob Stewart, Claire Wilson, and Seth Wormley
Members Absent: Dave Hamman
Staff Present: Matthew H. Asselmeier, Senior Planner
Others Present: Greg Dady, Gregg Ingemunson, Brian Henrichs, Rick Porter, Chris Lannert, Pat Kelsey, Rick Porter, James Kohout, James Clune, Shabbir Shamsuddin, and Gerald Chase

PETITIONS

Petition 21-48 Brian Henrichs on Behalf of Baka Properties, LLC

Mr. Asselmeier summarized the request.

The Petitioner is requesting a map amendment rezoning the subject property from A-1 Agricultural District to R-3 One Family Residential District.

The Petitioner plans to submit preliminary and final plats dividing the property into two (2) parcels in order to construct one (1) house on each new parcel.

The application materials, plat of survey, topographic survey, and aerial of the property were provided.

55 ILCS 5/5-12014(b)(B) allows for written protests signed by the owner or owners of land immediately touching, or immediately across a street, alley, or public right-of-way from, at least 20% of the perimeter of the land to be rezoned. In such cases, a three quarters (3/4) vote of the entire County Board is necessary to approve the map amendment. On November 30, 2021, this type of written protest was submitted to the County; the protest was provided.

The property is addressed as 55 Riverside Street and is Lot 183 in the Fox River Gardens Subdivision.

The property is approximately two point seven (2.7) acres in size.

The current land is Vacant; the property was previously used as horse pasture.

The Kendall County Future Land Use Map called for the property to be Suburban Residential (Max 1.00 DU/Acre). Yorkville's Future Land Use Map called for the property to be Estate/Conservation Residential.

Yorkville Road and Riverside Street are private streets.

Mr. Asselmeier read an email from Greg Chismark noting floodplain on the property and provided a map showing the approximate locations of the floodplain. There were no wetlands on the property.

The adjacent land uses were Single-Family Residential.

The adjacent properties were zoned A-1 and R-3.

The Kendall County Future Land Use Map called for the area to be Suburban Residential (Max 1.00 DU/Acre). Yorkville's Future Land Use Map called for the area to be Estate/Conservation Residential.

Zoning districts within one half (1/2) of a mile included A-1, A-1 SU, R-1, R-2, and R-3 in the unincorporated area. Properties inside Yorkville were zoned R-2 and OS-2.

The A-1 special use to the north was for a campground (Hide-A-Way Lakes).

EcoCat submitted on November 10, 2021. Protected resources may be in the vicinity, but adverse impacts were unlikely and consultation was terminated.

NRI application submitted on November 12, 2021. The draft LESA Score was 120 indicating a low level of protection.

Bristol Township was emailed information on November 16, 2021.

The Yorkville Economic Development Committee reviewed this proposal on December 7, 2021, and did not issue a recommendation. The Yorkville Planning and Zoning Commission will review this proposal on December 8, 2021.

The Bristol-Kendall Fire Protection District was emailed information on November 16, 2021.

ZPAC reviewed this proposal at their meeting on December 7, 2021. Discussion occurred about floodplain on the lot and restrictions about building in the floodplain. Appropriate federal, state, and local permits would be needed to build in the floodplain and applicable insurance would be required. An alternative septic system would likely be needed.

Rick Porter presented an objection to the requested rezoning from several neighbors. He felt having a R-3 zoned property in the area was inappropriate. He noted the exemptions in the Zoning Ordinance that allows houses on A-1 zoned properties. He noted the deed restrictions and argued that only one (1) home was allowed on Lot 183. The density would not be compatible with area. He noted that wetlands are located on the property. He noted the area and streets are prone to flooding with odor issues from septic systems and sanitary issues will worsen. He also noted the large amount of hydric soils on the property. Additional buildings will create additional flooding on downstream property owners. He also stated that the Petitioner has a history of not complying with County regulations. The trend of development is not toward increased density. Mr. Porter said the Committee could recommend R-1 zoning under the Zoning Ordinance.

Chris Lannert said development of the site was difficult. He argued that the previous rezoning in the area was probably illegal. He noted that fill had been placed on the property. He said it was a beautiful natural area. The Petitioner should not be able to build more than one (1) house on the parcel. Only a small portion of the lot was buildable. He advised the Committee not to be put into a position to accept the subdivision because the rezoning was approved.

Boyd Ingemunson, Attorney for the Petitioner, noted that the lot and neighboring lot merged Parcel Identification Numbers, otherwise the Petitioner could build one (1) house. He noted that every lot in the area

was challenging to build. He noted that the request meets the Land Resource Management Plan and the intent of the subdivision. Mr. Asselmeier asked if the Petitioner was aware that, if the request was approved, two (2) houses might not be able to be built on the lot. Mr. Ingemunson acknowledged that the lot has challenges and will have to meet regulations.

Mr. Klaas questioned the nature of the Petition. Mr. Asselmeier responded the present request is to rezone the property. If the rezoning was approved, the Petitioner could pursue a subdivision with the intent of placing two (2) houses on the existing parcel. Mr. Ingemunson said the Petitioner would ideally like to have the ability to build two (2) houses. The item before the County is rezoning the property. Mr. Klaas felt the Petition was flawed with the possibility that more than one (1) house could be placed on the parcel. He felt that the parcel should be entitled to one (1) and only one (1) house.

Mr. Guritz noted that deed restrictions exist. Discussion occurred regarding the deed restrictions. The question was raised regarding which entity enforces the deed restrictions.

Mr. Asselmeier noted that agricultural activities could occur on all of the properties in the area. He also noted that, if the rezoning was approved, a future property owner could decide to do a subdivision.

Dee Studler described the neighborhood. She noted the animals in the area. She noted the people admiring natural beauty when traveling in their kayaks down the river. The area was not high density. She said the Petitioner has already violated the deed restrictions and will not follow the rules. Mr. Asselmeier asked Ms. Studler if she would be fine if the Petitioner used the property for a cattle or hog farm. Ms. Studler responded yes.

Mr. Asselmeier explained how the property was originally zoned A-1.

James Kohoot, Dave Morgan, and Gerald Chase stated they were in favor of allowing the Petitioner to have one (1) house, but were opposed to multiple houses on the property.

Dave Morgan and JoAnn Willingham express concerns about stormwater runoff and standing water.

Dave Morgan also expressed concerns related to property values, lighting, and traffic congestion.

Shabbir Shamsuddin expressed concerns regarding the width of the road and septic issues.

Mr. Asselmeier asked Mr. Ingemunson if the Petitioner would be interested in obtaining a conditional use permit for single-family home while retaining the A-1 zoning. Mr. Ingemunson responded that he would need to discuss the matter with the Petitioner.

Chairman Gengler felt that only one (1) house should be on the property.

ZPAC recommended denial of the request map amendment by a vote of seven (7) against the proposal, one (1) in favor of the proposal and two (2) members absent. The minutes were provided.

The Petitioner desired to rezone the subject property in order to subdivide the property into (2) parcels and construct one (1) house on each of the two (2) new parcels created for a total of two (2) new houses.

Section 8:07.H of the Kendall County Zoning Ordinance does not allow properties larger than ten (10) acres in size to rezone to the R-3 One Family Residential District. The subject property is less than ten (10) acres in size.

The minimum lot size in the R-3 One Family Residential District is forty-five thousand (45,000) square feet.

Any new homes or accessory structures would be required to meet applicable building codes.

According to the Plat of Survey, there is one (1) existing steel and frame pole building and one (1) frame stable on the property.

No public or private utilities are onsite. Electricity is at Yorkville Road and Riverside Street.

The property fronts Yorkville Road and Riverside Street, two (2) private roads.

Any new driveways constructed would be for residential purposes. Any new driveways would have to meet applicable regulations and secure proper permits.

No new odors are foreseen.

Any new lighting would be for residential use only.

Any fencing, landscaping, or screening would be for residential purposes.

Any signage would be residential in nature.

No noise is anticipated.

Any new homes would have to be constructed per Kendall County's Stormwater Management Ordinance.

The proposed Findings of Fact were as follows:

Existing uses of property within the general area of the property in question. The surrounding properties are used for used for single-family residential uses.

The Zoning classification of property within the general area of the property in question. The surrounding properties are zoned A-1 or R-3.

The suitability of the property in question for the uses permitted under the existing zoning classification. The property is presently zoned A-1. The property is less than forty (40) acres and does not qualify for any agricultural housing allocations. No new single-family homes can be constructed on the subject property without a map amendment.

The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was in its present zoning classification. The Zoning Board of Appeals shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and is not solely for the interest of the applicant. The Zoning Board of Appeals may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification than that requested by the applicant. For the purpose of this paragraph the R-1 District shall be considered the highest classification and the M-2 District shall be considered the lowest classification. The trend of development in the area is single-family residential uses found in rural settings with wooded lots.

Consistency with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. The Future Land Use Map in the Land Resource Management

Plan classifies this property as Suburban Residential. The maximum density for the Suburban Residential classification is one density unit per acre (1.00 DU/Acre). The minimum lot size for R-3 One Family Residential District zoned land is slightly over one (1) acre at forty-five thousand (45,000) square feet. Accordingly, the R-3 One Family Residential District is consistent with the Suburban Residential classification.

Staff recommended approval of the proposed map amendment because the proposal is consistent with the Land Resource Management Plan.

Mr. Asselmeier noted that the Planning, Building and Zoning Department would not enforce any deed or covenant restrictions in the subdivision. Also, the parcel might be old enough to qualify for the one (1) time division allowance under the Plat Act. There was a way to divide the property that would not involve the creation of new easements.

The subject property and property to west shared one (1) parcel identification number.

Chairman Ashton asked if the Commission had to consider the buildability of the property. Mr. Asselmeier responded that was not a consideration in cases of map amendments.

Commissioners reviewed the aerial showing the approximate location of floodplain. They have to obtain necessary permits to build in the floodplain. The possibility existed that the rezoning could be approved and no permits would be issued.

Boyd Ingemunson, Attorney for the Petitioner, said building in the floodplain was allowed with parameters. A mechanical septic system probably would be required. Applicable permits would be required. The buildability of the lot has not been determined.

Mr. Ingemunson noted that many of the houses in the area on located on lots less than one (1) acre is size; the subdivision was platted before the County adopted zoning.

Rick Porter, Attorney for the Objectors, distributed an objection. He stated that the subject property was combined with the neighboring lot under one (1) parcel identification number. He discussed the exemption that allows parties to build on property less than forty (40) acres. He argued that two (2) dwellings would be inappropriate for the area. He discussed issues and odors related to the septic systems in the area. He noted the less density in the area. He stated that his clients support having one (1) home on the subject property provided the property has a septic mound. He suggested that the Commission recommend a higher classification like R-1 or R-2. He noted the density and lot size of lots in the area and the Objectors' properties. He said the Petitioner was not neighborly. He stated that wetlands exist on the property. Fill was placed on the property in spring 2020. He provided a picture of flooding on River Street. He noted the amount of hydric soils on the property.

Chris Lannert stated the lot should not be subdivided. He noted the uniqueness of the area. He felt the R-3 zoning that was previously granted occurred improperly. He noted the location of wetlands on the property and the area where fill occurred. He noted the open space of the area. He called the development of two (2) lots unnecessary. He discussed several objectives in the Land Resource Management Plan related to stormwater and preserving the environment. He noted the amount of land available for one (1) house on the property.

Pat Kelsey discussed the fill on the property. He provided a picture of the fill. He discussed the drainage and plants in the area. He discussed the difficulty of putting septic systems in hydric soils and in the area. He discussed the engineering and earthwork that would need to occur to raise buildings out of the floodplain.

Member Rodriguez asked if this subject property was the lowest point in the area. Mr. Kelsey responded that the houses along the Fox River were naturally elevated.

Member Wilson asked about the location of the wetlands. Mr. Kelsey explained that the wetland grows and shrinks. Mr. Kelsey said approximately less than twenty-five percent (25%) of the property was impacted by the wetland. He said a wet stream was located on the property; he described the flow of the stream. There is a culvert under Yorkville Road.

Mr. Ingemunson explained rights of property owners. He said that the density of the area would not change if two (2) houses were constructed in the area. He discussed the previous map amendment for the Petitioners adjacent property in 2005. He noted that several of the objectors purchased their properties prior to the Petitioner's other application and none of the neighbors objected to that proposal at that time. He noted hydric soils on neighboring properties. He noted that the deed restrictions did not prevent houses from being constructed on the property. He said it would be unreasonable to get farm implements to the property. He explained that the area is residential and residential zoning was appropriate; the land was not suitable for most agricultural uses. He noted that none of the neighbors objected to the classification in the Land Resource Management Plan. He stated that his client operated within the regulations with regards to the placement of fill. He also said neighbors did not like the Petitioners.

Member Wormley asked why the Petitioner wanted two (2) homes on the property. He questioned whether or not two (2) homes could actually fit on the parcel. He noted the issues raised by building homes on wet ground. Brian Henrichs, Petitioner, said the parcel was to keep his kids and grandkids in the area.

Mr. Porter argued the Petitioner does not have a right to rezoning. He said that neighbors did not receive notice about the rezoning in 2005. Chairman Ashton said the deed restrictions did not matter. Mr. Porter discussed the existing uses and the proposed densities and discussed the facts needed to rezone the property.

