KENDALL COUNTY





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

AGENGA

Monday, July 11, 2022 – 6:30 p.m.

CALL TO ORDER:

ROLL CALL: Elizabeth Flowers, Scott Gengler (Chairman), Judy Gilmour (Vice-Chair), Dan Koukol, and Robyn Vickers

APPROVAL OF AGENDA:

APPROVAL OF MINUTES: Approval of Minutes from June 29, 2022, Special Meeting

(Pages 3-37)

PUBLIC COMMENT:

EXPENDITURE REPORT: Review of Expenditures from the Prior Month (Pages 38-42)

PETITIONS:

1. Petition 22 – 01 – Jose and Silvia Martinez (Pages 43-279)

Request: Special Use Permit for a Landscaping Business, Variance to Section 7:01.D.30.b to Allow

a Landscaping Business a Non-State, County, or Collector Highway as Defined by the Kendall County Land Resource Management Plan, and Variance to Section 11:02.F.7.b of the Kendall County Zoning Ordinance to Allow a Driveway Zero Feet from the Southern

Property Line

PINs: 03-12-100-004 and 03-12-100-013 Location: 1038 Harvey Road, Oswego Township

Purpose: Petitioner Wants to Operate a Landscaping Business at the Subject Property; Property is

Zoned A-1

2. Petition 22 – 13 – Joe Slivka and Kevin Kunkel on Behalf of Lisbon Township

(Pages 280-379)

Request: Special Use Permit for a Government Building or Facility (Garage)

PINs: 08-21-300-002 and 08-21-300-004

Location: 15759 Route 47, Newark, Lisbon Township

Purpose: Petitioner Wants to Construct a Garage for Township Equipment; Property is Zoned A-1

Agricultural District

NEW BUSINESS:

1. Update on Hiring Part-Time Code Enforcement Officer (Pages 380-381)

2. Approval of a Request by John and Laura Gay for a Second Extension to the Requirement

to Install Vegetation and Berms as Required by Condition 2.B of Ordinance 2022-09 at 3601 Plainfield Road (PIN: 03-28-100-004) in Oswego Township (Pages 382-406)

OLD BUSINESS:

- 1. Discussion of Adding Definitions of Forestry, Tree Farm, and Related Text Amendments to the Kendall County Zoning Ordinance; Committee Could Initiate Text Amendments Related to These Terms and Uses or Forward the Proposal to the Comprehensive Land Plan and Ordinance Committee (Pages 407-429)
- 2. Request for Guidance Regarding a Banquet Facility at 1126 Simons Road
- 3. Discussion of Having a Planning, Building and Zoning Committee Meeting in Boulder Hill in 2022
- 4. Historic Structure Survey Items
 - a. Approval of a Certified Local Government Grant for an Historic Structure Survey in Unincorporated Kendall and Bristol Townships; Grant Amount is \$29,750 and County's Match is \$12,750 for a Total Project Cost of \$42,500 (Pages 430-468)
 - b. Approval to Accept the Lowest Bid from Wiss, Janney, Elstner Associates, Inc. (WJE) to Conduct the Historic Structure Survey in Unincorporated Kendall and Bristol Townships in an Amount Not to Exceed \$42,500 (Pages 469-483)

REVIEW VIOLATION REPORT (Pages 484-486):

REVIEW NON-VIOLATION REPORT (Pages 487-489):

UPDATE FROM HISTORIC PRESERVATION COMMISSION:

REVIEW PERMIT REPORT (Pages 490-507):

REVIEW REVENUE REPORT (Page 508):

CORRESPONDENCE:

1. July 1, 2022, Letter from Boyd Ingemunson Pertaining to Best Budget Tree Purchasing the Property Identified by Parcel Identification Number 09-15-200-003 (Page 509)

COMMENTS FROM THE PRESS:

EXECUTIVE SESSION:

ADJOURNMENT:

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

KENDALL COUNTY PLANNING, BUILDING & ZONING COMMITTEE

Kendall County Office Building Rooms 209 and 210 111 W. Fox Street, Yorkville, Illinois 5:30 p.m.

Meeting Minutes of June 29, 2022 – Unofficial until Approved

CALL TO ORDER

The meeting was called to order by Chairman Gengler at 5:30 p.m.

ROLL CALL

<u>Committee Members Present</u>: Elizabeth Flowers (left at 7:13 p.m.), Judy Gilmour (Vice-Chairwoman), Scott Gengler (Chairman), Dan Koukol (arrived at 5:44 p.m.), and Robyn Vickers (arrived at 5:38 p.m.)

Committee Members Absent: None

Also Present: Matt Asselmeier (Senior Planner), Pat Frescura, Sharleen Smith, Anne Vickery, Jackie Kowalski, Seth Wormley, and Frank Badus

APPROVAL OF AGENDA

Member Flowers made a motion, seconded Member Gilmour, to approve the agenda as presented.

With a voice vote of three (3) ayes, the motion carried.

APPROVAL OF MINUTES

Member Flowers made a motion, seconded by Member Gilmour, to approve the minutes of the June 13, 2022, meeting.

With a voice vote of three (3) ayes, the motion carried.

PUBLIC COMMENT

Anne Vickery suggested that when an issue arises in Seward Township, the resident of Seward Township could video record the issue and use that information in court. The resident could email the evidence to the PBZ Department. She also noted a potential stormwater issue at County Line Road and Route 52 with the "forestry" business.

Pat Frescura said her confidence in the Board was renewed because the Committee was examining the forestry issue. She thanked the Committee for examining the issue.

Sharleen Smith thanked the Committee for listening to the residents of Seward Township and revisiting the definitions of landscaping and excavating businesses.

PETITION

<u>Petition 22-06 Kendall County Planning, Building and Zoning Committee</u> Mr. Asselmeier summarized the request. At the December 14, 2021, Planning, Building and Zoning Committee meeting, the Planning, Building and Zoning Committee requested Staff to prepare definitions for landscaping businesses and excavating businesses.

For preparing the proposed definition of landscaping business, Staff used the definition found in the North American Industrial Classification System as published by the United States Census Bureau. The proposed definition of landscaping business is as follows:

Member Vickers arrived at this time (5:38 p.m.).

"LANDSCAPING BUSINESS. A business engaged in providing landscape care and maintenance services and/or installing trees, shrubs, plants, lawns, or gardens and businesses primarily engaged in providing these services along with the design of landscape plans and/or the construction and installation of walkways, retaining walls, decks, fences, ponds, and similar structures."

Landscaping businesses are special uses in the A-1, B-3, M-1 and M-2 Districts.

When considering a definition of excavating businesses, the North American Industrial Classification System grouped excavating businesses with other site preparing contractors including dirt movers, trenching, and foundation drilling. Also, the terms "excavating business" and "excavator" do not appear in the Zoning Ordinance. Accordingly, Staff proposes the following definition of excavating business:

"EXCAVATING BUSINESS. A business engaged in site preparation activities including grading, earthmoving, and land clearing and businesses that rent equipment for such purposes. For the purposes of this Ordinance, an excavating business shall be considered a contractors' office or shop."

Contractor and Contractor Offices and Shops are conditional uses in the B-2 and B-3 Districts and permitted uses in the M-1 and M-2 Districts. In the B-2 and B-3 Districts, all work and storage must be inside buildings.

On January 25, 2022, the Kendall County Planning, Building and Zoning Committee unanimously voted to initiate a text amendment to the Kendall County Zoning Ordinances adding the above definitions as proposed by Staff.

This proposal was sent to the Townships on February 15, 2022. To date, no comments have been received.

ZPAC reviewed this proposal at their meeting on March 1, 2022. ZPAC recommended approval of the request by a vote of six (6) in favor and zero (0) in opposition with four (4) members absent. The minutes of the meeting were provided.

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on March 23, 2022. Discussion occurred about requiring businesses that engage in designs of landscapes only to obtain a special use permit. These types of office businesses would be allowed in the B-3 without a special use permit and could be allowed as a home occupation if the other home occupation rules were met. The Kendall County Regional Planning Commission, by vote of seven (7) in favor and zero (0) in opposition with two (2) members absent voted to recommend approval of the text amendments with a change to the proposed definition of excavating business as shown below in red:

"EXCAVATING BUSINESS. A business engaged in site preparation activities including grading, earthmoving, and land clearing and businesses that rent equipment weighing over thirty thousand pounds (30,000 lbs.) for such purposes. For the purposes of this Ordinance, an excavating business shall be considered a contractors' office or shop."

The minutes of the Kendall County Regional Planning Commission meeting were provided.

The Kendall County Zoning Board of Appeals held a public hearing on this proposal on March 28, 2022. No members of the public testified at the public hearing. The Kendall County Zoning Board of Appeals recommended approval of the proposal with the amendment proposed by the Kendall County Regional Planning Commission by a vote of five (5) in favor and one (1) in opposition with one (1) member absent. Member Vickery voted no because she felt the proposal would open a can of worms. The minutes of the hearing were provided.

Staff has concerns regarding obtaining the weights of various pieces of equipment.

Mr. Asselmeier read a letter from Dan Kramer requesting that the weight restriction be eliminated and allowing excavating businesses as special uses in the A-1 District.

Member Gilmour requested clarification from Anne Vickery regarding her concerns about opening a can of worms by adopting the proposal. Ms. Vickery said her concerns were in relation to the request by a business on Route 126 that claimed to be a landscaping business even though they had excavating in their name.

Member Koukol arrived at this time (5:44) p.m.

Ms. Vickery said large pieces of equipment were not used by small businesses.

Chairman Gengler said excavating business have to operate in industrial parks. He felt the proposed language addressed the concerns of having landscaping businesses and excavating businesses located in the proper zoning districts. The proposal would clean-up issues.