Member Nelson asked about the notice requirements. Mr. Porter said notice had to be proper and jurisdictional requirements never expire.

Discussion occurred regarding the definition of Suburban Residential.

Discussion occurred regarding the value of the lot.

Member Wilson asked the fill in the wetland. Fill was placed in area that was modeled by FEMA. Elevation by concrete structure could occur. No permit was issued for the placement of fill.

Dee Studler, neighbor, explained the neighborhood and uses in the neighborhood. She expected the area to be agricultural. She noted the judgment that recently occurred related to a tree dispute. She discussed the plants and animals that can be viewed from the Fox River. Mr. Ingemunson discussed the tree and access disputes.

James Kohout, neighbor, said that he still uses his property as active agriculture. He was agreeable to having one (1) home on the property. He noted that a portion of the Petitioner's other property was less than forty-five thousand (45,000) square feet. He questioned if the Petitioner would follow regulations. He stated that he visited with Mr. Asselmeier and Mr. Asselmeier indicated that farm animals could be placed on the property.

Member Wormley asked if Mr. Kohout favored the map amendment. Mr. Kohout did not want two (2) houses on the subject property. Member Wormley asked about changing the covenants. The zoning could invite other issues.

Member Nelson suggested neighbors should buy-out the Petitioner; the lot will be very expensive to build.

A neighbor said the southern portion of Fox River Gardens was different than the northern portion of Fox River Gardens. He noted the frequency of his sump pump running. He noted issues exist between neighbors. He was concerned about property values. He did not object to one (1) house on the property. The neighbors just want to protect and preserve the neighborhood.

James Clune, neighbor, was opposed to any buildings on the property because of the floodplain, stormwater, and mosquitos. He was concerned about the neighborhood getting a bad reputation with Realtors.

Shabbir Shamsuddin, neighbor, said that the has lived in the area since 1992. He was not against the Petitioner. He did not receive notice of the rezoning in 2005. He discussed the septic issues he has at his property. His yard was underwater when it rains. He said building one (1) home will cause issues with hydrology. He was also concerned about property values and increased traffic.

Gerald Chase, neighbor, said that he has not received notice of the previous zoning change. He was concerned about drainage and the impact of a second on the water situation.

Member Stewart asked about making motion for a zoning classification other than the requested R-3. Mr. Asselmeier responded the Commission could make that motion. The property is too small to meet the R-1 square footage requirements, but does meet the R-2 square foot requirements. Mr. Asselmeier provided the minimum square footage requirements for R-1, R-2, and R-3.

Mr. Porter indicated his clients would not be opposed to variance to the R-1 minimum square foot requirements.

Discussion occurred regarding doing a conditional use permit under A-1 to obtain one (1) house.

Member Rodriguez felt that one (1) house was enough and the challenges of building houses on the property.

Member Nelson asked if the Petitioner was aware that rezoning to R-3 forbids farm animals.

Mr. Henrichs explained the water table in the area. He said no wetlands were located on the property. He said that he likes wooded lots. He said that his septic system works fine. He noted that the back of his lot is a natural drainage area.

Member Wilson asked if the Petitioner would have to amend his Petition for R-2. Mr. Asselmeier said the Zoning Board of Appeals could recommend R-2. Additional discussions would have to occur if the advisory boards recommended one (1) classification and the Petitioner wanted a different classification.

Member Wilson made a motion, seconded by Member Bledsoe, that the Planning Commission recommend approval of the map amendment if the request was changed to R-2.

The votes were as follows:
Ayes (7): Bledsoe, Casey, McCarthy-Lange, Rodriguez, Stewart, Wilson, and Wormley
Nays (2): Ashton and Nelson
Absent (1): Hamman
Abstain (0): None

The motion carried.

This proposal will go to the Kendall County Zoning Board of Appeals on December 13, 2021.

CITIZENS TO BE HEARD/PUBLIC COMMENT
None

ADJOURNMENT
Member Rodriguez made a motion, seconded by Member Wilson, to adjourn. With a voice of nine (9) ayes, the motion carried.

The Kendall County Regional Planning Commission meeting adjourned at 9:53 p.m.

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

Enc.

KENDALL COUNTY
REGIONAL PLANNING COMMISSION
DECEMBER 8, 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)
Greg Ingemunson	[redacted]	
Boyd Ingemunson		
Chris Lannert		
Pat Kelsey		
Rick Porter		
James Kohout		
James Coon		
Shabbir Shamsuddin		

Gerald Chapman

DEPARTMENT OF PLANNING, BUILDING AND ZONING
KENDELL COUNTY, ILLINOIS

In Re: Petition of Baka Properties, LLC Map Amendment Rezoning of 55 Riverside Street Yorkville, Illinois (Lot 183 Fox River Gardens)	)	Petition 21-48

STUDLER, MUND AND SISO LLC OBJECTION TO PETITION 21-48

NOW COME Objectors, DM Studler, Ronald G. Mund, and SISO, LLC., by and through their attorneys Hinshaw & Culbertson and for their Objection to Petition 21-48 state as follows:

I. INTRODUCTION

The Petition for Rezoning should be rejected by the Department of Planning and Zoning and by the Members of the Kendell County Board for the following reasons:

1. The subdivision and specific lot of the Applicant has a deed restriction which limits the property to only one single family home and the purpose of the R-3 zoning request of allowing two homes cannot be met and thus the zoning must be denied.

2. The density that will be permitted is not compatible with the surrounding properties of single family homes on large parcels of land and the R-3 zoning change is objected to by the majority of surrounding landowners.

3. The property in question includes wetlands that will be destroyed if the development that is planned goes through.

4. The property is in a flood plain which will create flooding problems if developed as requested.

5. There is no available municipal sanitary sewer to the site and, if developed with the septic tanks, odor and sanitation problems will develop and be exacerbated because of site conditions.

6. The amount of floodplain and lack of buildable land on the site will not permit two houses to be situated on the property.

7. A R-3 designation includes retail and office uses, albeit with a special use permit, that are wholly inappropriate for the surrounding community.

8. The Petitioner has a history of failing to comply with the County's ordinances and intrusion upon neighbors and their properties.

9. The Petitioner has not satisfied the conditions required by the Zoning Ordinance for a Map Amendment.

II. BASIS FOR OBJECTION

1. THE LOT WHICH IS THE SUBJECT OF THE PETITION IS PART OF A SUBDIVISION PLAT AND THE DEED HAS RESTRICTIONS OF ONE DWELLING ONLY.

The lot at issue is part of a subdivision which was platted in 1927. **(See Subdivision Plat attached hereto as Ex. A)**. After the subdivision was platted deeds were issued with covenants, conditions and restrictions one of which explicitly provides that on the subdivided lots "only one such [single family residence] shall be erected on any lot..." **See April 22, 1030 Deed – Restriction No. 6 – attached hereto As Ex. B**. It has been stated by the Applicant that the purpose of the R-3 zoning change is to seek to build two homes on Lot 183 as R-3 zoning allows for a home per 45,000 sq. ft. However, the subdivision plat and deed covenants and restrictions explicitly disallow more than one home on the land designated lot 183 and thus the zoning change would be improper and serve no purpose.

2. THE DENSITY OF THE PROPOSED SUBDIVISION IS NOT COMPATIBLE WITH THE SURROUNDING COMMUNITY

The surrounding community was developed under the Ag-1 zoning though the lots, as originally laid out, may be developed with one single family residence pursuant to Section 7.01

C. 18. c. of the Zoning Ordinance. This has created a unique living experience for those that reside in the homes and is entitled to protection against incompatible density like any other established neighborhood. The majority of surrounding landowners have estate parcels that substantially exceed 45000 sq. ft and smaller lots (in violation of the subdivision restrictive covenants) would detract from the rural nature of the neighborhood. A majority of surrounding landowners object Petition 21-48. **See Petition Submitted to the County Board of the County of Kendall, State of Illinois, Submitted Pursuant to Section 13.07G.2 of the Kendall County Zoning Ordinance attached hereto as Ex. C and Map of Objector Parcels attached hereto as Exhibit D).**

3. THE PROPERTY IN QUESTION INCLUDES WETLANDS THAT WILL BE DESTROYED IN THEE DEVELOPMENT OF THE PROPERTY IN QUESTION.

Pursuant to the **Deuchler Engineering Wetlands Reconnaissance Report Dated July 17, 2020, attached hereto as Ex. E,** the subject property includes a significant area of hydric soils that qualify to be classified jurisdictional wetlands much of which have been covered by fill material by the Applicant. Upon information and belief, that fill material was placed without any Kendall County or Army Corps of Engineers permits. If the property is developed in the manner planned by Applicant the Wetlands would be destroyed. This area, immediately adjacent to and a part of the Fox River flowage, is extremely sensitive due to that proximity.

4. A SIGNIFICANT PART OF THE PROPERTY IN QUESTION IS LOCATED IN A FLOODPLAIN AND FURTHER DEVELOPMENT OF THE PROPERTY WILL CAUSE THE FLOODING IN THE AREA TO WORSEN.

The majority of lot 183 is located within floodplain as it is below the flood zone elevation of 582 MSL and the County has hired an engineer that has confirm same. **See Email from Engineer Chismark attached hereto as Ex. F and Flood Plain Map of Lot 183 attached hereto as Ex. G**. To build residences in the floodplain will require that the site be elevated by

bringing in even more fill. Elevating the property in question will substantially increase the water that is discharged during a storm. The neighborhood, being so close to the Fox River, is already prone to flooding events. **(See Photo of Flooded Riverside Road attached hereto as Ex. H)**. The development of the property in question as planned will only make that worse, not only because of the increased elevation but also because of the increase in impervious surfaces such as driveways, homes, patios, decks and walkways that inevitably come with new development.

The Petitioner has, over the last two years, dumped over 40 semi-trailer loads of dirt onto the property in question, and upon information and belief, without any county or Army Corps permits, which has increased the chance of more water discharging from the site, contributing to an increased chance of flooding. **(See Photos of Filling of Lot 183, attached hereto as Group Ex. I)** Despite that filling over ¾ of the property is still below the flood zone of 582 MSL per Ex. G. If the subdivision is approved, the subsequent development of the property will only make matters worse because of the significant increase in impervious surfaces. Because the Petitioner has not submitted a site plan with its application, the Board cannot evaluate the impact of the zoning change on the flooding problem.

5. IF ALLOWED TO BE DEVELOPED AS REQUESTED, THE SANITARY CONDITIONS IN THE AREA WILL WORSEN.

There is no sanitary sewer available to the property in question or the surrounding neighborhood. The soil cannot support more septic tanks and fields. Presently, after significant storms, the septic tanks and the fields they drain into fail to function properly, creating noxious odors and unsanitary conditions. Because of the wetlands and the fact that a majority of the property is located within a floodplain, adding additional septic tanks and fields will exacerbate this public health problem.

6. THE AMOUNT OF FLOODPLAIN, AND LACK OF BUILDABLE SOILS MAKE CONSTRUCTION OF TWO HOMES ON THE SUBJECT PROPERTY IMPOSSIBLE AND R-3 ZONING IMPROPER.

In order to further fill floodplain and wetland it is legally required that 1 ½ times of land mitigation be provided and per the expert opinion of land planner Chris Lannert there is insufficient buildable land to do so. Further, the Kendall County Soil & Water Conservation District has drafted a Natural Resources Inventory (NRI) Report and concluded that almost all of the property is comprised of hydric soils. **(See Hydric Soils Map Lot 183, attached hereto as Ex. J)**. In that same NRI report it was also found that almost all of the property has the most restrictive soil rating of being "very limited" for building purposes such that dwellings cannot have basements and the land is primarily useful for only lawn or landscape. **(See Very Limited Building Capability Lot 183, attached hereto as Ex. K).**

Because Lot 183 cannot support a dwelling on every 45,000 sq. ft zoning as R-3 would be improper.

7. A R-3 DESIGNATION INCLUDES RETAIL AND OFFICE USES.

A R-3 designation includes retail and office uses, albeit with a special use permit, that are wholly inappropriate for the surrounding community. While there is a requirement that a special use permit be obtained, there is nevertheless a threat of increased commercial use of the property in question by changing the zoning designation as requested by the petitioner.

8. THE PETITIONER HAS A HISTORY OF FAILING TO COMPLY WITH THE COUNTY'S ORDINANCES AND INFRINGING UPON NEIGHBORS AND THEIR PROPERTIES

As explained above upon information and belief, no permits were acquired for the filling of the wetlands and floodplain on lot 183. Further, upon information and belief the Applicant

has been involved in conflict with several neighbors and been the subject of petitions for order of protection which have been granted to neighbors.

9. THE PETITIONER HAS FAILED TO SATISFY THE CONDITIONS FOR A MAP AMENDMENT.

The following are the criteria that must be satisfied by the Petitioner to allow for the County Board to approve a Map Amendment and the Petitioner has failed to satisfy that criteria: *FINDING OF FACT AND RECOMMENDATION OF THE ZBA. Within thirty (30) days after the close of the hearing on a proposed amendment, the ZBA shall make written findings of fact and shall submit same together with its recommendation to the County Board of Kendall County. Where the purpose and effect of the proposed amendment is to change the Zoning classification of particular property, the Zoning Board of Appeals shall make findings based upon evidence presented to it in each specific case with respect to the following matters Amended 9/15/20):*

1. *Existing uses of property within the general area of the property in question.*

While the surrounding property is residential, it is not of the density as that proposed. The R-3 zoning allowing a dwelling on every 45,000 sq. ft of land as proposed by the Petitioner is wholly inconsistent with the surrounding properties. Further, the addition of impermeable surfaces such as driveways, patios, decks and multiple dwellings is inconsistent with the existing uses and poses odor, health and flooding issues.

2. *The Zoning classification of property within the general area of the property in question.*

The surrounding property is primarily Ag-1. While there is a parcel that is zoned R-3 (by the Applicant previously), the vast majority of the surrounding properties are zoned Ag-1.

3. *The suitability of the property in question for the uses permitted under the existing zoning classification.*

The property is wholly unsuitable for R-3 uses of a dwelling on every 45,000 sq. ft. The soils are almost entirely hydric, the property contains wetlands, the property is in flood plain and the existing area is already prone to flooding and odor and thus cannot support more septic systems. Further, the subdivision plat and restrictive covenants do not allow for multiple homes on the land no multiple access points to roadways.

4. *The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was in its present zoning classification.*

There is no trend toward increased density. To the contrary, the subdivision is well established and those properties at lower elevations nearer the Fox River are larger parcels with estate homes. The subdivision plan, relied upon by all of the owners of land in the subdivision does not allow for multiple dwellings on the site and limits access. Further, the Land Resource Management Plan discourages conversion of agricultural land to residential zoning.

The ZBA shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and is not solely for the interest of the applicant. The ZBA may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification than that requested by the applicant. For the purpose of this paragraph the R-1 District shall be considered the highest classification and the M-213-14 District shall be considered the lowest classification.

Clearly changing the zoning from A-1 to R-3 is not in the public's interest at this location and the majority of surrounding landowners object to dame. The Subdivision Plat has been in place for nearly 100 years and explicitly allows for only one dwelling per lot. That plan has been relied upon by all owners of property in the subdivision and there is no public purpose served in amending it. Further, the impermeable surfaces on this flood plain area of hydric soils and

wetlands will detrimentally affect the neighbors and the public by exacerbating flooding, odors and unhealthful conditions.

5. *Consistency with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies.*

The Land Resource Management Plan encourages the protection of Agricultural lands and discourages "spot" zoning which create inherently contradictory land uses within each zone.

III. CONCLUSION

For the foregoing reasons the Petition 21-48 for a Map Amendment should be denied.

Date: 12-8-2024

Respectfully Submitted,

HINSHAW & CULBERTSON LLP,

By: _____
Richard S. Porter
One of their Attorneys

Richard S. Porter ARDC #6209751
rporter@hinshawlaw.com
HINSHAW & CULBERTSON LLP
100 Park Avenue
Rockford, IL 61101
Phone: (815) 490-4900

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FOX RIVER GARDENS

TOWN OF BRISTOL
KENDALL CO.
ILLINOIS

SURVEYED BY
WELLS ENGINEERING CO.
SURVEYORS AND SUBDIVIDERS
GENEVA, ILLINOIS

SLOT 27cA


CENTRAL DRIVE
RIVERSIDE ROAD
RIDGE ROAD
RIVER
RICHARDS TRACT
KENDALL
YORKVILLE
ROAD
WEST
Unofficial

36

418

JOINT TENANCY DEED

Frank Tuma and Anna Tuma, his wife

to

Ewan Michalek and Mary Michalek

This Indenture Witnesseth, That the Grantors FRANK TUMA and ANNA TUMA, his wife of the City of Berwyn in the County of Cook and State of Illinois for and in consideration of the sum of One and no/100 ($1.00) Dollar in hand paid, CONVEY and WARRANT to EWAN MICHALEK and MARY MICHALEK, his wife, not in tenancy in common but in Joint Tenancy, of the City of Berwyn, County of Cook and State of Illinois, the following described real estate; to-wit: Lots 1 to 4 both inclusive, 6, 10, 11, 12, 17 to 35 both inclusive, 40, 41, 42, 45 to 63 both inclusive, 67 to 113 both inclusive, 115 to 123 both inclusive, 126 to 149 both inclusive, 151, 152, 153, 155 to 170 both inclusive, 172, 173, 174, 175, 176 (except the South 18-½ feet), 182 to 203 both inclusive, in Fox River Gardens, same being part of Sections Twenty-seven (27), twenty eight (28) and thirty-four (34), Township thirty-seven (37) North, Range seven (7), East of the third (3rd) Principal Meridian, situated in the Town of Bristol County of Kendall in the State of Illinois hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois.

This conveyance is subject to the following covenants, conditions and restrictions;

(1st) No part or parts of any lots in the subdivision aforesaid are to be sold or leased by the purchasers thereof or by the heirs, executors, administrators or assigns of any such purchasers for road or any other purpose without the consent or approval of the first party.

(2nd) Each and every residence built in the subdivision aforesaid must have a sanitary toilet.

(3rd) No building or any part thereof erected on said premises shall extend toward the street in front of said lot beyond a line parallel to and twenty feet distant from said street.

(4th) No trees on the premises herein described at the date hereof shall be removed without the consent of first party, except dead trees and those which may impede the construction of buildings.

(5th) No tents may be erected on said premises for commercial purposes.

(6th) No building shall be built on any of the lots in the subdivision aforesaid except private residences for the use and occupancy of one family only and only one such building shall be erected on any lot in said subdivision containing not to exceed one acre. At or after the erection of a residence as aforesaid, a garage or other out-building necessary or appurtenant thereto may be erected. That no garage, barn, or other building, erected on said lot, shall at any time be used as a residence.

(7th) All purchasers or owners of lots in Fox River Gardens Subdivision aforesaid and their families shall have free and unrestricted access to the community beach as shown upon the plat of said Subdivision.

(8th) Should the grantee herein improve the premises herein described with a residence, the cost of such residence shall not be less than $1,500.00.

(9th) It is expressly agreed that the premises herein described shall not be conveyed or leased by the grantee or any of the successors in title of the grantee, to any person who is not a Caucasian, that neither the premises herein described nor any of the improvements thereon shall be occupied by anyone who is not a Caucasian; and that in the event that the premises herein described shall be

EXHIBIT
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conveyed or leased by the grantee or any of the successors in title of the grantee , to any person who is not a Caucasian or in the event that said premises or any improvements erected thereon shall at any time be occupied by a person who is not a Caucasian, the property herein described shall revert to the grantor herein free and clear from any claim of the grantee or the successors in title of the grantees. To have and to hold the above granted premises unto the said parties of the second part forever not in tenancy in common, but in joint tenancy..

DATED this first (Ist) day of May A. D. 1930

Frank Tuma (SEAL)

Anna Tuma (SEAL)

(SEAL)

(SEAL)

STATE OF ILLINOIS } SS.
COUNTY OF COOK }

I, Charles T. Salak Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that FRANK TUMA and ANNA TUMA, his wife, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and notarial seal this first (Ist) day of May A. D. 1930

Charles T. Salak

Notary Public

Filed for record on the 3rd day of May A. D. 1930 at 11-25 o'clock A. M.

Recorder of Deeds.

PETITION SUBMITTED TO THE COUNTY BOARD OF THE COUNTY OF KENDALL, STATE OF ILLINOIS, SUBMITTED PURSUANT TO SECTION 13.07 G.2 OF THE KENDALL COUNTY ZONING ORDINANCE

The undersigned have been advised that that BAKA Properties LLC – Series 5 the owner of the property commonly known as Lot 183 Fox River Gardens (tax parcel number 02-34-130-004), (the "Development Parcel"), in unincorporated Kendall County, Illinois, pursuant to Petition 21-48, has requested that Kendall County pass a map amendment ordinance changing the zoning applicable to the Development Parcel from Ag-1 to R-3. The undersigned, being more than twenty percent of the owners of the frontage immediately adjoining or across an alley, street or public right-of-way from the Development Parcel, wish to notify the County Board of the County of Kendall that they protest and object to the rezoning of the Development Parcel from its existing zoning classification of Ag-1.

1. _____ (Signature)

Gerald Chase FOR 5150, LLC
Print Name

40 Riverside St.
Address
Tax Parcel Number 02-34-204-005

2. _____ (Signature)

JoAnn M. Willingham
Print Name

56 Riverside St.
Address
Tax Parcel Number 02-34-204-002

3. _____ (Signature)

DM Studler
Print Name

34 Riverside St.
Address
Tax Parcel Number 02-34-176-003

EXHIBIT
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1038862\309504858.v1

The undersigned have been advised that that BAKA Properties LLC – Series 5 the owner of the property commonly known as Lot 183 Fox River Gardens (tax parcel number 02-34-130-004), (the "Development Parcel"), in unincorporated Kendall County, Illinois, pursuant to Petition 21-48, has requested that Kendall County pass a map amendment ordinance changing the zoning applicable to the Development Parcel from Ag-1 to R-3. The undersigned, being more than twenty percent of the owners of the frontage immediately adjoining or across an alley, street or public right-of-way from the Development Parcel, wish to notify the County Board of the County of Kendall that they protest and object to the rezoning of the Development Parcel from its existing zoning classification of Ag-1.

4. _____ (Signature)

David A. Morgan
Print Name

16 Yorkville Road
Address
Tax Parcel Number 02-34-130-005

5. _____ (Signature)

KEVIN HANNA
Print Name

15 YORKVILLE ST.
Address
Tax Parcel Number 02-34-129-006

6. _____ (Signature)

Print Name

Address
Tax Parcel Number 02-34-____-____

Black arrows indicate the location of the parcels owned by the objectors. The parcels highlighted in orange below are also owned by the applicant. The parcel "004" outlined in blue is the parcel that is the subject of the proposed map amendment.

EXHIBIT
D

WETLAND RECONNAISSANCE REPORT

55 RIVERSIDE DRIVE, YORKVILLE
KENDALL COUNTY, ILLINOIS

JULY 17, 2020

Prepared for:

Hinshaw & Culbertson, LLP
151 N Franklin St Suite 2500, Chicago, IL 60606

Deuchler Engineering Corporation

230 Woodlawn Avenue | Aurora, Illinois 60506

TABLE OF CONTENTS

1.0 INTRODUCTION

A Wetland Reconnaissance was performed on atypical conditions in the common area immediate adjacent to the subject property, *BAKA Properties, LLC, Trust: Series 5, 55 Riverside Street, Yorkville, IL (Parcel Identification Number 02-34-130-00)*. The purpose of the investigation was to determine the likelihood of fill having been placed in a wetland on the subject parcel. This project is in unincorporated Bristol Township in Section 34 of Township 37, North, Range 7 East in Kendall County, Illinois. See Site Location Map included as **Figure 1**.

Deuchler Engineering Corporation (DEC) was contracted by Hinshaw & Culbertson, LLP to conduct a wetland delineation survey of the subject site. The project site evaluated is an open field in Fox River Gardens, a rural residential subdivision in unincorporated Yorkville, IL. Field work for the project was completed on July 1, 2020. Aerial Photograph analysis was completed on July 14 and 15, 2020.

2.0 METHODS

A wetland reconnaissance was performed by Deuchler Engineering Corporation (DEC) in accordance with the Corps of Engineers Wetland Delineation Manual (1987) and the Midwest Regional Supplement to 1987 Wetland Delineation Manual (2010). The scope of work performed by Deuchler staff includes the following:

2.1 Map and Aerial Photograph Review

Prior to the field survey, a preliminary site evaluation was performed to identify the physical setting of the subject area utilizing an aerial photographs, National Wetland Inventory Mapping Tool (NWI), and Natural Resources Conservation Service (NRCS) Web Soil Survey and the FEMA Flood Insurance Rate Mapping Tool (Firmette).

2.2 Field Survey

The site was visually and physically observed to determine if any jurisdictional wetlands exist within the site by examining the soil, hydrology, and vegetation. A USACE Routine Wetland Delineation Data Sheet was completed for a data point.in the potential wetland and a comparative data point was taken from the surrounding upland.

To be considered a jurisdictional wetland, an area must meet minimum criteria in all three of the following categories: soils, hydrology, and vegetation. These criteria are discussed as follows:

1) Soil:
   The soil criterion for a wetland is met when the soils have been classified as hydric. Field indicators of hydric soils include: a) organic soils, b) specific low chroma soil color (gleyed matrix with or without bright mottles), c) presence

of a histic epipedon (high organic content in the surface horizon), d) presence of sulfidic material (the soil smells like hydrogen sulfide), e) aquic or peraquic moisture regime (the soil is saturated for long periods), and f) reduced soil conditions (soil contains reduced iron).

Soil borings were taken to a minimum depth of 18 inches below existing grade and soil properties were recorded, at locations of concern. Soil color (matrix), and redoximorphic features (if present) were determined using the Munsell Soil Color Charts (1990).

2) Hydrology:
The hydrology criterion for a wetland is met when the area is inundated either permanently or periodically at a maximum water depth of 6.6 feet, or the soil is saturated to the surface for at least 5% of the growing season. Indicators include drainage patterns, drift lines, sediment deposition, watermarks, stream gage data and flood prediction, historic records, visual observation of saturated soils, and visual observation of inundation. Hydrologic indicators were recorded.