Member Gilmour asked Member Koukol his opinion regarding the weight limit. Member Koukol expressed concerns about setting a precedent from the business that located at 3485 Route 126. He felt that thirty thousand pounds (30,000 lbs.) was not much weight.

Member Flowers supported the weight restriction.

Members Vickers and Koukol were against the weight restrictions.

Member Koukol said the company at 3485 Route 126 is engaged in other activities not related to landscaping.

Mr. Asselmeier said the Regional Planning Commission added the weight restriction because the Commission did not want businesses that rent small pieces of equipment to be considered excavating businesses.

Member Koukol expressed concerns about the County obtaining the weight of equipment.

Chairman Gengler favored the original proposal without the weight restriction.

Member Koukol said that landscaping businesses usually cannot afford farmettes and just run a

landscaping company without going into other services.

The consensus of the Committee was to not allow excavating businesses on A-1 zoned property.

Member Koukol wanted the text amendment advanced before the business at 3485 Route 126 was approved. He was concerned that other excavating businesses will claim to be landscaping businesses.

Member Gilmour made motion, seconded by Member Vickers, to recommend approval of the text amendment without the weight restriction proposed by the Kendall County Regional Planning Commission.

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

The proposal goes to the County Board on July 19, 2022, on the regular agenda.

NEW BUSINESS

<u>Discussion of Adding Definitions of Forestry, Tree Farm, and Related Text Amendments to the Kendall County Zoning Ordinance; Committee Could Initiate Text Amendments Related to These Terms and Uses or Forward the Proposal to the Comprehensive Land Plan and Ordinance Committee</u>

Mr. Asselmeier summarized the issue.

Following the June 21, 2022, County Board meeting, Staff received a request to draft definitions of forestry and tree farming.

The term "forestry" was added as a permitted use in the A-1 District in 2000. The State of Illinois does not have a definition of forestry or forest. Also, professional organizations related to tree care do not have the exact same definitions of these terms. Accordingly, Staff suggests the following definition of forestry:

"Forestry. A business engaged in the growing, managing, and selling of trees not including the processing of trees or tree by-products."

Tree farms are listed in State law as an agricultural purpose. However, no definition of "tree farm" is provided. Tree farms are a permitted use in the A-1 District only. Staff suggests the following definition of tree farm:

"Tree Farm and Tree Farming. A business engaged in the growing, cultivating, and harvesting of trees, including fruits and nuts grown on trees, on the same premises of where the trees are grown and not including the processing of trees or tree by-products."

At the June 16, 2022, Committee of the Whole meeting, it was mentioned that the processing of mulch was not listed as a use within the Kendall County Zoning Ordinance. The closest related use is the production, publishing, processing, cleaning, testing, or repair of lumber mentioned in Section 10:01.B.21.k of the Kendall County Zoning Ordinance. This use is a permitted use in the M-1 and M-2 Districts. While other uses not specifically listed that conform to the goals, purpose, and objective of the district are special uses in the M-1 and M-2 Districts, Staff suggests the following amendment to Section 10:01.B.21.k to clarify certain uses related to mulch:

"k) Building equipment, building materials, mulch derived from plants, lumber, coal, sand and gravel yards, and yards for contracting equipment of public agencies, or public utilities, or materials or equipment of similar nature."

Mr. Asselmeier read an email from Tom Gargrave from the IDNR Forestry providing a definition of forestry; no definition of forest was provided.

Mr. Asselmeier provided three (3) court cases from Boyd Ingemunson outlining definitions of forestry and agricultural uses and a County's ability to regulate such uses. The cases were People ex rel. Pletcher v. Joliet, County of Kendall v. Aurora Nat'l Bank Trust No. 1107, and Tuftee v. County of Kane. Mr. Asselmeier noted that the case involving Kendall County resulted in the court ordered mining classification on the Official Zoning Map. Mr. Asselmeier also noted that any definitions related to forestry or tree farming could be challenged in court and the State could create their own definitions for these terms. If a conflict existed between the County's definition and the State's definition, the State's definition would supersede the County's definition.

Mr. Asselmeier read a letter from Dan Kramer on the matter. Mr. Kramer felt that the County did not have the legal authority to establish definitions more restrictive than State law. He expressed concerns that the proposed definitions might be in conflict with State law. He also felt that his client at the corner of Route 52 and County Line Road in Seward Township would be lawfully non-conforming should the County establish a law.

Chairman Gengler asked about Mr. Asselmeier research on this matter. Mr. Asselmeier said that numerous definitions of forestry and forests exist. He said the State does not have a definition.

Member Gilmour asked about Tom Gargrave's comment on "standard worldwide definition". Mr. Asselmeier said a dictionary of forestry exists which Mr. Gargrave referenced. However, the State of Illinois has not officially adopted a definition.

Discussion occurred regarding the Downstate Forest Preserve District Act. This Act does not provide a definition of forestry. Mr. Asselmeier wanted to avoid creating a definition of forest because there are many definitions of forest.

Mr. Asselmeier explained the text amendment process.

Discussion occurred about other terms in the Zoning Ordinance that were not defined at the State level. Mr. Asselmeier noted the unique exemptions of agricultural uses and purposes in State law.

Member Koukol favored obtaining a State's Attorney's opinion on this matter since the State's Attorney's Office would have to defend the County in court.

Member Gilmour noted that Mr. Gargrave noted that forestry was more of a science than a business. She favored taking Mr. Gargrave's opinion under consideration.

Member Koukol made motion, seconded by Member Flowers, to ask the State's Attorney's Office for an opinion to see if the County has the authority to establish definitions for forestry and tree farm.

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

Approval of a Proposal from WBK Engineering to Evaluate the Kendall County Stormwater Management Ordinance for Possible Changes Due to the Revised Illinois Model Floodplain Ordinance at a Cost Not to Exceed \$2,500; Related Invoices to Be Paid from the PBZ Department's Consultant Line Item 11001902-63630

Mr. Asselmeier read the proposal from WBK Engineering. Mr. Asselmeier said there was approximately Five Thousand Dollars (\$5,000) available in the line item.

Member Gilmour made motion, seconded by Member Koukol, to approve the proposal.

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

Request for Guidance Regarding a Banquet Facility at 1126 Simons Road

Mr. Asselmeier summarized the issue and provided information from Facebook on the matter. He noted that the property owner has not submitted any information regarding future events and no future events were listed on business' Facebook page.

Member Koukol asked if the property was inside Plainfield. Mr. Asselmeier said the property was unincorporated, but bordered Plainfield on three (3) sides. Member Koukol felt that the use has been operating for a number of years.

The use is no longer in operation for new clients, but they want to honor existing contracts.

The consensus of the Committee was to have Staff send a letter to the property owners and see if a response is received by the July 11, 2022, PBZ Committee meeting.

Recommendation of a Proposal from Teska Associates, Inc. to Update the Kendall County Land Resource Management Plan in Its Entirety

Mr. Asselmeier summarized the request, timeline, and budge for the project. Mr. Asselmeier noted that ZPAC, Regional Planning Commission, and Zoning Board of Appeals have reviewed the proposal and were in favor.

Member Gilmour asked where the money to do the project would come from and if the townships would be involved. Mr. Asselmeier said the money would come from the General Fund and the intent was to engage the townships in the process. It was noted that the County Board might approve the funds to do one (1) corridor and a future County Board might not approve funds to do subsequent corridors.

The Land Resource Management Plan was completed updated in the 1990s and the update was finished in the mid-2000s not including minor changes since that time.

Mr. Asselmeier said final approval would be part of the budget for the next fiscal year and work on the project would start at the end of 2022 or beginning of 2023.

Mr. Asselmeier explained the importance of the Land Resource Management Plan in relation the vision of the County and in relation to approving zoning related requests.

Member Koukol asked if the proposal would address the Route 47 corridor. Mr. Asselmeier said the project could address issues on the Route 47 corridor. Member Koukol would like to see economic development issues incorporated in the project.

Discussion occurred regarding which corridor should be examined first. The consensus was to

start on the east side of the County and move west.

Member Gilmour noted that some County Board members would have two (2) year terms.

Member Gilmour made motion, seconded by Member Vickers, to forward the proposal to the July 14, 2022, Budget and Finance Committee meeting.

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

Approval of an Intergovernmental Agreement between the Village of Millbrook and the County of Kendall to Administer the County's Ordinances for Zoning, Building Code, Subdivision Control, Comprehensive Plan, and Stormwater Management within the Jurisdiction of the Village of Millbrook for a Term of One (1) Year in the Amount of \$1.00 Plus Associated Costs Paid by the Village of Millbrook to the County of Kendall

Mr. Asselmeier summarized the request.

The agreement between the Village of Millbrook and Kendall County allowing the County to provide Planning, Building and Zoning Department related services expires in September.

No changes from the previous contract are proposed.

During the current agreement period, the County conducted 2 investigations in Millbrook and issued 4 permits with 9 inspections.

The Village of Millbrook approved the proposal at their meeting in July.

A copy of the proposed Intergovernmental Agreement was provided.

Member Koukol made motion, seconded by Member Flowers, to recommend approval of the agreement.

Member Koukol asked if the railroad issued a permit to demolish the old grain elevator. Jackie Kowalski, Village President of Millbrook, said the permit was in place.

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

The proposal goes to the County Board on July 19, 2022, on the consent agenda.

OLD BUSINESS

<u>Update on Right-of-Way Dedication as Required by Condition 6 of Ordinance 2005-37 at 5681</u> <u>Whitewillow Road (PIN: 09-31-100-005) in Seward Township</u>

Mr. Asselmeier stated that he had spoken to Fran Klaas regarding the right-of-way dedication and Mr. Klaas said the Highway Department was working with a surveyor to prepare the necessary documents related to the dedication.