3) Vegetation:
The vegetation criteria for a wetland is met when more than 50% of the dominant plant species are classified as hydrophytic. Hydrophytes are plants which can grow in water or on a substrate that is at least periodically deficient in oxygen because of excessive water content. A *Regional List of Plant Species that Occur in Wetlands* has been prepared by the U.S. Fish and Wildlife Service (USFWS). Wetland plants are categorized into three classes based on wetland indicator status: (1) obligate wetland species (OBL), (2) facultative wetland species (FACW), or (3) facultative species (FAC). Dominant plant species were recorded for each data point.

2.3 Report

DEC prepared a Wetland Reconnaissance Report documenting the findings of the wetland investigation. This Report includes sources and documents supporting the analysis, opinions, and conclusions.

3.0 PROJECT DESCRIPTION

The subject property is a 2.68-acre open field and lies on a minor terrace of the Fox River in Fox River Gardens subdivision, unincorporated Yorkville, IL The northeast side of the property is bounded by Yorkville Street and the southern edge of the property is bounded by Riverside Street. The rest of the property is bounded by residential lots. The property contains recently placed fill over a large portion of the open area of the parcel. The parcel also contains a single drainageway that has a Silver Maple Swamp (forested wetland) on either side of the bed and bank channel.

The investigation was undertaken to determine if the limits of fill extended into the wetland. The fill appears to cover about half of the open field. It extends under the Silver Maple branches and stops at the limit of a white plastic 3 rail fence. The fill appears to be several feet in thickness at the edge of the Silver Maple swamp. Standing water was present in the wetland as well as the stream channel on the day of the site investigation.

A data point was taken just outside the fill in the Yorkville Street road easement where wetlands vegetation was like that seen at the base of the fill. An upland data point was taken along the road easement several feet in elevation higher than the data point where the vegetation appeared to be hydric. The description of the field investigation can be found in Section 5.0.

4.0 MAP AND AERIAL PHOTOGRAPH REVIEW

Aerial photography, Kendall County LIDAR topographic mapping, National Wetland Inventory mapping, NRCS Web Soil Survey, and FEMA Flood Insurance Rate Mapping, were reviewed to evaluate topographic conditions and whether any wetlands have been identified within the project area.

4.1 National Wetland Inventory Map (Figure 2)

The United States Fish and Wildlife Service (USFWS) conducted a wetland inventory of the wetland locations within the United States. That data has been aggregated into a national data tool, the NWI Mapper. The subject property is not identified by the NWI as having wetlands.

It should be noted that the "National Wetland Inventory" was compiled via review of high-altitude aerial photography over a period of the last 30 years and may not accurately represent current conditions. Therefore, the presence of potential wetlands was field investigated by DEC.

4.2 Kendall County Topographic Map (Figure 3a)

The Kendall County GIS topographic data was reviewed for the physical setting conditions of the subject property. According to the Topographic Map, the general topography of the subject area and its surroundings is a river valley with broad floodplain and terraces on either side of the river. The project site is at the bottom of the bluff and the creek on the property comes down the bluff from the upland above.

The topographic map show that much of the subject property lies between the elevations of 582 and 584 ft msl. The creek and wetland are at elevations below 582 ft msl. During heavy precipitation events the channel shows evidence of overbank flooding.

4.3 FEMA Flood Insurance Rate Map (Figure3b)

The FEMA Flood Mapping Tool produces a Firmette of the project site and surrounding area. The Firmette of the site is derived from the Kendall County FIRM Panel 17093C0045H, effective date 1/8/2014. The 1% chance of recurrence (100-year flood elevation) is elevation 582 ft msl. The subject property is mapped by FEMA as Zone X, outside the 100-year floodplain. However, portions of the wetland on the property are below elevation 582.

4.4 NRCS Web Soil Survey Map (Figure 4)

The NRCS Soil Survey Map of the area was reviewed as a preliminary evaluation to identify soils which exist within the subject area. These soils were identified as hydric or non-hydric using the National Hydric Soils Database. The NRCS Soil Survey Map indicated that the project site was mapped as 8082A Millington silt loam, a floodplain soil map unit.

4.5 Aerial Photographic Maps (Figure 5)

Using aerial photography, the project site was reviewed for the presence of wetland and open water visual signatures. Historic aerial photography was reviewed for the period1998-2019. This type of aerial reconnaissance review is how the USDA-NRCS and US Fish and Wildlife Service screen parcels for potential wetlands prior to a field investigation. In this project, a time-series of wetlands was evaluated, and an approximate wetland boundary was drawn on each aerial examined.

The years examined include a range of wetness conditions from very wet years to droughty years. The specific years that photos were evaluated for are 1998, 2002, 2005, 2008, 2013, 2015, 2017, 2018 and 2019. The approximate limits of the wetland signature in any given year is outlined in yellow on each of the aerial photographs in Figure 5.

The aerial interpretation of each photo shows evidence of two wetland types in most years: an herbaceous wetland either sedge meadow or wet meadow dominated by sedges and grasses surrounding the incipient Silver Maple swamp. The bed and bank of the creek is evident in all years. The size of the trees in the swamp have grown significantly over the last twenty-two years. While the size of the wetland signature varies by year, which is typical, there was wetland on the property prior to any development on the parcel. Those wetlands remain today and are the subject of the field investigation portion of this report.

Based upon the 2019 Kendall County Geographic Information System Parcel Viewer Data, there were 3 3 wetland signatures on the subject property when the 2019 aerial photograph was flown. Table 1 summarizes their size and percentage of parcel coverage

Table 1. Wetland Signatures from 2019 Aerial Photography Interpretation

Wetland Signature	Area (Square Feet)	Area (Acres)	Parcel Coverage (%)
1	21,880	0.502	18.7
2	550	0.013	0.49
3	2,300	0.053	1.98

5.0 FIELD INVESTIGATION

The purpose of the field investigation was to determine if any jurisdictional wetlands existed within the site, and if so, their approximate size and boundaries. Potential jurisdictional areas encountered in the field were delineated using the USACE Corps of Engineers Wetlands Delineation Manual (1987) and the Midwest Regional Supplement to the Wetland Delineation Manual (2010).

One data point was selected to represent the conditions in the project site area. The project site is approximately 2.7 acres. The site investigation was performed on July 1, 2020 by Patrick Kelsey, CPSS/SC. Dominant plants, soil type, and evidence of wetland hydrologic indicators were recorded on USACE Wetland Delineation Data Sheets for the Midwest Regional Supplement. The data sheets are included in **Appendix A**.

Following are the results of the field survey:

Data Point 1

Data Point #1 is located on the northeast side of the subject property. The Data Point 1 plant community was dominated by hydrophytic plant species including Silver Maple (*Acer saccharinum*). Box Elder (*Acer negundo*), Crested Sedge (*Carex cristatella*), and Barnyard Grass (*Echinochloa crus-galli*). The soil observed at Data Point 1 was determined to be Millington silt loam, a poorly drained and hydric soil This is also the soil map unit determined by the public soil survey. Primary wetland hydrology indicators observed included surface water, sediment deposits, and drift deposits.

Data Point 1 is identified as a single wetland with two distinct communities: A Silver Maple swamp on either side of a small creek and a wet meadow dominated by sedges and grasses.

Data Point 1A

Data Point 1A was selected in the adjacent upland to capture the difference between the wetland and non-wetland conditions. Data Point 1A is located along Yorkville Street approximately 2 ft in elevation above the wetland. The two sites are approximately 125 ft apart. The vegetation surveyed was decidedly upland in nature and was dominated by planted turf grasses including Fescue (Festuca elatior), Perennial Ryegrass (Lolium perenne), and Kentucky Bluegrass (Poa pratensis). The soil identified is Dresden silt loam, a non-hydric soil. No indicators of wetland hydrology were found at Data Point 1.

6.0 SUMMARY AND CONCLUSIONS

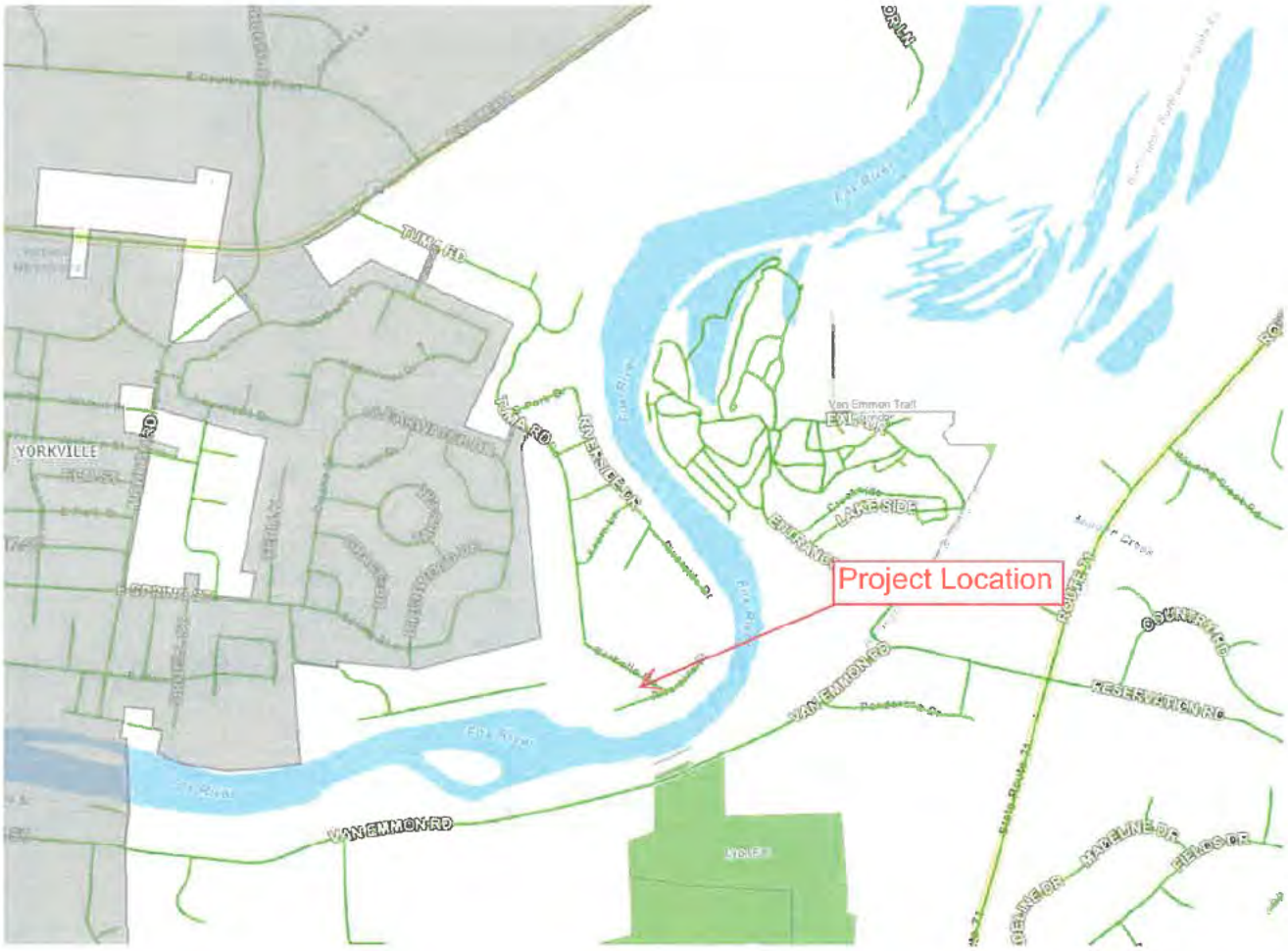
Deuchler Engineering Corporation (DEC) conducted a routine wetland reconnaissance of 55 Riverside Street, unincorporated Yorkville, IL. The purpose of this wetland reconnaissance was to determine if any jurisdictional wetlands or Waters of the US exist within the project site, and if so, whether recently placed fill was placed within boundaries of these wetlands.

The project site contains one Wetland (as defined in 33 CFR Part 328 and 40 CFR Parts 110, 112, 116, 117, 120, 122, 230, 232, 300, 302, and 401, inclusively). It is our professional opinion that fill has been placed over hydric soils and that wetland hydrology is present within the limits of the fill that has been placed. Based on the requirements for atypical wetland conditions, there is more than adequate evidence that the fill placed also had hydrophytic vegetation.

The limits of encroachment can only be identified by excavating the fill to the depth of the original soil/vegetation line at the original ground surface. The extent of the wetland encroachment is likely not more than 50 feet along the northeast-southwest fence line based upon review of historic aerial photographs. These same photographs and the Web Soil Survey map suggest that the limit of hydric soils in this field is likely up near the pole barn structure along the northern boundary of the subject property.

Though a jurisdictional determination has not been performed by the USACE Rock Island District, it is likely that the wetland is jurisdictional under the current rules for determining federal jurisdiction. The conclusion is drawn by the evidence of an overland flow connection to a bed and bank stream with hydrologic connection to the Fox River, a traditional navigable waterway.

FIGURES



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55 RIVERSIDE DRIVE
YORKVILLE, IL
LOCATION MAP

1
SHT 1
OF 9

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U.S. Fish and Wildlife Service
National Wetlands Inventory

55 Riverside Drive, Yorkville, IL

July 15, 2020

Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

National Wetlands Inventory (NWI)
This page was produced by the NWI mapper

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55 RIVERSIDE DRIVE
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NWI MAP

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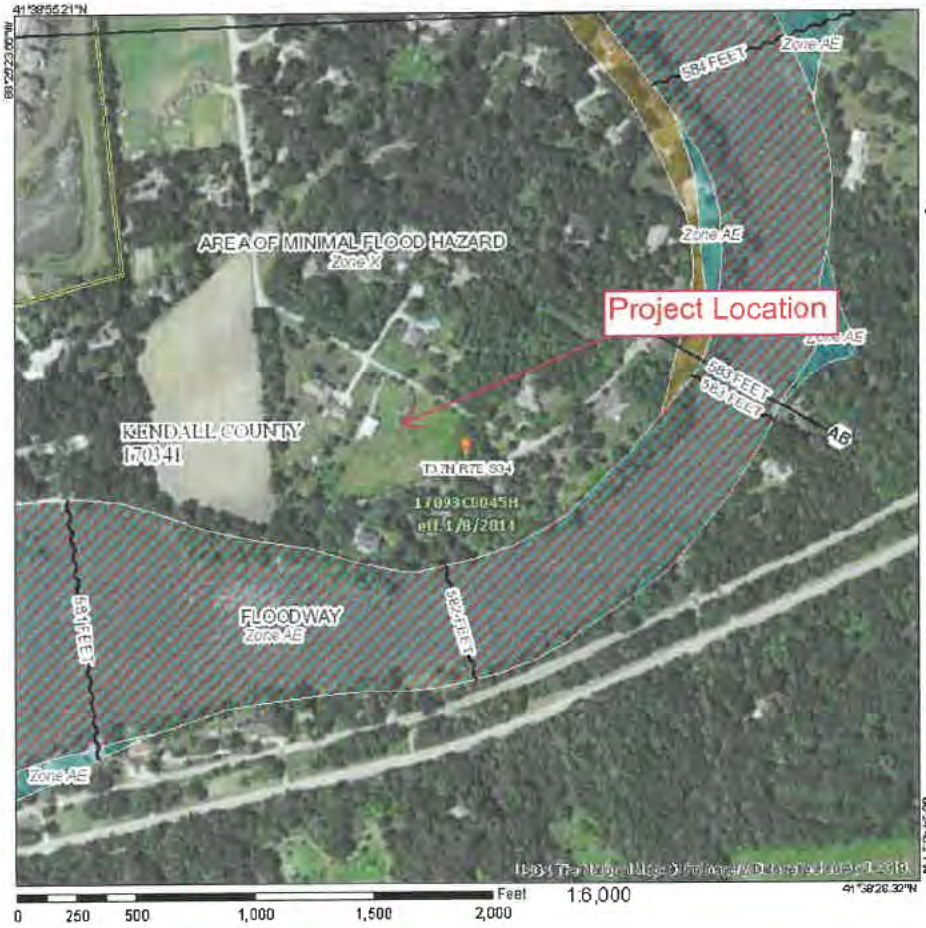
National Flood Hazard Layer FIRMette



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

- SPECIAL FLOOD HAZARD AREAS: Without Base Flood Elevation (BFE); With BFE or Depth; Regulatory Floodway
- OTHER AREAS OF FLOOD HAZARD: 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile; Future Conditions 1% Annual Chance Flood Hazard; Area with Reduced Flood Risk due to Levee; Area with Flood Risk due to Levee
- OTHER AREAS: Area of Minimal Flood Hazard; Effective LOMRs; Area of Undetermined Flood Hazard
- GENERAL STRUCTURES: Channel, Culvert, or Storm Sewer; Levee, Dike, or Floodwall
- OTHER FEATURES: Cross Sections with 1% Annual Chance; Water Surface Elevation; Coastal Transect; Base Flood Elevation Line (BFE); Limit of Study; Jurisdiction Boundary; Coastal Transect Baseline; Profile Baseline; Hydrographic Feature
- MAP PANELS: Digital Data Available; No Digital Data Available; Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 8/3/2020 at 9:49:56 AM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

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55 RIVERSIDE DRIVE
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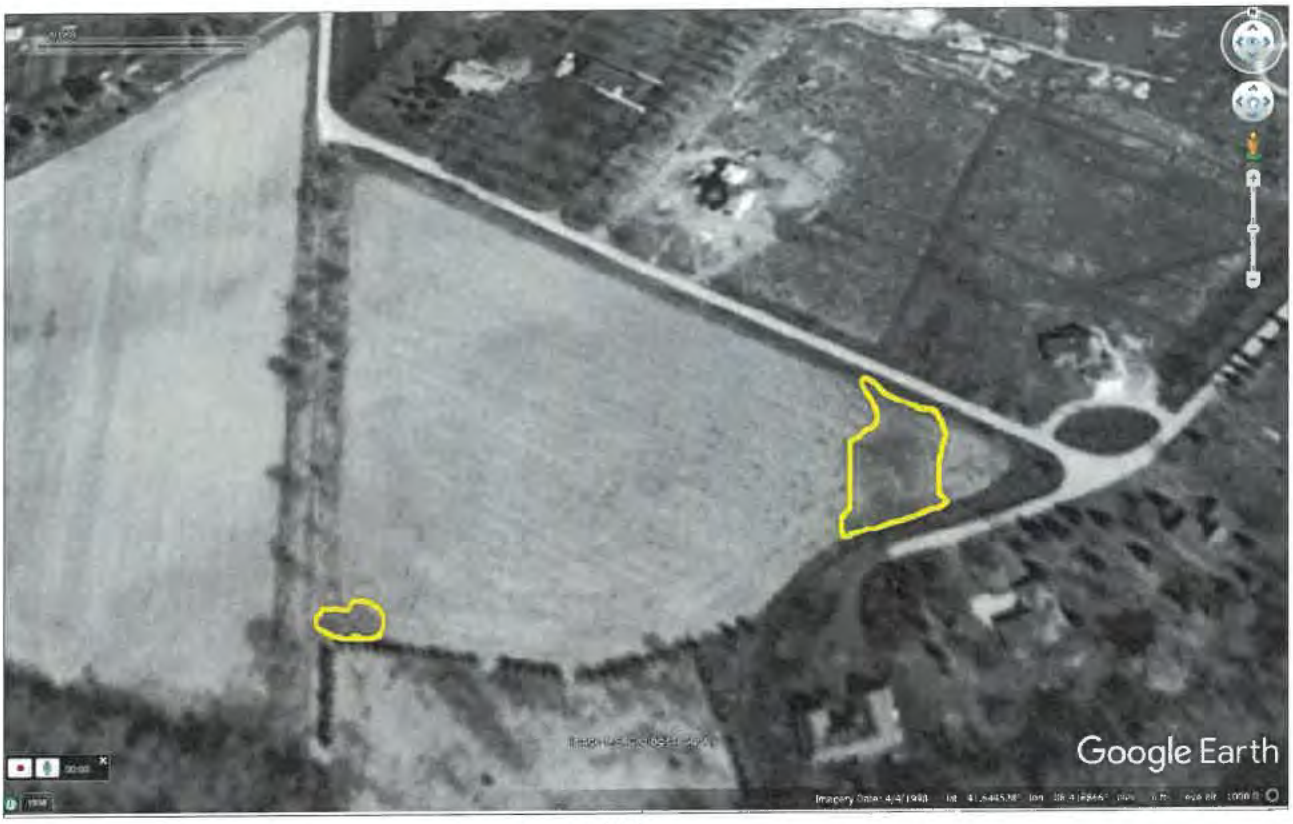
USDA Natural Resources Conservation Service | Web Soil Survey, National Cooperative Soil Survey | 7/15/2020 Page 1 of 4

Map Unit Symbol	Map Unit Name	Acres in AOI
8082A	Millington silt loam, 0 to 2 percent slopes, occasionally flooded	53.6
8321A	Du Page silt loam, 0 to 2 percent slopes, occasionally flooded	39.2
W	Water	45.9
Totals for Area of Interest		**403.4**



1998

2002

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55 RIVERSIDE DRIVE
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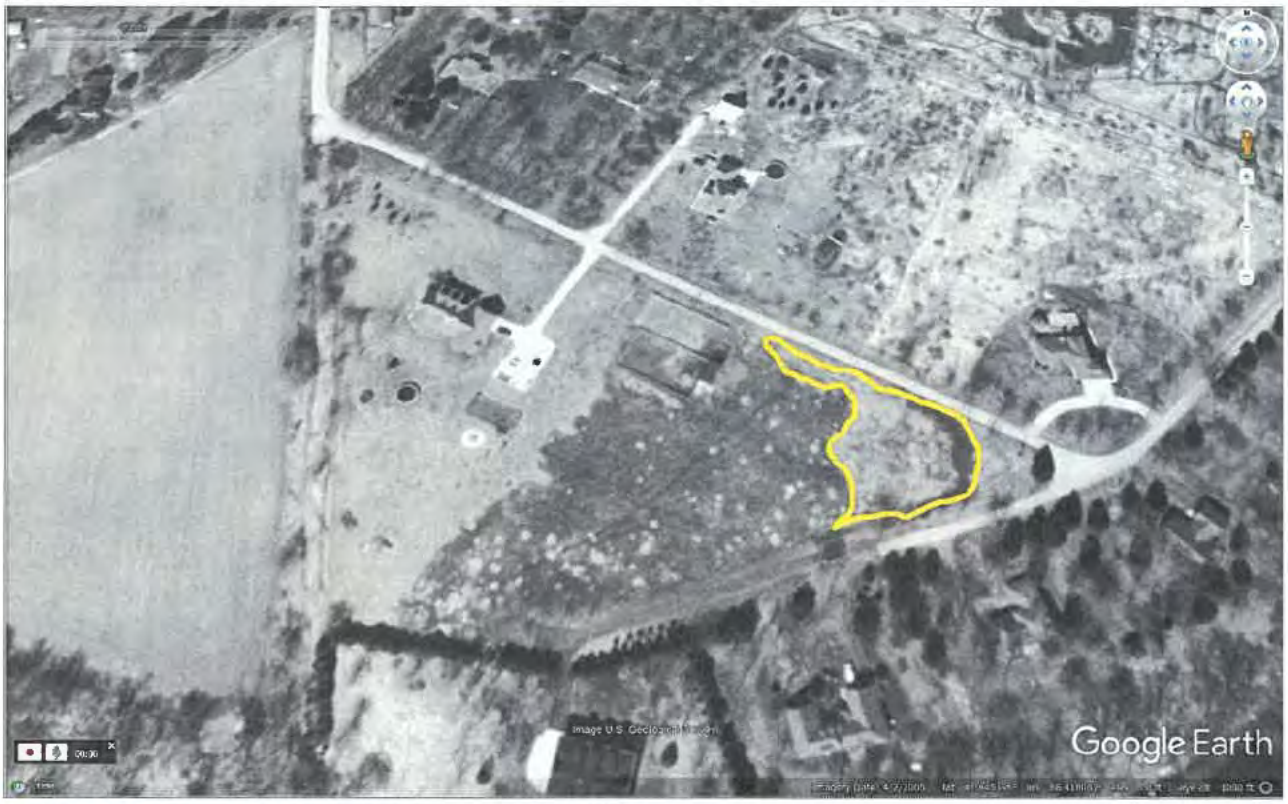

2005

2008

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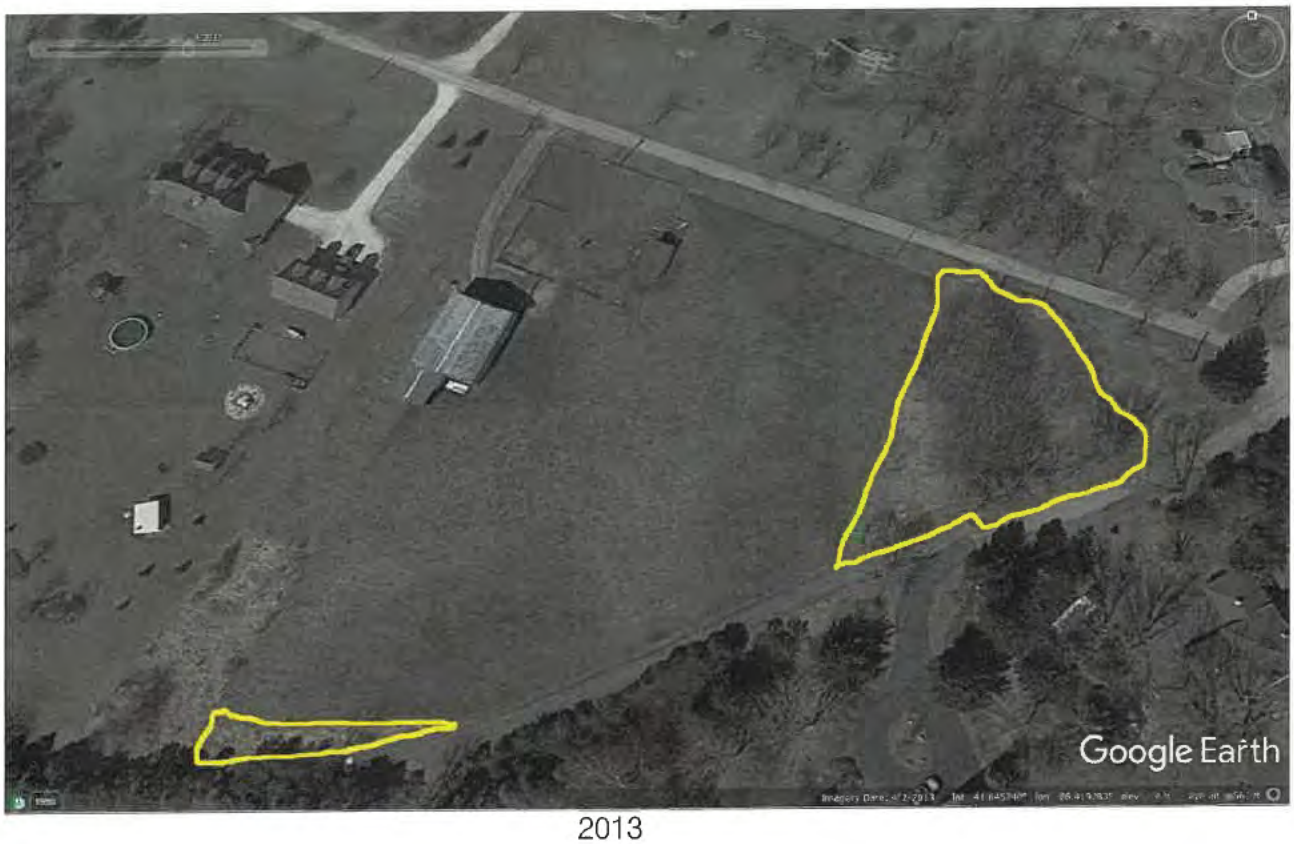