<u>Discussion of Intergovernmental Agreements with Townships Regarding Additional Code</u> <u>Enforcement</u>

Mr. Asselmeier summarized the request.

The Planning, Building and Zoning Department previously reached out to Oswego and Seward

Townships to see if they would each be in favor of paying Nine Thousand Dollars (\$9,000) per year for five (5) hours per week of additional code enforcement in their respective township.

At their Annual Meeting in April, Oswego Township adopted a garbage dumping ordinance and a recreational vehicle and trailer parking ordinance. Oswego Township was considering adding additional hours to their Code Enforcement Officer.

Seward Township was still evaluating the proposal.

Related emails and Oswego Township's ordinances were provided.

Mr. Asselmeier said the application to fill the part-time inspector position will be posted on July 5, 2022.

<u>Discussion of Having a Planning, Building and Zoning Committee Meeting in Boulder Hill in 2022</u> Mr. Asselmeier asked if the Committee wanted to have this type of meeting.

The consensus was to have more of a townhall type meeting with questions and answers.

The suggestion was made to set a limit on the number of questions on the same topic. The suggestion was also made to have attendees submit topics in advance when they enter the meeting room or during the meeting.

Representatives from Oswego Township and the Planning, Building and Zoning Department in attendance.

The consensus was to have a meeting in September or October.

Suggested meeting locations were the Oswego Township Office, Church of the Brethren, or St. Luke's School. Mr. Asselmeier will contact Oswego Township for possible meeting locations and times.

<u>Update on Requiring Applicants to the Kendall County Planning, Building and Zoning Department to be Debt Free or Current on an Approved Payment Plan to the County at the Time of Application Submittal; Committee Could Approve a Policy on This Matter</u>

Mr. Asselmeier stated the review has added a couple days to the permit approval process. To date, no debts have been found. There has been an issue with researching information in the Circuit Clerk's Office when the applicant has a common name, but does not live at the property. A proposed policy was provided. The building permit application and other zoning related applications would be amended to add a paragraph stating that the applicants were free of debt or current on an approved payment plan with the County.

Discussion occurred regarding time constraints to do the checks.

Mr. Asselmeier said the Department would still have to research if the party has a debt to the County, if the disclaimer is added to the policy.

Chairman Gengler made a motion, seconded by Member Flowers, to approve the policy with an amendment adding a disclaimer to applications stating the applicant are current or free of debt to Kendall County.

<u>Update from WBK Engineering Regarding Drainage Issue at 7405 Audrey Avenue (PIN: 05-02-201-006) in Kendall Township</u>

Mr. Asselmeier read the memo from WBK. He noted that WBK did not recommend that the County take any action at this time and the matter was a private property matter.

Frank Badus discussed the installation of a swale. He requested a survey, inspection report, or permit showing the original grading in the area. Member Koukol said the information in the original survey would be outdated. Mr. Badus was advised to do a Freedom of Information Act request for the original survey.

Member Flowers left the meeting at this time (7:13 p.m.).

REVIEW VIOLATION REPORT

The Committee reviewed the violation report. A fine of Eight Hundred Dollars (\$800) was assessed by the court at 2543 Simons Road for operating a banquet facility without a special use permit. They have until mid-January 2023 to pay the fine. Mr. Asselmeier also reported that the special use permit and variances for 1038 Harvey Road will on the Committee's July 11, 2022, agenda.

REVIEW NON-VIOLATION REPORT

The Committee reviewed the non-violation report.

UPDATE FOR HISTORIC PRESERVATION COMMISSION

Mr. Asselmeier said the Historic Preservation Commission will have a meeting with other historic preservation organizations on August 15, 2022, at 6:00 p.m., at the Fern Dell School and Museum.

He also stated that the bids for the historic structure survey in unincorporated Bristol and Kendall Townships will be opened on June 30, 2022. The County received one (1) bid.

REVIEW PERMIT REPORTS FROM APRIL AND MAY 2022

The Committee reviewed the reports.

REVIEW REVENUE REPORT

The Committee reviewed the report.

CORRESPONDENCE

<u>June 17, 2022 Email from Dave Altosino Pertaining to the Vacation of Easements Granted by Ordinance</u> 2022-12 (Formerly Petition 22-08)

The Committee reviewed the correspondence. Mr. Asselmeier said that the last time this type of issue occurred, the matter was referred to the County Board and noted the minutes of the County Board meeting. The item will be on the consent agenda for the July 19, 2022, County Board meeting.

COMMENTS FROM THE PRESS

None

EXECUTIVE SESSION

None

ADJOURNMENT

Member Gilmour made a motion, seconded by Member Koukol, to adjourn. With a voice vote of four (4) ayes, the motion carried.

Chairman Gengler adjourned the meeting at 7:20 p.m.

Minutes prepared by Matthew H. Asselmeier, AICP, CFM Senior Planner Encs.

KENDALL COUNTY PLANNING, BUILDING, & ZONING COMMITTEE JUNE 29, 2022

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)
ane Veiley		
Slavensermith Jeke Kouder		
South DORMLEY		
Frak Bonis		

Law Offices of **Daniel J. Kramer**

Daniel J. Kramer

1107A S. Bridge Street Yorkville, Illinois 60560 630-553-9500 Fax: 630-553-5764 dkramer@dankramerlaw.com

Kelly A. Helland D.J. Kramer

June 29, 2022

Matt Asselmeier Kendall County Planning, Building, & Zoning masselmeier@co.kendall.il.us

RE: Kendall County Zoning Ordinance regarding Excavating & Landscaping Business

Dear Matt:

I applaud the Committees efforts in regard to cleaning up the language about defining what a Landscaping and Excavating Business happens to be. I have two points I would like to suggest, one, eliminating the weight restriction that you put in the proposed Ordinance for Excavating in that I don't think that is relevant. Plus going forward who knows what size machines will be for various functions in many different aspects of Excavating. I could see equipment that is not normal for local Excavators when Wind Towers are being undertaken and again future activities that there is no reason to limit weight.

Second I would strongly recommend that the Excavating Business be added as a Special Use under the A1 Zoning Ordinance. My reasoning is we have many Commercial size farm buildings that are in existence out in the County at this point in time where a Farmer passes away or no longer desires to keep farming. It is a wasted asset to let the buildings go in to disrepair and is a plus to keep them on the tax rolls. I feel you can protect neighbors in an agricultural setting with the Excavating/Landscaping Special Uses by screening with natural materials or fencing and adhering to those requirements in the Special Use process.

I know this has been a long simmering issue, but we have had some experience of Excavators operating out in the County that are small one man bands, that have no Zoning and keep their equipment in buildings and have very attractive homesteads with it. I think adding the Excavating and Landscaping Sections that you are proposing to the A1 Ordinance as Special Uses is advantageous to the County both in keeping our Citizens employed and enhancing out Real Estate Tax base.

Very truly yours

Daniel J. Kramer

Daniel J. Kramer Attorney at Law

DJK:rg

Matt Asselmeier

From:

Gargrave, Tom <Tom.Gargrave@Illinois.gov>

Sent:

Tuesday, June 28, 2022 4:17 PM

To:

Matt Asselmeier

Cc:

Hayek, Jay C; Whittom, Chris; Bill Ashton; Scott Koeppel; Scott Gengler; Latreese

Caldwell

Subject:

RE: [External]Re: Tree Farm Definition

I do not, but a forest must have trees, can be simple or complex, urban or rural, native plants or otherwise. I would just use a standard definition, one you prefer.... but include that "act of forestry" is science and considered the practice of planting, growing, and managing the forest.

From: Matt Asselmeier < masselmeier@kendallcountyil.gov>

Sent: Tuesday, June 28, 2022 3:49 PM

To: Gargrave, Tom <Tom.Gargrave@Illinois.gov>

Cc: Hayek, Jay C < jhayek@illinois.edu>; Whittom, Chris < Chris.Whittom@illinois.gov>; Bill Ashton

<w.ashton62@gmail.com>; Scott Koeppel <skoeppel@kendallcountyil.gov>; Scott Gengler <sgengler@kendallcountyil.gov>; Latreese Caldwell <LCaldwell@kendallcountyil.gov>

Subject: RE: [External]Re: Tree Farm Definition

Tom:

Thank you for you input.

Do you have a preferred definition of forest?

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: Gargrave, Tom <Tom.Gargrave@Illinois.gov>

Sent: Tuesday, June 28, 2022 3:40 PM

To: Matt Asselmeier < masselmeier@kendallcountyil.gov>

Cc: Hayek, Jay C < ihayek@illinois.edu >; Whittom, Chris < Chris.Whittom@illinois.gov >

Subject: RE: [External]Re: Tree Farm Definition

Matt,

Thank you for the invite, I cannot make that meeting. I agree some changes should be considered.

I would however like to add that the standard worldwide accepted definition of Forestry reflects a "sound science or practice of managing, planting, and caring for forests". This involves principles of silviculture, ecology, cover types, stand succession, complex nutrient/energy systems and many other classification dynamics.

The business of growing and selling wood is a byproduct of the forest and by definition Forestry does not need to be considered a business. Cutting timber or firewood is a commodity but is not always considered a business.

The act processing any forest products should have nothing to do with the art and science of growing trees/habitats. Harvesting deer from your woods does not make your land a deer processing facility.

I would move that you consider defining forestry as "the practice of Silviculture based on the sound science of well managed natural resource systems including flora and fauna, soil/water benefits, carbon sequestration, recreation, and others..." Many Kendall County landowners fit into this.