2013

2015

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2017

2018

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55 RIVERSIDE DRIVE
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2019

Wetland Signatures

1 21,850 SF

2 550 SF

3 2,300 SF

Source: Kendall County GIS Parcel Viewer

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APPENDIX A

USACE Midwest Regional Data Sheets

WETLAND DETERMINATION DATA FORM – Midwest Region

Project/Site: 55 Riverside Street City/County: Yorkville/Kendall Sampling Date: 07/01/2020

Applicant/Owner: Hinshaw & Culbertson, LLP State: IL Sampling Point: 1

Investigator(s): Patrick Kelsey Deuchler Engineering Corp. Section, Township, Range: 34, T37N, R7E

Landform (hillslope, terrace, etc.): Floodplain Local relief (concave, convex, none): none

Slope (%): 0-2% Lat: Long: Datum: NADV 88

Soil Map Unit Name: Millington silt loam NWI classification: None

Are climatic / hydrologic conditions on the site typical for this time of year? Yes ____ No ____ (If no, explain in Remarks.)

Are Vegetation X, Soil X, or Hydrology ____ significantly disturbed? Are "Normal Circumstances" present? Yes ____ No ____

Are Vegetation ____, Soil ____, or Hydrology ____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes X No ____

Hydric Soil Present? Yes X No ____

Wetland Hydrology Present? Yes X No ____

Is the Sampled Area within a Wetland? Yes X No ____

Remarks:

Area has been recently filled in part.

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: 9.0 m2)	Absolute % Cover	Dominant Species?	Indicator Status
1. Acer saccharinum	30	x	FAC
2. Acer negundo	5		FACW
3.			
4.			
5.			
	= Total Cover		
Sapling/Shrub Stratum (Plot size: 4.0 m2)			
1.			
2.			
3.			
4.			
5.			
	= Total Cover		
Herb Stratum (Plot size: 1.0 m2)			
1. Carex cristatella	25	x	FACW
2. Cyperus esculentus	5		FACW
3. Echinochloa crus-galli	30	x	FACW
4. Juncus effusus	5		OBL
5.			
6.			
7.			
8.			
9.			
10.			
	= Total Cover		
Woody Vine Stratum (Plot size: ____)			
1.			
2.			
	= Total Cover		

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC: 3 (A)

Total Number of Dominant Species Across All Strata: 3 (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 100 (A/B)

Prevalence Index worksheet:

Total % Cover of:		Multiply by:	
OBL species	5	x 1 =	5
FACW species	65	x 2 =	130
FAC species	30	x 3 =	90
FACU species		x 4 =	
UPL species		x 5 =	
Column Totals:	100 (A)		215 (B)

Prevalence Index = B/A = 2.15

Hydrophytic Vegetation Indicators:

X 1 - Rapid Test for Hydrophytic Vegetation

X 2 - Dominance Test is >50%

X 3 - Prevalence Index is ≤3.0[1]

___ 4 - Morphological Adaptations[1] (Provide supporting data in Remarks or on a separate sheet)

___ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes X No ____

Remarks: (Include photo numbers here or on a separate sheet.)

Vegetation is hydrophytic.

SOIL

Sampling Point: _____

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix Color (moist)	%	Redox Features Color (moist)	%	Type	Loc	Texture	Remarks
0-18	N2.5/0						sil	Saturated at 8 inches
18-24	10YR3/1						sicl	

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators:

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5)
- ___ 2 cm Muck (A10)
- ___ Depleted Below Dark Surface (A11)
- X Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ 5 cm Mucky Peat or Peat (S3)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ___ Coast Prairie Redox (A16)
- ___ Dark Surface (S7)
- ___ Iron-Manganese Masses (F12)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed):

Type: _____

Depth (inches): _____

Hydric Soil Present? Yes X No _____

Remarks:

Soil is a Cumulic Endoaquoll. Soil is on the County hydric Soil List

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required; check all that apply)

- ___ Surface Water (A1)
- X High Water Table (A2)
- X Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- X Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Sparsely Vegetated Concave Surface (B8)
- ___ Water-Stained Leaves (B9)
- ___ Aquatic Fauna (B13)
- ___ True Aquatic Plants (B14)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres on Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Gauge or Well Data (D9)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Surface Soil Cracks (B6)
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Stunted or Stressed Plants (D1)
- ___ Geomorphic Position (D2)
- ___ FAC-Neutral Test (D5)

Field Observations:

Surface Water Present? Yes X No ____ Depth (inches): in channel

Water Table Present? Yes X No ____ Depth (inches): 8 inches

Saturation Present? (includes capillary fringe) Yes X No ____ Depth (inches): 8 inches

Wetland Hydrology Present? Yes X No _____

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

The hydrology criterion is met by water table depth, soil saturation, and one additional primary indicator.

WETLAND DETERMINATION DATA FORM – Midwest Region

Project/Site: 55 Riverside Street City/County: Yorkville/Kendall Sampling Date: 07/01/2020

Applicant/Owner: Hinshaw & Culbertson, LLP State: IL Sampling Point: 1A

Investigator(s): Patrick Kelsey Deuchler Engineering Corp. Section, Township, Range: 34, T37N, R7E

Landform (hillslope, terrace, etc.): Floodplain Local relief (concave, convex, none): none

Slope (%): 0-2% Lat: Long: Datum: NADV 88

Soil Map Unit Name: Millington silt loam NWI classification: None

Are climatic / hydrologic conditions on the site typical for this time of year? Yes ____ No ____ (If no, explain in Remarks.)

Are Vegetation X, Soil X, or Hydrology ____ significantly disturbed? Are "Normal Circumstances" present? Yes ____ No ____

Are Vegetation ____, Soil ____, or Hydrology ____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes X	No ____	
Hydric Soil Present?	Yes X	No ____	Is the Sampled Area within a Wetland? Yes X No ____
Wetland Hydrology Present?	Yes X	No ____	

Remarks:
Area has been recently filled in part.

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: 9.0 m2)	Absolute % Cover	Dominant Species?	Indicator Status
1.			
2.			
3.			
4.			
5.			
	= Total Cover		
Sapling/Shrub Stratum (Plot size: 4.0 m2)			
1.			
2.			
3.			
4.			
6.			
	= Total Cover		
Herb Stratum (Plot size: 1.0 m2)			
1. Bromus inermis	5		UPL
2. Digitaria sanguinalis	10		FACU
3. Festuca elatior	25	x	FACU
4. Hordeum jubatum	5		FAC
5. Lolium perrene	25	x	FACU
6. Plantago lanceolata	5		FACU
7. Poa pratensis	25	x	FAC
8.			
9.			
10.			
	= Total Cover		
Woody Vine Stratum (Plot size: ____)			
1.			
2.			
	= Total Cover		

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC: 1 (A)

Total Number of Dominant Species Across All Strata: 3 (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 33% (A/B)

Prevalence Index worksheet:

Total % Cover of:		Multiply by:	
OBL species		x 1 =	
FACW species		x 2 =	
FAC species	30	x 3 =	90
FACU species	65	x 4 =	260
UPL species	5	x 5 =	25
Column Totals:	100 (A)		375 (B)

Prevalence Index = B/A = 3.75

Hydrophytic Vegetation Indicators:

___ 1 - Rapid Test for Hydrophytic Vegetation

___ 2 - Dominance Test is >50%

___ 3 - Prevalence Index is ≤3.0[1]

___ 4 - Morphological Adaptations[1] (Provide supporting data in Remarks or on a separate sheet)

___ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes ____ No X

Remarks: (Include photo numbers here or on a separate sheet.)
Hydrophytic vegetation criterion is not met

SOIL

Sampling Point: _____

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix Color (moist)	%	Redox Features Color (moist)	%	Type	Loc[1]	Texture	Remarks
0-12	10YR 2/2						sil	
12-18	10YR5/4		10YR2/1	<2	MnO		cl	

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators:

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5)
- ___ 2 cm Muck (A10)
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ 5 cm Mucky Peat or Peat (S3)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ___ Coast Prairie Redox (A16)
- ___ Dark Surface (S7)
- ___ Iron-Manganese Masses (F12)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed):

Type: _____

Depth (inches): _____

Hydric Soil Present? Yes _____ No X

Remarks:

Soil is not hydric.

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required: check all that apply)

- ___ Surface Water (A1)
- ___ High Water Table (A2)
- ___ Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- ___ Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Sparsely Vegetated Concave Surface (B8)
- ___ Water-Stained Leaves (B9)
- ___ Aquatic Fauna (B13)
- ___ True Aquatic Plants (B14)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres on Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Gauge or Well Data (D9)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Surface Soil Cracks (B6)
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Stunted or Stressed Plants (D1)
- ___ Geomorphic Position (D2)
- ___ FAC-Neutral Test (D5)

Field Observations:

Surface Water Present? Yes _____ No X Depth (inches): in channel

Water Table Present? Yes _____ No X Depth (inches): 8 inches

Saturation Present? (includes capillary fringe) Yes _____ No X Depth (inches): 8 inches

Wetland Hydrology Present? Yes _____ No X

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

Hydrology indicator is not met.

APPENDIX B

Floristic Quality Assessments

FLORISTIC QUALITY ASSESSMENT DATA POINT 1

SITE: 55 Riverside DP1
LOCALE:
BY: PDK
NOTES:

CONSERVATISM-BASED METRICS		ADDITIONAL METRICS	
MEAN C (NATIVE SPECIES)	1.67	SPECIES RICHNESS (ALL)	6
MEAN C (ALL SPECIES)	1.67	SPECIES RICHNESS (NATIVE)	6
MEAN C (NATIVE TREES)	0.50	% NON-NATIVE	0.00
MEAN C (NATIVE SHRUBS)	n/a	WET INDICATOR (ALL)	-1.00
MEAN C (NATIVE HERBACEOUS)	2.25	WET INDICATOR (NATIVE)	-1.00
FQAI (NATIVE SPECIES)	4.08	% HYDROPHYTE (MIDWEST)	1.00
FQAI (ALL SPECIES)	4.08	% NATIVE PERENNIAL	0.83
ADJUSTED FQAI	16.67	% NATIVE ANNUAL	0.17
% C VALUE 0	0.50	% ANNUAL	0.17
% C VALUE 1-3	0.17	% PERENNIAL	0.83
% C VALUE 4-6	0.33		
% C VALUE 7-10	0.00		

SPECIES ACRONYM	SPECIES NAME (NWPL/ MOHLENBROCK)	SPECIES (SYNONYM)	COMMON NAME	C VALUE	MIDWEST WET INDICATOR	NC-NE WET INDICATOR	WET INDICATOR (NUMERIC)	HABIT	DURATION	NATIVITY
aceneg	Acer negundo	Acer negundo var. violaceum	Ash-Leaf Maple	0	FAC	FAC	0	Tree	Perennial	Native
acesai	Acer saccharinum	Acer saccharinum	Silver Maple	1	FACW	FACW	-1	Tree	Perennial	Native
CXCRIS	Carex cristatella	Carex cristatella	Crested Sedge	4	FACW	FACW	-1	Sedge	Perennial	Native
cypesc	Cyperus esculentus	Cyperus esculentus	Chufa	0	FACW	FACW	-1	Sedge	Perennial	Native
echcru	Echinochloa crus-galli	Echinochloa crusgalli	Large Barnyard Grass	0	FACW	FAC	-1	Grass	Annual	Native
juneff	Juncus effusus ssp. solutus	Juncus effusus	Lamp Rush	5	OBL	OBL	-2	Forb	Perennial	Native

FLORISTIC QUALITY IASSESSMENT DATA POIT 1A

SITE: 55 Riverside DP1A
LOCALE:
BY: PDK
NOTES:

CONSERVATISM-BASED METRICS	
MEAN C (NATIVE SPECIES)	0.00
MEAN C (ALL SPECIES)	0.00
MEAN C (NATIVE TREES)	n/a
MEAN C (NATIVE SHRUBS)	n/a
MEAN C (NATIVE HERBACEOUS)	0.00
FQAI (NATIVE SPECIES)	0.00
FQAI (ALL SPECIES)	0.00
ADJUSTED FQAI	0.00
% C VALUE 0	1.00
% C VALUE 1-3	0.00
% C VALUE 4-6	0.00
% C VALUE 7-10	0.00

ADDITIONAL METRICS	
SPECIES RICHNESS (ALL)	7
SPECIES RICHNESS (NATIVE)	1
% NON-NATIVE	0.86
WET INDICATOR (ALL)	0.71
WET INDICATOR (NATIVE)	0.00
% HYDROPHYTE (MIDWEST)	0.29
% NATIVE PERENNIAL	0.14
% NATIVE ANNUAL	0.00
% ANNUAL	0.14
% PERENNIAL	0.86

SPECIES ACRONYM	SPECIES NAME (NWPL/ MOHLENBROCK)	SPECIES (SYNONYM)	COMMON NAME	C VALUE	MIDWEST WET INDICATOR	NC-NE WET INDICATOR	WET INDICATOR (NUMERIC)	HABIT	DURATION	NATIVITY
broine	Bromus inermis	BROMUS INERMIS	Smooth Brome		0 FACU	UPL	1	Grass	Perennial	Adventive
digsan	Digitaria sanguinalis	DIGITARIA SANGUINALIS	Hairy Crab Grass		0 FACU	FACU	1	Grass	Annual	Adventive
horjub	Hordeum jubatum	HORDEUM JUBATUM	Fox-Tail Barley		0 FAC	FAC	0	Grass	Perennial	Native
LOLPER	Lolium perenne	LOLIUM PERENNE	Perennial Rye Grass		0 FACU	FACU	1	Grass	Perennial	Adventive
plalan	Plantago lanceolata	PLANTAGO LANCEOLATA	English Plantain		0 FACU	FACU	1	Forb	Perennial	Adventive
poapra	Poa pratensis	POA PRATENSIS	Kentucky Blue Grass		0 FAC	FACU	0	Grass	Perennial	Adventive
fesela	Schedonorus pratensis	FESTUCA ELATIOR	Meadow False Rye Grass		0 FACU	FACU	1	Grass	Perennial	Adventive

Attachment 5

Matt Asselmeier

From: Greg Chismark <gchismark@wbkengineering.com>
Sent: Saturday, November 13, 2021 4:29 PM
To: Matt Asselmeier
Subject: RE: [External]RE: Unincorporated Kendall County

Yes, I have a comment.
The base flood elevation of the Fox River in proximity to this lot is 582. The County GIS contours indicates there is hydraulic connectivity from the Fox River to the property. The survey submitted shows elevations lower than 582 which documents floodplain exists on the property.
Unless the petitioner can provide a survey that depicts ground elevation at or above 582 between the lot and the Fox River, my opinion is that there is floodplain on the lot. Let me know if you need anything formal on this.
Greg

Greg Chismark, PE
President
Direct: (630) 338-8527| Main: (630) 443-7755
gchismark@wbkengineering.com

WBK Engineering, LLC
116 W. Main Street, Suite 201, St. Charles, IL 60174

Part of Bodwè Professional Services

From: Matt Asselmeier <masselmeier@co.kendall.il.us>
Sent: Friday, November 12, 2021 8:49 AM
To: Greg Chismark <gchismark@wbkengineering.com>
Subject: RE: [External]RE: Unincorporated Kendall County

Greg:

The owner of Lot 183 in Fox River Gardens is submitting an application to rezone the property R-3 in order to build 2 houses.

The Petitioner submitted the attached topographic survey and is claiming no floodplain and no BFE on the property.

Do you have any comments on this?

Thanks,

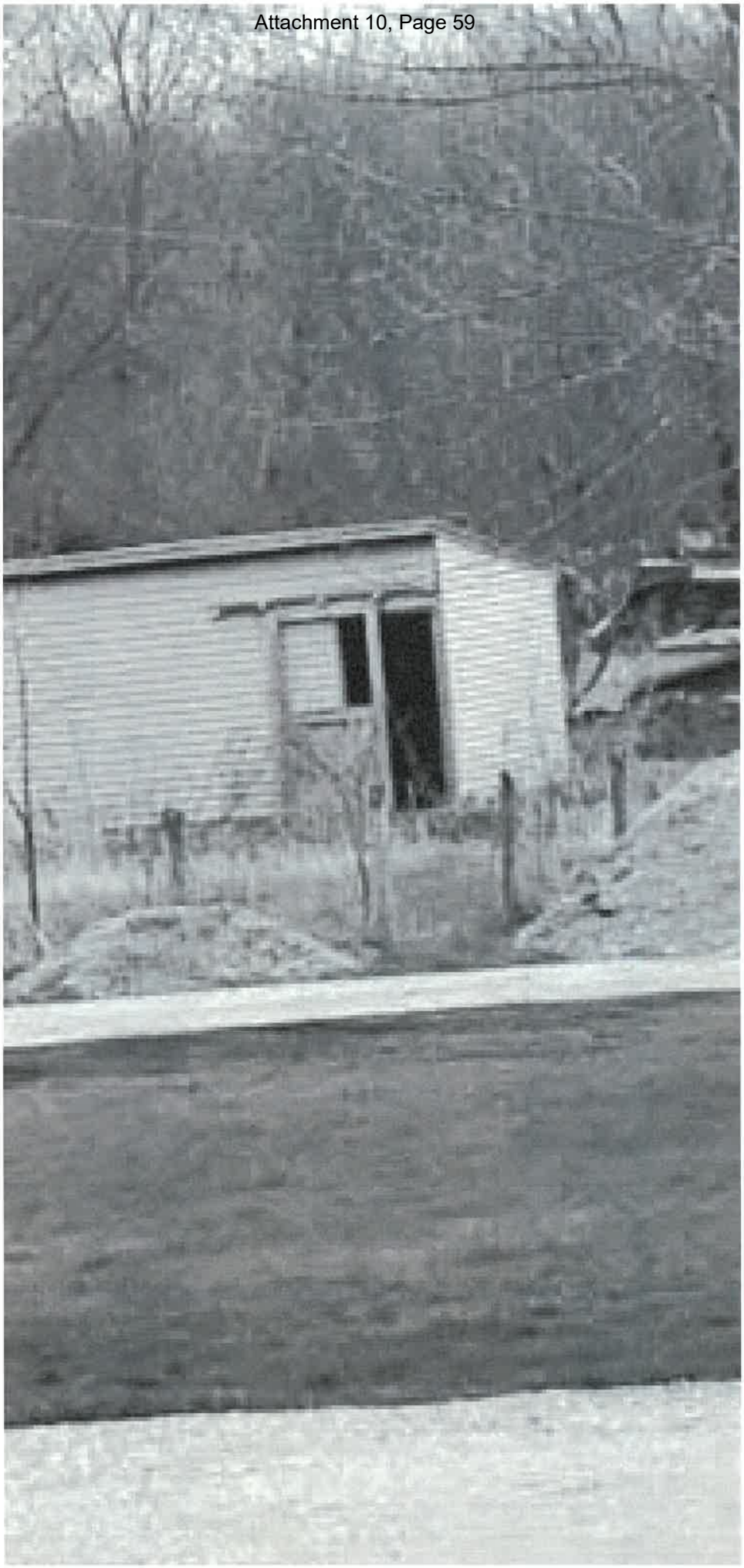
Matthew H. Asselmeier, AICP, CFM
Senior Planner
Kendall County Planning, Building & Zoning
111 West Fox Street
Yorkville, IL 60560-1498
PH: 630-553-4139
Fax: 630-553-4179

Attachment 6

EXHIBIT
G


EXHIBIT
H
tabbies


10:33 AT&T
84%
20210409_0832...
CC
GIF
2:05
3:04
EXHIBIT
I



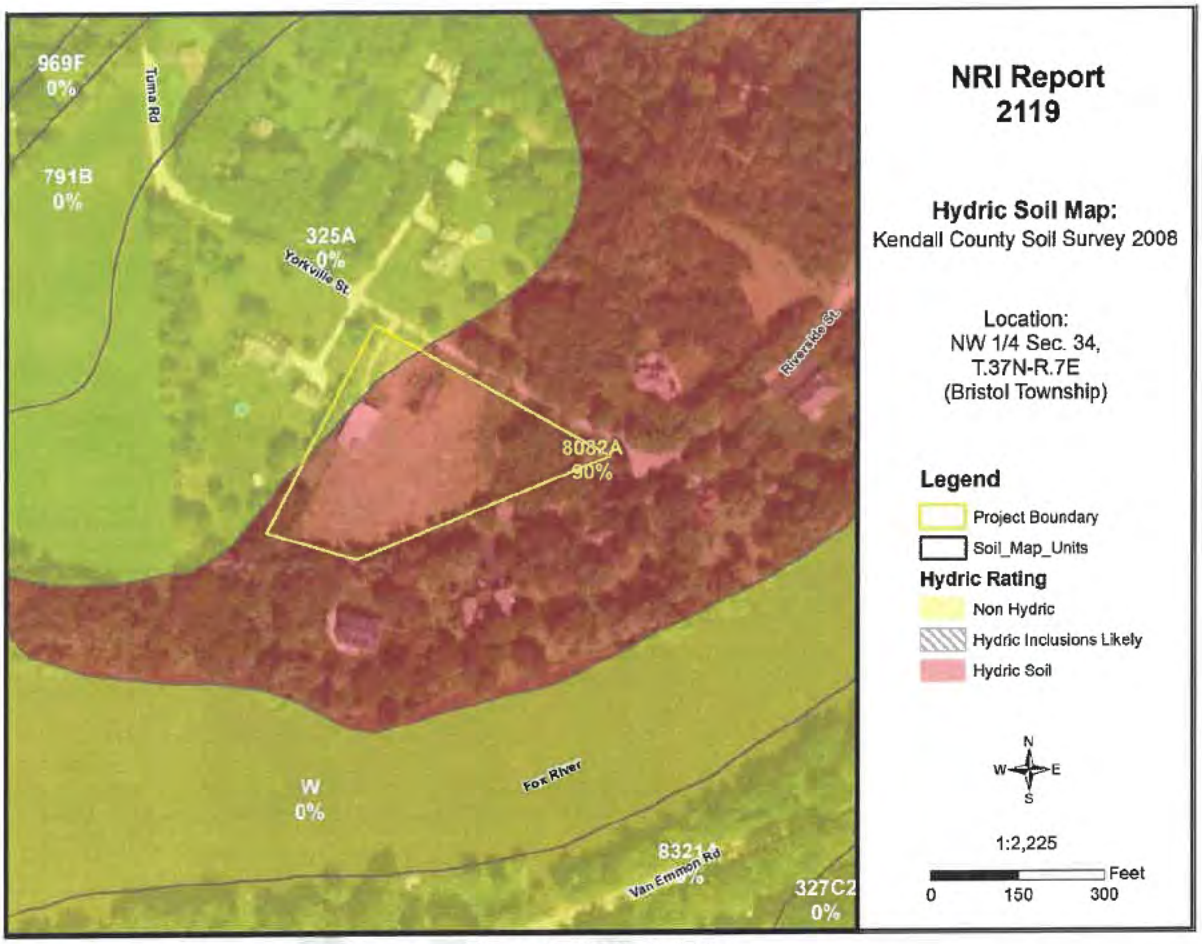


Figure 11: Hydric Soil Map

EXHIBIT
J
tabbies

NRI 2119 December 2021

Figure 6B: Map of Building Limitations – Dwellings without Basements, Shallow Excavations, and Lawns/Landscaping