- -A wood chipping, lumber production (sawmill), firewood processor, or other production facilities does not fit under "Forestry" definition. These facilities are industrial complexes that *are* considered agricultural businesses. Same as a grain elevator.
- -Tree Farms are a bit different but can also be in on both sides of business or forest. Tree Farms usually sell trees for profit but also can produce the same befits as a forest. A wood chipping or sawmill facility does not fit here either. Many Kendall Co landowners fit into this.
- -Nurseries produce a multitude of products for landscape purposes and are defined clearly.

Please feel free to reach out if you need any further assistance
Best regards
tom
Tom Gargrave
IDNR Forestry Division Chief
State Forester
30550 Boathouse Rd
Wilmington, Il 60481
630-399-3249

From: Matt Asselmeier < masselmeier@kendallcountyil.gov>

Sent: Monday, June 27, 2022 9:07 AM

To: Hayek, Jay C < ihayek@illinois.edu >; Gargrave, Tom < Tom.Gargrave@Illinois.gov >

Subject: RE: [External]Re: Tree Farm Definition

Jay and Tom:

The Kendall County Planning, Building and Zoning Committee will be holding a meeting on Wednesday, June 29th, at 5:30 p.m., in the County Boardroom, at 111 W. Fox Street, Yorkville, to discuss the following:

 Discussion of Adding Definitions of Forestry, Tree Farm, and Related Text Amendments to the Kendall County Zoning Ordinance; Committee Could Initiate Text Amendments Related to These Terms and Uses or Forward the Proposal to the Comprehensive Land Plan and Ordinance Committee

Would either of you be able to attend the meeting? There is no remote attendance option.

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



User Name: Boyd Ingemunson

Date and Time: Monday, June 20, 2022 10:52:00 AM EDT

Job Number: 173580104

Document (1)

1. People ex rel. Pletcher v. Joliet, 321 III. 385

Client/Matter: -None-

Search Terms: zoning & forestry

Search Type: Terms and Connectors

Narrowed by:

Content Type

Narrowed by

Cases

Court: State Courts > Illinois

People ex rel. Pletcher v. Joliet

Supreme Court of Illinois April 23, 1926

No. 17341.

Reporter

321 Ill. 385 *; 152 N.E. 159 **; 1926 Ill. LEXIS 918 ***

THE PEOPLE *ex rel*. Henry S. Pletcher *et al.* Appellants, *vs.* THE CITY OF JOLIET, Appellee.

Subsequent History: [***1] Rehearing denied June 4, 1926.

Prior History: APPEAL from the Circuit Court of Will county; the Hon. FRANK L. HOOPER, Judge, presiding.

Disposition: Reversed and remanded.

Core Terms

tract, territory, subdivision of land, annexed, agricultural purposes, subdivided, words, agricultural, embraced, bounded, farm

Case Summary

Procedural Posture

Appellants, a property owner and others, challenged the judgement of the Circuit Court of Will County (Illinois), which found appellee City of Joliet, Illinois, not guilty in the appellants' quo warranto proceeding to test the validity of the City's proceeding to annex territory under Ill. Smith's Stat. 1925, p. 377.

Overview

The City attempted to annex the territory of the property owner. The act for the annexation of territory to a city provided that territory that was contiguous could be annexed but excluded lands used exclusively for agricultural purposes without the owner's consent, unless the agricultural lands were bounded on at least three sides by subdivided lands. Appellants claimed that the property owner's lands were agricultural and that the act was void because it was not passed in accordance with the requirements of the Illinois Constitution. Reversing and remanding, the court concluded that the property owner's land could not be annexed without his consent. The court concluded that the property owner's

land was not subdivided because there was nothing in the plat showing that it was subdivided and the property owner's conversation with a real estate salesman about subdividing part of his land did not mean that it was subdivided. The use of the property owner's land for growing grapes and for hay was an agricultural purpose. The court found that there was no need to determine the constitutional questions.

Outcome

The court reversed the judgment of the circuit court and remanded.

LexisNexis® Headnotes

Governments > Local Governments > Boundaries

HNI[♣] Local Governments, Boundaries

Smith's Stat. 1925, p. 377 provides for the annexation of territory, conforming to the limitations fixed by the act, to a city to which the territory is contiguous, excluding, however, lands used exclusively for agricultural purposes where the owner does not consent to its inclusion, unless such agricultural lands are bounded on at least three sides by subdivided lands also embraced in such territory to be annexed.

Governments > Public Lands > Forest Lands

Governments > Legislation > Interpretation

HN2 Lands, Forest Lands

The definition for "agriculture" given by Webster is, of or pertaining to agriculture; connected with, or engaged in tillage. "Agriculture" is defined as the art or science of cultivating the ground, including harvesting of crops and rearing and management of livestock; tillage; husbandry; farming; in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of the these products for man's use. In this broad use it includes farming, horticulture and *forestry*, together with such subjects as butter and cheese making, sugar making, etc. Unless restricted by the context, the words "agricultural purposes" have generally been given this comprehensive meaning by the courts of the country. The words "agricultural purposes" are descriptive of the nature of the use to which the land is put, and so the amount of land involved will have no bearing on the meaning of the words.

Counsel: HJALMAR REHN, State's Attorney, and SAMUEL W. KING, for appellants.

FRANK J. WISE, City Attorney, (WILLIAM C. MOONEY, of counsel,) for appellee.

Opinion by: THOMPSON

Opinion

[*386] [**159] Mr. JUSTICE THOMPSON delivered the opinion of the court:

This appeal is from a judgment of not guilty entered by the circuit court of Will county in a quo warranto proceeding brought to test the validity of certain proceedings to annex territory to the city of Joliet, pursuant to the provisions of the act of June 20, 1921, providing an additional method of annexing territory to cities in this State. (Smith's Stat. 1925, p. 377.) HNI[1] This act provides for the annexation of territory, conforming to the limitations fixed by the act, to a city to which the territory is contiguous, excluding, however, lands "used exclusively for agricultural purposes" where the owner does not consent to its inclusion, "unless such agricultural lands are bounded on at least three sides by subdivided lands also embraced in such territory to be annexed."

[***2] It is contended by appellants that a judgment of ouster should have been entered because (1) the lands of relator Henry S. Pletcher are agricultural lands which are not bounded on three sides by subdivided lands and he has not given his consent to the annexation; and (2) the act under which the annexation proceedings were had is void because it was not passed in the manner prescribed by the constitution, is a local and special law which delegates executive duties to the judge of the county court, is so uncertain that it is incapable of administration, and is so unreasonable that it

deprives the owners of property within the territory sought to be annexed, of their property without due process of law.

The lands sought to be annexed lie east of the city of Joliet. Pletcher owns a 2 1/2-acre tract, the east line of which is the east line of the territory sought to be annexed. His residence and other buildings occupy about one-eighth of the tract. Three-fourths of an acre is a grape vineyard and the remainder of the tract is in meadow. He harvests hay from this tract and sells it to his neighbors. As soon [*387] as his vineyard is old enough to produce he proposes to sell [***3] grapes. That part of the tract now in meadow was in oats in 1924. East of this tract are farm lands not embraced in the territory sought to be annexed. North of the tract is an 80-acre farm which is embraced in the territory sought to be annexed. West of the tract is an acre tract which Pletcher formerly owned. West of the acretract and south of both tracts are lots forming a part of Hyde Park subdivision.

The first question of fact to be determined is whether Pletcher's tract is "bounded on at least three sides by subdivided lands." Just what the legislature meant by subdivided lands is difficult to determine. Under the congressional system of surveying, most of the lands of this State are divided into townships, which in turn are subdivided into sections, and these are in turn subdivided into halfsections, quarter-sections and quarter-quarter-sections. It is clear that the legislature did not mean to include within the words "subdivided lands," subdivisions of 40 acres or more. Among dealers in real estate, lands divided into blocks and lots are often called subdivided lands, but no such definition is given in any standard dictionary. The parties to this litigation seem [***4] to treat the words as meaning lands divided into city lots, and for the purposes of this discussion we shall so treat them.

[**160] It is conceded by appellee that the 80-acre tract north of the Pletcher tract is not subdivided land, but it is contended that Pletcher has subdivided the north third of his tract into city lots and that this brings his lands within the language of the statute. This contention is based upon the testimony of Ben Brunning, who is a real estate salesman. He states that he assisted Pletcher to stake out six lots across the north end of the tract of land and that Pletcher listed them for sale with him. Pletcher testifies on this point that Brunning's employer, Fred Walsh, was interested in the annexation of the territory and requested witness to [*388] withdraw his objections; that he refused to do this, and Walsh asked him what it would take to make him neutral; that he replied that he would be neutral when he did not own any property in the territory; that Walsh asked him to put a price on his property, and he priced it at \$800 a lot; that Brunning came to his place a few days later and inquired what part of his tract was for sale; that together [***5] they measured a strip off the north end of this tract to ascertain how many lots could be carved out of it, but that nothing further was done; that no lots were staked off and no effort was made to sell the lots; that no portion of his land had been surveyed with the intention of subdividing it into lots and none of it had ever been subdivided; that he had not prepared a plat showing a subdivision of his land into lots nor had any such plat been prepared. John M. Wolfrom, an abstracter, testified that he had examined the records in the office of the recorder of Will county but found no recorded plat showing a subdivision into lots of Pletcher's tract. From his knowledge of the territory in question and from the records, he testified that the land north of Pletcher's was unsubdivided farm land and that there was an acre-tract west of Pletcher's land. It is clear from this evidence that Pletcher's tract is not bounded on three sides by subdivided lands, as the term "subdivided" is used in the statute.