EXHIBIT
K

CONTEXT AERIAL

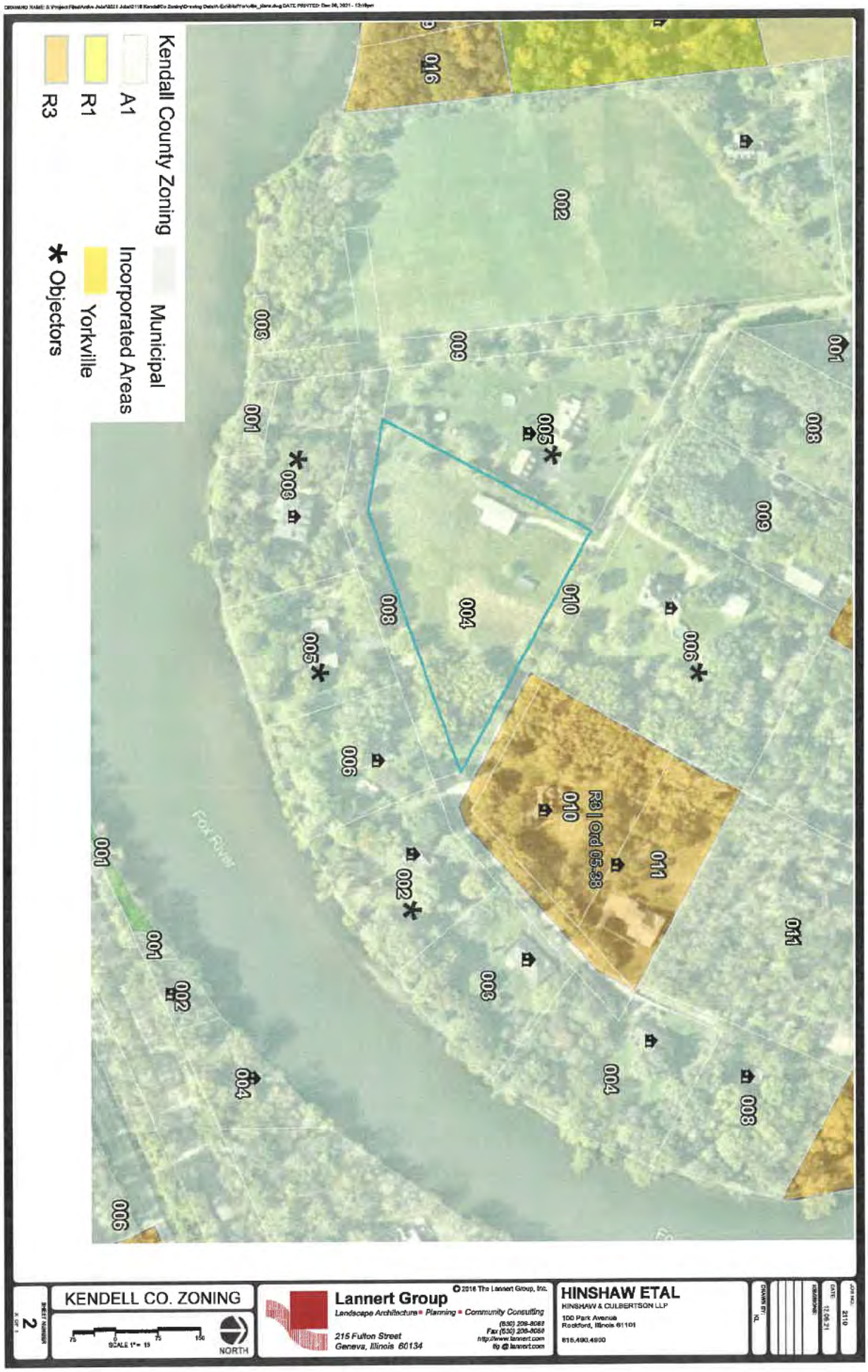
SCALE 1" = 10

NORTH

Lannert Group
Landscape Architecture ▪ Planning ▪ Community Consulting
215 Fulton Street
Geneva, Illinois 60134
(630) 208-8568
Fax (630) 208-8950
http://www.lannert.com
lg @ lannert.com

HINSHAW ETAL
HINSHAW & CULBERTSON LLP
100 Park Avenue
Rockford, Illinois 61101
815.490.4900

DRAWN BY: KL
REVISIONS:
DATE: 12.06.21
JOB NO. 2119


Kendall County Zoning
A1
R1
R3
Municipal
Incorporated Areas
Yorkville
Objectors
R3 | Ord 05-38
Fox River
KENDELL CO. ZONING
SCALE 1" = 150'
NORTH
Lannert Group
Landscape Architecture • Planning • Community Consulting
215 Fulton Street
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(630) 208-8082
Fax (630) 208-8086
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HINSHAW & CULBERTSON LLP
100 Park Avenue
Rockford, Illinois 61101
815.490.4900
DRAWN BY: TCL
DATE: 12.06.21
JOB NO.: 2110
SHEET NUMBER: 2


Lot 183
SIRE AERIAL
SCALE 1" = 50'
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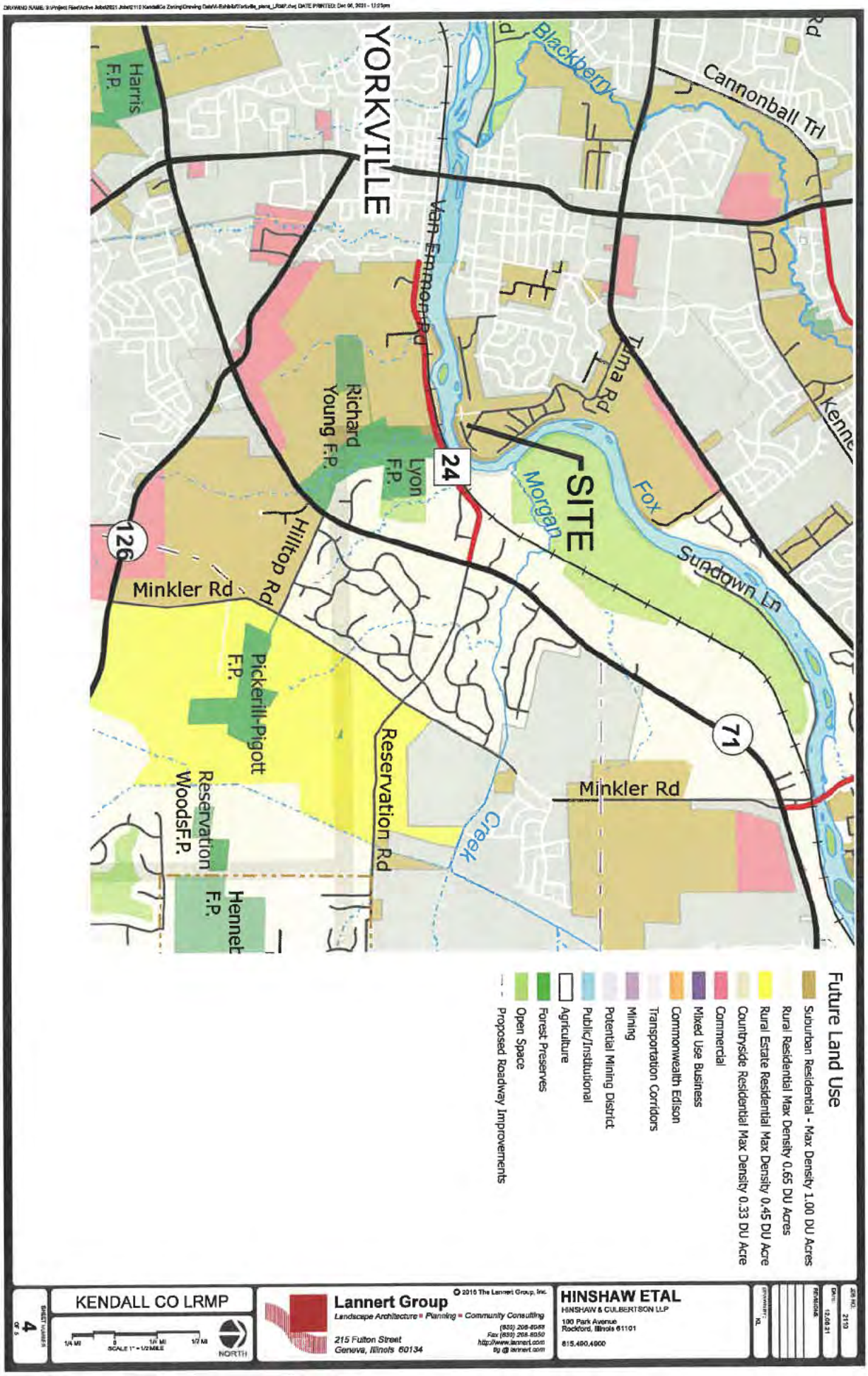
3
OF 5


YORKVILLE
Harris F.P.
Blackberry
Cannonball Trl
Van Emmon Rd
Tama Rd
Kenne
Richard Young F.P.
Lyon F.P.
24
SITE
Morgan
Fox
126
Hilltop Rd
Minkler Rd
Sundown Ln
Pickerill-Pigott F.P.
Reservation Rd
71
Minkler Rd
Creek
Reservation WoodsF.P.
Hennet F.P.
Future Land Use
Suburban Residential - Max Density 1.00 DU Acres
Rural Residential Max Density 0.65 DU Acres
Rural Estate Residential Max Density 0.45 DU Acre
Countryside Residential Max Density 0.33 DU Acre
Commercial
Mixed Use Business
Commonwealth Edison
Transportation Corridors
Mining
Potential Mining District
Public/Institutional
Agriculture
Forest Preserves
Open Space
Proposed Roadway Improvements
KENDALL CO LRMP
SCALE 1" = 1/2 MILE
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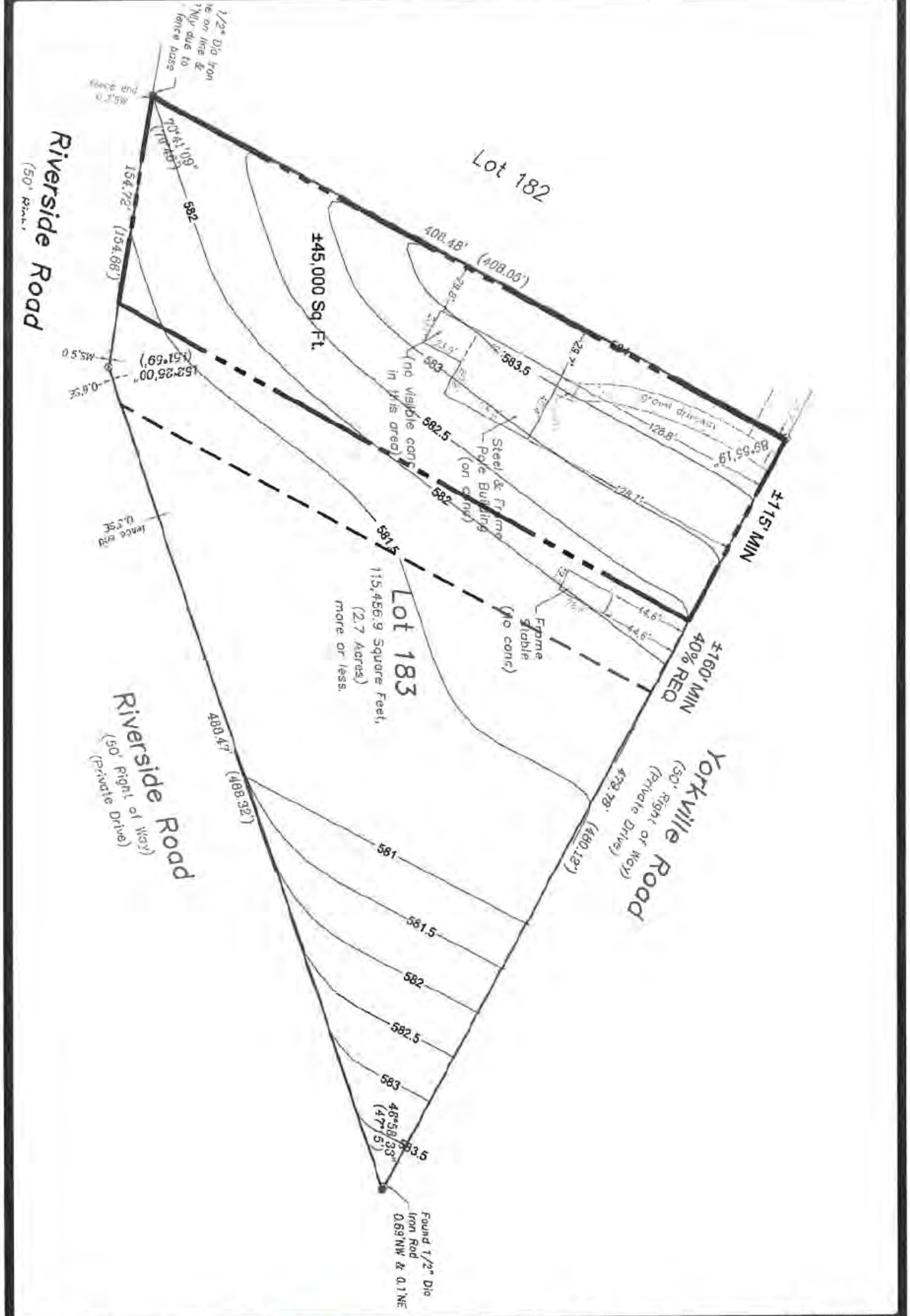

5

SURVEY/LOTTING

SCALE 1" = 50' NORTH

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HINSHAW & CULBERTSON LLP

100 Park Avenue
Rockford, Illinois 61101

815.490.4900

DATE 12.08.21

JOB NO. 2110

Matt Asselmeier

From: Real estate <realestate@dankramerlaw.com>
Sent: Tuesday, December 7, 2021 11:28 AM
To: Matt Asselmeier
Subject: [External]Quezada Zoning Petition

Dear Matt:

Can you please continue the Quezda Petition from the December RPC and ZBA to the January RPC and ZBA? [redacted] I don't have the physical strength to attend the meetings.

DO NOT RESPOND TO THIS EMAIL PLEASE SEND DIRECT TO: dkramer@dankramerlaw.com

Very Truly Yours,

Daniel J. Kramer
Attorney at Law
1107A S. Bridge Street
Yorkville, IL. 60560
Phone-630.553.9500
Fax-630.553.5764