The next question is whether Pletcher's tract is used "for agricultural purposes." "Agricultural" is another indefinite word which renders the statute more or less uncertain. HN2[The [***6] definition given by Webster is, "of or pertaining to agriculture; connected with, or engaged in tillage." "Agriculture" is defined as the "art or science of cultivating the ground, including harvesting of crops and rearing and management of livestock; tillage; husbandry; farming; in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of the these products for man's use. In [*389] this broad use it includes farming, horticulture and *forestry*, together with such subjects as butter and cheese making, sugar making, etc." Unless restricted by the context, the words "agricultural purposes" have generally been given this comprehensive meaning by the courts of the country. (State v. Stewart, 58 Mont. 1, 190 Pac. 129; Davis v. Industrial Com. 59 Utah. 607, 206 Pac. 267; Cook v. Massey. 38 Ida. 264, 220 Pac. 1088; Northern Cedar Co. v. French. (Wash.) 230 Pac. 837; Binzel v. Grogan. 67 Wis. 147, 29 N.W. 895; Slycord v. Horn, 179 Ia. 936, 162 N.W. 249; McNeeley v. State, 50 Tex. Crim. 279, 96 S.W. 1083; Simons v. Lovell, 7 Heisk. (Tenn.) 510; [***7] Dillard v. Webb. 55 Ala. 468.) The words "agricultural purposes" are descriptive of the nature of the use to which the land is put, (Lerch v. Missoula Brick and Tile Co. 45 Mont. 314, 123 Pac. 25,) and so the amount of land involved would have no bearing on the meaning of the words. No one can seriously contend that land devoted to the production of grapes and hay and oats is not used for agricultural purposes. If the legislature desires to limit the application of the words to tracts containing more than two and one-half acres then it must fix the limitation. We have no authority to do so.

The lands of Pletcher are "used exclusively for agricultural purposes" and are not "bounded on at least three sides by subdivided lands also embraced in such territory to be annexed," within the meaning of the statute, and can not be embraced in territory to be annexed to appellee without his written consent.

Inasmuch as it is not necessary to a proper disposition of this case to consider or determine the constitutional questions presented we do not decide them. *People v. Small.* 319 Ill. 437.

The judgment is reversed and the cause is remanded to the circuit court [***8] of Will county.

End of Document



User Name: Boyd Ingemunson

Date and Time: Monday, June 20, 2022 10:45:00 AM EDT

Job Number: 173579555

Document (1)

1. County of Kendall v. Aurora Nat'l Bank Trust No. 1107, 170 III. App. 3d 212

Client/Matter: -None-

Search Terms: zoning & forestry
Search Type: Terms and Connectors

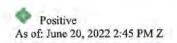
Narrowed by:

Content Type

Narrowed by

Cases

Court: State Courts > Illinois



County of Kendall v. Aurora Nat'l Bank Trust No. 1107

Appellate Court of Illinois, Second District

June 1, 1988, Filed

No. 2-87-0720

Reporter

170 III. App. 3d 212 *; 524 N.E.2d 262 **; 1988 III. App. LEXIS 791 ***; 120 III. Dec. 497 ****

THE COUNTY OF KENDALL, Plaintiff-Appellee, v. AURORA NATIONAL BANK TRUST NO. 1107 et al., Defendants-Appellants

Subsequent History: [***1] Rehearing Denied June 29, 1988.

Prior History: Appeal from the Circuit Court of Kendall County; the Hon. Douglas R. Engel, Judge, presiding.

Disposition: Reversed and remanded with direction.

Core Terms

pond, sod, agricultural purposes, agricultural, sand and gravel, site, *zoning*, excavation, irrigation, farming, Soil, planted, acres, sludge, quarry, sand, land use, regulations, exemption, mining, injunction, defendants', removal, dig, *zoning* ordinance, cultivating, planned, storage, feet, lake

Case Summary

Procedural Posture

Defendants, beneficiaries of a land trust, sought review of orders of the Circuit Court of Kendall County (Illinois), which temporarily and permanently enjoined them from conducting certain activities on property they own in an unincorporated county. The land trust was held by defendant bank.

Overview

The parcel of land owned by defendants was zoned agricultural pursuant to the Kendall County zoning ordinance. The county sought to restrain defendants from excavating and/or removing sand from the premises. The county's complaint alleged essentially that defendants planned to mine sand on their property and that mining was prohibited in an agricultural zone. In its order, the trial court found that defendants were planning to engage in mining activities in an agricultural zone and, thus, were in violation of the county zoning ordinance. Defendants argued, however, that their

excavation goal was to create a pond to serve as a source of irrigation for sod they had already planted. Creation of such a pond, defendants insisted, was an agricultural use of the land, which was exempt from county regulations. On appeal, the court reversed the trial court's orders. The court ruled that the evidence presented had persuaded it that the pond defendants' wanted to dig would be used for agricultural purposes to an extent that brought their property within the exemption created by III. Rev. Stat. ch. 34, para. 3151 (1985).

Outcome

The court reversed the trial court orders, which enjoined defendants from excavating or removing sand from their property. The court remanded the case with directions to vacate the injunction.

LexisNexis® Headnotes

Business & Corporate Compliance > ... > Environmental Law > Land Use & *Zoning* > Agriculture & Farmland

Environmental Law > Land Use & <u>Zoning</u> > Equitable & Statutory Limits

Governments > Agriculture & Food > General Overview

HNI[Land Use & Zoning, Agriculture & Farmland

Agricultural land uses are controlled by the statutory provisions for county zoning, Ill. Rev. Stat. ch. 34, para. 3151 (1985) rather than by the county zoning ordinance. Section I of "An Act in relation to county zoning" indicates that a county may not exercise its zoning powers so as to impose regulations or require permits with respect to land used or to be used for agricultural purposes or with respect to structures used or to be used for agricultural purposes upon such land except that structures for agricultural purposes may be required to conform to building or set back lines. Ill. Rev.

Stat. ch. 34, para. 3151 (1985). Accordingly, other than setback lines, a county may not regulate land used for agricultural purposes.

Business & Corporate Compliance > ... > Environmental Law > Land Use & Zoning > Agriculture & Farmland

Environmental Law > Land Use & **Zoning** > Judicial Review

HN7[Land Use & Zoning, Agriculture & Farmland

In deciding if a challenged use is for an agricultural purpose the courts have not concerned themselves with the property owners' business activities or ultimate business objectives. Rather, the courts have focused on the nature of the specific activity in light of the definition of agriculture.

Business & Corporate Compliance > ... > Environmental Law > Land Use & Zoning > Agriculture & Farmland

HN3 Land Use & Zoning, Agriculture & Farmland

"Agriculture" is defined as the art or science of cultivating the ground, including harvesting of crops and rearing and management of livestock; tillage; husbandry; farming; in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of these products for man's use. In this broad use it includes farming, horticulture and *forestry*, together with such subjects as butter and cheese making, sugar making, and others. Unless restricted by the context, the words "agricultural purposes" have generally been given this comprehensive meaning by the courts of the country.

Business & Corporate Compliance > ... > Environmental Law > Land Use & *Zoning* > Agriculture & Farmland

HN4[2] Land Use & Zoning, Agriculture & Farmland

Whether an activity involving use of the land has an agricultural purpose is to be determined from the activity itself and not from such external considerations as the property owner's intent or other business activities.

Counsel: Puckett, Barnett, Larson, Mickey, Wilson & Ochsenschlager, of Aurora (Bernard K. Weiler and Joseph H. Barnett, of counsel), for appellants.

Dallas C. Ingemunson, State's Attorney, of Yorkville (William L. Browers, of State's Attorneys Appellate Prosecutor's Office, of counsel), for appellec.

Judges: JUSTICE HOPF delivered the opinion of the court.
LINDBERG, P.J., and DUNN, J., concur.

Opinion by: HOPF

Opinion

[*213] [**263] [****498] Defendants, Donald and Carol Hamman, are the beneficiaries of a land trust held by defendant Aurora National Bank. All of the defendants appeal from orders of the circuit court of Kendall County which temporarily and permanently enjoined them from conducting certain activities on property they own in unincorporated Kendall County. We reverse.

The parcel of land owned by defendants is zoned agricultural pursuant to the Kendall County zoning ordinance. Early in April of 1987 Donald Hamman planted sod on 90 acres of the 250-acre site at a cost of \$ 58,900. Hamman intended to excavate a portion of the property for the asserted purpose [***2] of creating a pond from which he could irrigate the sod. Before he could begin digging, however, the county sought both a preliminary and permanent injunction restraining defendants from excavating and/or removing sand from the premises. The county's complaint alleged essentially that the Hammans planned [*214] to mine sand on their property and that mining was prohibited in an agricultural zone.

At the hearings on the complaint, George Bell, the county zoning administrator, testified that he did not have jurisdiction over lands used to grow sod because the cultivation of sod is an agricultural use. He had never before exercised jurisdiction over a farmer digging a pond or creating a lake. [**264] [****499] Nor had he concerned himself with whether the materials removed from the ground in order to develop such ponds was sold or given away. The only reason he attempted to enforce the zoning regulations relative to the Hammans' pond was because he knew Donald Hamman owned and operated a sand and gravel mining business elsewhere in the county and Hamman had told him that he would probably sell the sand and gravel he planned to remove from the subject property. Bell was also aware that Hamman [***3] had previously applied to have the subject site rezoned from an agricultural classification to a mining classification. Pursuant to Hamman's request the application had been on hold for sometime, but it had not been withdrawn. Bell thought Hamman might be planning to mine,

rather than farm, the subject site.

The county elicited further testimony from Bell that was meant to show that ponds dug by other farmers in the county had involved the extraction of clay and dirt but not gravel or sand, and that the *zoning* ordinance regulated extraction of the latter but not the former. On cross-examination, however, it became evident the witness did not really know what was removed from the earth for other ponds because he had never concerned himself with such excavations.

Donald Hamman's testimony indicated that he had grown up on a farm and that he and his sons now farm about 900 acres, mostly in corn and soybeans. The Hammans' acreage is situated in several different locations. At one of these locations, other than the site involved in this suit, Donald Hamman operates a commercial sand and gravel quarry. The year before the hearing Hamman's sons had persuaded him to diversify crops. [***4] As a result he planted 100 acres of sod on the site of his sand and gravel quarry. Water from the gravel pit is used to water the sod. When questioning him as an adverse witness, the State's Attorney prompted testimony from Hamman to show that he had applied for a zoning change which would allow him to also put a sand and gravel quarry on the subject site but had changed his mind when he became aware that he probably could not get his rezoning application approved. The witness denied that was the reason for changing his mind about the use of his land and indicated that he might again seek rezoning at a future time. He reiterated that he now [*215] wished to plant sod on the subject site because of his sons' urging to diversify his farming operation. Hamman explained that the site has a subsurface of sand that goes down to 27 or 28 feet, at which point clay begins.

Much testimony was offered by witnesses from nurseries and sod farms regarding the need for irrigation for such farms, the methods used to irrigate, and the feasibility and pros and cons of the various methods. Expert testimony was offered by both parties regarding the size of the lake which would be needed to supply [***5] water for the 90 acres of sod planted by Hamman and the adequacy of the lake proposed by the defendants.

Following the first hearing the court entered an order temporarily restraining defendants from excavating or removing sand from the site. In the order the court found that the Hammans were planning to engage in mining activities in an agricultural zone and thus were in violation of the county zoning ordinance. Subsequently, a permanent injunction issued which set forth the same findings and restraints as had been recited in the temporary order. Both injunction orders were preceded by letter opinions from the trial judge in which

he enunciated the following reasons for his conclusion that the Hammans were mining their property rather than farming it: (1) Donald Hamman already operated a sand and gravel operation at another location in Kendall County; (2) Hamman had previously submitted and never withdrawn an application for a *zoning* change which would allow the mining of sand and gravel on the subject property; (3) construction of the pond would require removal of 2 1/2 feet to 3 feet of topsoil and 24 feet to 25 feet of sand; (4) Hamman intended to remove the sand from the [***6] subject site and probably would sell it commercially; (5) the pond proposed by defendant would be inadequate [**265] [****500] for the purpose of watering sod. The court concluded:

"The above facts indicate to the Court that the Defendant would not be making an economic or business decision after digging a pond to provide water for sod but was, in fact, intending to mine sand and gravel."

Subsequent to entry of the permanent injunction defendants filed this timely appeal.

It is not contested that defendants intend to excavate and remove sand and gravel from their site. Defendants argue, however, that their goal in such excavation is to create a pond to serve as a source of irrigation for the sod they have already planted. Creation of such a pond, defendants insist, is an agricultural use of the land which is exempt from county regulations. The county does not dispute that agricultural [*216] land uses are exempt from county regulation, or that generally the creation of a pond for watering sod is an agricultural use, or that the Hammans' activities on their property will result in a pond. Plaintiff is, however, adamant that the primary purpose of the excavation planned by the Hammans [***7] is not to construct an irrigation pond but rather to remove sand and gravel from the site as part of a mining operation. The pond is perceived by plaintiff as merely an incidental effect of mining activity. In fact, the entire sod operation is viewed by plaintiff as secondary to defendants' mining business. There is no disagreement that generally the mining of sand and gravel may be regulated by the county. Plaintiff concludes that since creation of the pond is a mining use of the property, it is subject to the county zoning regulations. After carefully reviewing the facts of this case and the controlling law, we are persuaded that defendant must prevail.

It is well established that https://www.html.com/html.com

agricultural purposes upon such land except [***8] that * * * structures for agricultural purposes may be required to conform to building or set back lines." (Ill. Rev. Stat. 1985, ch. 34, par. 3151.) Accordingly, other than setback lines, a county may not regulate land used for agricultural purposes. Thus, if the Hammans are pursuing an agricultural purpose, as they insist they are, the county may not restrict their activities, and the injunction must be dissolved. The issue in this case, then, is not whether the Hammans intend to mine the sand and gravel from their land, as the county would have us believe, but whether the excavation of sand and gravel in this particular instance constitutes use of the land for an agricultural purpose. We think it does.

That the Hammans' pond-building project necessarily involves certain activities which appear to be more characteristic of a sand and gravel mining operation than of farming is not determinative of the issue before us. HN2[*] In deciding if a challenged use is for an agricultural purpose the courts have not concerned themselves with the property owners' business activities or ultimate business objectives. Rather, the courts have focused on the nature of the specific activity in light [***9] of the definition of agriculture. We recognized and followed this approach in Tallee v. County of Kane (1979), 76 III. App. 3d 128, 394 N.E. 2d 896. The county in Tuftee attempted to restrain plaintiff from [*217] using her property to board and train show horses on grounds that such activities did not constitute an agricultural purpose. We examined the definition of "agricultural purpose" which had been set forth in People ex rel Pletcher v. City of Inlies (1926), 321 III, 385, 152 N.E. 159, and was based on Webster's definition of the word "agriculture." According to the City of Joliet court:

"'Agriculture' is defined as the 'art or science of cultivating the ground, including harvesting of crops and rearing and [**266] [****501] management of livestock; tillage; husbandry; farming; in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of these products for man's use. In this broad use it includes farming, horticulture and *forestry*, together with such subjects as butter and cheese making, sugar making, etc.' Unless restricted [***10] by the context, the words 'agricultural purposes' have generally been given this comprehensive meaning by the courts of the country." (*City of Joliet*, 321 Ill. App. at 388-89.)

In light of this definition we found that the feeding, training, and boarding of horses fell within the scope of the agricultural purpose of "rearing and management of livestock." We indicated that the purpose for which horses are raised should have no bearing on whether the activities involved in raising them constitutes "rearing and management of livestock."

In Tuffee, we also analyzed County of Grandy v. Sail Emichment Materials Comp. (1973), 9 III. App. 3d 746, 292 N.E.2d 755 (Soil Enrichment I), and a companion case, Soil Enrichment Materials Corp. v. Zoning Board of Appeals (1973), 15 III. App. 3d 432, 304 N.E.2d 521 (Soil Enrichment Both cases explored the scope of an "agricultural purpose." In Soil Enrichment I the county sought unsuccessfully to enjoin the spreading of sludge on farmland on the basis that the defendant was primarily in the business of contractual sludge disposal. Therefore, [***11] the county argued, defendant was not engaged in agriculture. In Soil Enrichment II the court refused to enjoin construction of a holding pit for storage of the digested sludge. In neither case was the court persuaded by the argument that the soil company's principal activities were not agricultural in nature. Rather, the court's inquiry was limited to the precise conduct being challenged. In Soil Enrichment I the spreading of sludge accomplished the fertilization of the land. In Soil Enrichment II the sludge that was stored ultimately became fertilizer. It is clear in the opinions that the court considered fertilizer and fertilization to be integral and beneficial aspects of agriculture. Therefore, it did not matter that the soil company's [*218] primary objective was not agricultural. As stated by the Soil Enrichment I court: "The issue is not what appellant's main business interest is but solely whether or not the application and use of digested sludge on farm lands is serving an agricultural purpose." County of Grandy 9 Ill. App. 3d or 753.

In Soil Enrichment II the court looked upon storage of the sludge as one [***12] part of a broader process. In the court's words: "[If] the spreading of digested sludge on farmland is in itself a use for an agricultural purpose, then the use of land to accommodate the immediate and necessary facilities by which sludge is transported to such farmlands is also for an agricultural purpose." (Sail Enrichment Materials Corts. 15 III. App. 3d at 434.) In sum, the cases teach that HNA[*] whether an activity involving use of the land has an agricultural purpose is to be determined from the activity itself and not from such external considerations as the property owner's intent or other business activities.

Applying the principles of *Tuftee* and the *Soil Enrichment* cases to the matter at hand, we find that the conduct challenged by the county constitutes use of the land for an agricultural purpose. It is undisputed that the Hammans have already planted sod on 90 acres of the subject property. The testimony from witnesses for both parties is totally consistent that, while sod will grow with only natural rainfall for irrigation, a supplementary water supply is essential for the optimum growth necessary to a financially sound sod farm. [***13] Wells, ponds, lakes, rivers, and other streams, or any combination thereof, are used by sod growers for

supplemental water. Apparently none of these water sources presently exists on the Hamman property. Donald Hamman testified that the pond he intended to create would be 7 to 10 acres in size.

On these facts we have no doubt that the water from the pond contemplated by defendants will serve as a supplementary water [**267] [****502] supply for the sod planted on defendants' property. As an essential part of the process of sod farming, the provision of supplemental water certainly falls within the scope of the City of Joliet definition of "agriculture" in that it is a necessary part of the "art or science of cultivating the ground" and of "the science and art of the production of plants and animals useful to man." (CIN of Jolist 321 III at 388.) Not unlike the storage pit for the sludge in Soil Enrichment II, the pond here will collect and store water until it is needed to irrigate defendants' sod. The storage of water, then, is just one facet of the broader cultivation process. It follows that creation of the pond for storage, including the necessary [***14] excavation of sand and gravel, is still another facet of that process. As such, even the removal of sand and [*219] gravel has an agricultural purpose and is beyond the county's zoning powers.

As we mentioned earlier the county does not dispute that cultivating sod or providing an irrigation pond for sod is an agricultural use. Instead, the plaintiff asks us to focus on defendants' intent and attempts to persuade us that defendants are creating the pond primarily for its value as a sand and gravel quarry and that its irrigation function will be carried on only to facilitate the quarry operation. We acknowledge the potential for the problem the county apparently envisions in a case like this. The precise activity we focus on is the removal of sand and gravel from defendants' property. Obviously, some sand and gravel must be taken out in order to create an adequate irrigation pond. However, extraction of great amounts of material could result in creation of a quarry, or pit, of the type associated with gravel mining, with the irrigation pond located at the bottom. Alternatively, sand and gravel could be removed to the extent that the acreage of the lake would be far greater [***15] than the acreage planted in sod. Either of these scenarios could effectively change the basic agricultural character of the sod operation while still retaining the pond for irrigation purposes. The question is, at what point, if ever, does excavation which results in an irrigation pond cease to constitute a use of the land for an agricultural purpose as that phrase is used in the statute? We believe, first of all, that such excavation can lose its protected status.

The statute exempts land used for agricultural purposes from the effect of the county zoning regulations. The language of the statute makes it quite clear that land used for agricultural purposes is the only land covered by the exemption. In the case at bar there is the potential for a de facto quarry operation to be carried on in violation of the Kendall County zoning ordinance. If defendants did start quarrying their land and the agricultural purpose exemption was found to be applicable, the county would be powerless to stop the improper use. To enforce the exemption under such circumstances would be to frustrate the obvious intent of the legislature to allow agriculture, and only agriculture, to be pursued [***16] without zoning restrictions. otherwise would be to allow the statutory exemption to be manipulated and twisted into a protection for virtually any use of the land as long as some agricultural activity was maintained on the property. The county's zoning power would thus be rendered meaningless. The legislature cannot have intended such a result when it created a protected status for land used for agricultural purposes.

The question of when a use for an agricultural purpose no longer [*220] warrants the protection of the statute will depend on the facts of each case. Here, the Hammans planted 90 acres, or more than one-third of their property, in sod at a cost close to \$ 60,000. The county did not show that 90 acres is insufficient for a successful sod farming operation. On the contrary, several witnesses testified that they grow sod commercially on similar acreage. The county attempted to show that a pond is not needed on the subject site since a well would be the more efficient and dependable and usual water source for the defendants to install for the benefit of their sod. But the evidence also indicated that ponds are used, both alone and in combination with other [***17] water sources, by Illinois sod farmers and [**268] [****503] that it would be considerably more economical for the Hammans to dig a pond than to install a well.

Conflicting expert testimony was offered as to the adequacy of the proposed pond for irrigating 90 acres of sod. Cross-examination, however, revealed that both parties based their calculations on the same 1979 soil borings and that both calculations suffered from similar weaknesses. Donald Hamman testified, and it was not disputed, that a seven- to eight-acre pond had been sufficient to water 100 acres of sod he had planted the previous fall in another location in Kendall County. He had no well on that site. The pond envisioned by Hamman for the subject site would be 7 to 10 acres in size or approximately one-twenty-fifth of the total site.

The evidence presented in this case persuades us that the pond the Hammans wish to dig will be used for agricultural purposes to an extent which brings their property within the exemption created by the statute. We are well aware that the use of the land is subject to change depending on what the defendants do on the site. Based on the evidence presented by the parties at the injunction hearings, however, [***18] the

170 III. App. 3d 212, *220; 524 N.E.2d 262, **268; 1988 III. App. LEXIS 791, ***18; 120 III. Dec. 497, ****503

pond need not be constructed in such a way as to change the basic agricultural nature of the present use of the land. We note in this regard Donald Hamman's testimony that he will dig an auxiliary well if it becomes necessary.

Since the excavation to be undertaken by the Hammans serves an agricultural purpose, we need look no further into their intent, or any of their other business activities, or their ultimate business objective. Despite the county's urging to the contrary, under the Soil Enrichment cases, as well as Tuftee, it does not matter that the pond excavation may resemble in some ways defendants' existing sand and gravel quarry operation or that defendants applied for rezoning to a mining classification. Nor does it matter whether defendants removed sand and gravel from their site as opposed to clay and dirt. Equally irrelevant [*221] is what defendants do with the sand and other materials they remove from the site. We believe the trial court was mistakenly persuaded to focus on the factors just listed rather than on whether or not defendants wish to use their land for an agricultural purpose.

In light of our determination that the proposed use of their [***19] land is for an agricultural purpose, we need not discuss the other issues raised by defendants. For the reasons set forth above, the order of the circuit court of Kendall County enjoining defendants from excavating and/or removing sand from their property is reversed, and this cause is remanded with direction to vacate said injunction.

Reversed and remanded with direction.

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User Name: Boyd Ingemunson

Date and Time: Tuesday, June 28, 2022 10:13:00 AM EDT

Job Number: 174147249

Document (1)

1. Tuftee v. County of Kane, 76 III. App. 3d 128

Client/Matter: -None-

Tuftee v. County of Kane

Appellate Court of Illinois, Second District September 10, 1979, Filed

No. 78-457

Reporter

76 Ill. App. 3d 128 *; 394 N.E.2d 896 **; 1979 Ill. App. LEXIS 3205 ***; 31 Ill. Dec. 694 ****

BETTY TUFTEE, Plaintiff-Appellee, v. THE COUNTY OF KANE, Defendant- Appellant

Prior History: [***1] Appeal from the Circuit Court of Kane County; the Hon. JOHN S. PAGE, Judge, presiding.

Disposition: Judgment affirmed.

Core Terms

agricultural purposes, agricultural, horses, zoning, training, acres, trial court, exemption, barn, rearing, building permit, livestock, animals, farm, zoning ordinance, sludge

Case Summary

Procedural Posture

Plaintiff landowner filed an action against defendant county for declarative and injunctive relief after the county denied the landowner's application for the construction of a horse barn. The county sought review of the order of the Circuit Court of Kane County (Illinois), which enjoined the county from interfering with the landowner's construction of the barn.

Overview

The landowner sought to erect a training barn for show horses on a seven-acre parcel of property. The county claimed that its zoning ordinance denied agricultural exemptions for property less than 15 acres and that the training of horses was not an agricultural purpose. The landowner claimed that the county had no authority to impose the 15-acre limitation on property that was entitled to a statutory agricultural exemption. The court affirmed the trial court's judgment. The court held that the county's power to regulate the landowner's property rights through zoning regulations was expressly limited by Ill. Rev. Stat. ch. 34, para. 3151 (1975), that the rearing of livestock was an agricultural purpose, that horses were livestock, that the landowner's use of the property was agricultural, and that the county had no authority to establish acreage minimums or to require the landowner to obtain

building and special use permits. The court also held that the county's zoning ordinance was invalid and that the care and training of horses for show was within the contemplation of para. 3151.

Outcome

The court affirmed the trial court's judgment enjoining the county from interfering with the landowner's construction of the barn.

LexisNexis® Headnotes

Business & Corporate Compliance > ... > Real Property Law > Zoning > Regional & State Planning

Governments > Local Governments > Duties & Powers

HN/[基] Zoning, Regional & State Planning

A municipal government may exercise only those powers conferred upon it by a state. The municipal government's right to restrain the use of private property is limited to properly promulgated enactments. No rights exist and no powers are conferred with respect to zoning except by statute.

Business & Corporate Compliance > ... > Real Property Law > Zoning > Ordinances

Governments > Local Governments > Duties & Powers

Business & Corporate Compliance > ... > Real Property Law > Zoning > Regional & State Planning

HN2[Zoning, Ordinances

Ill. Rev. Stat. ch. 34, para. 3151 (1975) provides that zoning

powers shall not be exercised so as to deprive an owner of any existing property of its use or maintenance for the purpose to which it is then lawfully devoted. The powers shall not be exercised so as to impose regulations or require permits with respect to land used or to be used for agricultural purposes, or with respect to the erection, maintenance, repair, alteration, remodeling or extension of buildings or structures used or to be used for agricultural purposes upon such land, except that such buildings or structures for agricultural purposes may be required to conform to building or setback lines.

Governments > Legislation > Interpretation

HN3 Legislation, Interpretation

In the absence of a contrary definition, a word used in a statute is to be given its popularly understood meaning or commonly accepted dictionary definition.

Governments > Agriculture & Food > General Overview

HN [| Governments, Agriculture & Food

"Agriculture" is defined as the art or science of cultivating the ground, including harvesting of crops and rearing and management of livestock, tillage, husbandry, farming, and in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of these products for man's use. Unless restricted by the context, the words "agricultural purposes" are given this comprehensive meaning.

Business & Corporate Compliance > ... > Real Property Law > Zoning > Variances

Real Property Law > Zoning > General Overview

HN3[1 Zoning, Variances

In deciding whether a specific use of property constitutes an agricultural purpose, the courts relate the nature of the immediate activity to the definition of agriculture. If the use bears some relation to the "cultivation of ground" or the "rearing or management of livestock" or the "production of plants and animals useful to man," it falls within the meaning of "agricultural purpose." The courts do not rely on an analysis of the ultimate business objectives of the property owner.

Governments > Agriculture & Food > Animal Protection

IIN6 Agriculture & Food, Animal Protection

The rearing of livestock is an agricultural purpose. Horses are livestock. The purpose for which they are raised shall have no bearing on a determination of whether the activities of raising them fall within the scope of the definition of the rearing and management of livestock.

Civil Procedure > Appeals > Reviewability of Lower Court Decisions > Preservation for Review

HN7[2] Reviewability of Lower Court Decisions, Preservation for Review

The theory upon which a case is tried in the lower court cannot be changed on review. An issue not presented to or considered by a trial court cannot be raised for the first time on review. However, an appellee is permitted to defend a judgment on review by raising an issue not previously ruled upon by the trial court if the necessary factual basis for the determination of such point was contained in the record.

Civil Procedure > Appeals > Reviewability of Lower Court Decisions > Preservation for Review

HIVE

Where a litigant obtains the relief he has sought, he may rely upon any ground appearing in the record to support his judgment for purposes of defending an appeal.

Counsel: Gene Armentrout, State's Attorney, of Geneva (G. William Richards, Assistant State's Attorney, of counsel), for appellant.

Joseph H. Barnett and Bernard K. Weiler, both of Puckett, Barnett, Larson, Mickey, Wilson & Ochsenchlager, of Aurora, for appellee.

Judges: Justice Lindberg delivered the opinion of the court. Guild, P.J., and Rechenmacher, J., concur.

Opinion by: LINDBERG

Opinion

[*129] [**897] [****695] Defendant, County of Kane, appeals from an order of the Circuit Court of Kane County enjoining it from interfering with the operation of a public stable by the plaintiff, Betty Tuftee, for the care and training of 19 show horses. We affirm.

On January 15, 1976, the plaintiff entered into a contract for the sale of all but seven acres of her 76-acre tract. The plaintiff also entered into a contract with a construction company for the erection of the shell of a training barn on the seven acres calling for an expenditure of \$48,000. On or about April 23, 1976, plaintiff became aware that a building permit might be necessary for the erection of [***2] the barn. On that date her son-in-law, Thomas Hoish, who was to operate the stable, called upon the county's zoning office and talked with Stanley Henderson, the director. The testimony of Hoish was that Hoish advised Henderson of the characteristics of the barn and that the purpose of the barn was for the care and training for show of 19 horses.

Henderson advised Hoish that based upon the zoning maps and his knowledge of the 76 acres that no building permit was required and that upon the filing of an affidavit the plaintiff would be granted an agricultural exemption. The record further shows that the matter of the sale of all but seven acres was probably not discussed in detail if at all on April 23, 1976, nor was such a revelation required in the affidavit form provided by the zoning office nor was it disclosed by the plaintiff in the affidavit. Further, the record fails to disclose that the plaintiff knew that such information was relevant or that the information was purposely withheld.

On May 5, 1976, the plaintiff received from the zoning office a letter granting her an agricultural exemption for the construction of her horse barn. She then began construction of the shell [***3] of the barn pursuant to her earlier contract. By June 7, 1976, the construction of the shell of the barn was virtually completed, obligating the plaintiff to an expenditure of approximately \$ 48,000 of the anticipated total cost of \$ 100,0000.

June 7, 1976, the plaintiff received another letter from the zoning office that she would have to stop construction until she secured a building permit. The property was "red tagged" by a zoning official the same day. It appears that the zoning office learned of the contract for the sale of 69 of the original 76 acres and the plan to have the 69 acres annexed to North Aurora. The county zoning ordinance provides that agricultural exemptions are given only for property of not less than 15 acres in size.

The plaintiff stopped construction and was granted a building

permit on August 25, 1976, at which time she concluded the remaining construction, principally of the interior of the barn. However, the permit only authorized private use of the facility or, for commercial use, limited the [*130] number of horses to 10. The plaintiff then applied for a special use permit of the building to accommodate 19 horses. The hearing for the permit [***4] was held April 11, 1977. An adverse recommendation was rendered on June 7, and on June 14 the county board denied her application for a special use. Plaintiff thereafter filed a two-count complaint for declarative and injunctive relief. Count I alleged the relevant provisions of the zoning ordinance as applied to her property were unconstitutional. Count II sought injunctive relief on the basis of equitable estoppel. At the conclusion of the bench trial the trial court found for the [****696] [**898] plaintiff on grounds of equitable estoppel and granted the injunctive relief sought by the plaintiff. The trial court made no findings as to count I regarding the constitutional issue.

Defendant alleges that both the May 5, 1976, agricultural exemption and the August 25, 1976, building permit were invalidly issued by its zoning officer. This is because the zoning ordinance does not permit agricultural exemption of properties of less than 15 acres and, because building permits must be secured before and not after, construction has commenced and the special use procedure must be favorably concluded before a building permit can issue.

Defendant's theory on appeal is that ordinarily [***5] a governmental entity is not bound by the unauthorized conduct of its officials in issuing invalid building permits. Defendant maintains that since its ordinance denies agricultural exemptions to property of less than 15 acres, the seven acres that will eventually be retained by the plaintiff do not qualify for the exemption. Further, defendant argues that the use of the barn for the care and training of horses for show is not an agricultural purpose. Defendant acknowledges that under special circumstances equitable estoppel can be invoked to prevent the government entity from denying the validity of its acts. However since we affirm on other grounds we need not discuss the issue of equitable estoppel relied upon by the trial court.

Plaintiff maintains that the care and training of horses for show is an agricultural purpose and she argues and, we believe convincingly, that a county has no authority to impose a 15-acre limitation as to property which is entitled to the statutory agricultural exemption.

1 HNI A municipal government may exercise only those powers conferred upon it by the State, and its right to restrain the use of private property is limited to properly promulgated [***6] enactments. (City of Chicago v. Rumpff

(1867), 45 III. 90; Village of LaGrange v. Leitch (1941). 377

III. 99, 35 N.E. 2d 346.) No rights exist and no powers are conferred with respect to zoning except by statute. (People v. Ferris (1958), 18 III. App. 2d 346, 152 N.E. 2d 183.) The only limitations which may be placed upon the use of plaintiff's property, therefore, are those which have been enacted within the [*131] authority granted by the General Assembly and circumscribed by statute.

Therefore, the central issue in this case is whether defendant county may properly restrain the plaintiff from using her seven acres to board and train 19 show horses. Defendant contends that it may do so by virtue of its ordinance. The power of the county to regulate the plaintiff's property rights, however, is expressly limited by the terms of the enabling acts under which its ordinances are authorized. This limitation as found in section 1 of "An Act in relation to county zoning" (III. Rev. Sat. 1975, ch. 34, par. 3151) is as follows:

"The powers by this Act given shall not be exercised so as to deprive the owner of any existing property of its use or maintenance for the purpose [***7] to which it is then lawfully devoted; nor shall they be exercised so as to impose regulations or require permits with respect to land used or to be used for agricultural purposes, or with respect to the erection, maintenance, repair, alteration, remodeling or extension of buildings or structures used or to be used for agricultural purposes upon such land except that such buildings or structures for agricultural purposes may be required to conform to building or setback lines; * * * *."

If, therefore, the erection and use of a barn for the boarding and training of fine harness horses is an agricultural purpose, the defendant has no authority to interfere with this endeavor through zoning regulations, and the relief which it sees must be denied.

The horses which plaintiff proposes to board and train are American Saddle breeds which are bred and trained to pull fine harness buggies as well as for show purposes. The process includes breaking a colt, training it, monitoring its development, and placing it in appropriate categories to maximize its development, and value. In addition [****697] [**899] to training, the plaintiff intends to feed, bed, clean, and otherwise care for [***8] the horses. Two of the 19 stalls in the barn are occupied by horses owned by the plaintiff. The remaining 17 stalls are to be occupied by horses owned by third parties.

The parties are in agreement that <u>HN3</u> [1] in the absence of a contrary definition, a word used in a statute is to be given its popularly understood meaning or commonly accepted dictionary definition. (<u>Bowman v. Armour & Co. 11959</u>), 17

Ill. 2d 43, 160 N.E.2d 753; Beck v. Board of Education (1975), 27 Ill. App. 3d 4, 325 N.E. 2d 640, affirmed (1976), 63 Ill. 2d 10, 344 N.E.2d 440.) The parties also agree that in applying this principle the supreme court in People ex. rel. Pletcher v. City of Joliet (1926), 321 Ill. 385, 152 N.E. 159, defined the term "agricultural purpose" as it was used in a portion of the annexation statute of June 20, 1921 (Ill. Rev. Stat. 1925, ch. 34, §370 (Smith-Hurd)), and that such definition should [*132] be considered by this court in construing section 1 of the county zoning statute. (County of Lake v. Cushman (1976), 40 Ill. App. 3d 1045, 353 N.E.2d 399.) This definition, which is based on Webster's definition of the word agriculture, is set out and discussed in City of 1***9] Joliet, at page 388. In that opinion the court said:

"Agriculture' is defined as the 'art or science of cultivating the ground, including harvesting of crops and rearing and management of livestock; tillage; husbandry; farming; in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of these products for man's use. In this broad use it includes farming, horticulture and forestry, together with such subjects as butter and cheese making, sugar making, etc" (321 III. 385, 388-89).

and,

"Unless restricted by the context, the words 'agricultural purposes' have generally been given this comprehensive meaning * * * ." 321 III. 385. 389.

"Livestock" is defined by Webster's New World Dictionary of the American Language (2d ed. 1973) as "domestic animals kept for use on a farm or raised for sale or profit." "Horse" is defined as a "domestic animal." "Rear" is defined "to grow or breed (animals or plants), to bring to maturity by educating, nourishing, etc." We agree with plaintiff that to exclude the feeding, training, and boarding of horses for show from the meaning of the phrase "rearing [***10] and management of livestock" strains the popular conception of that phrase.

Defendant argues that the courts of this State have interpreted "agricultural purpose" in such a way as to emphasize the aspect of "production or preparation of products for man's use." HNS[] In deciding whether a specific use constitutes an agricultural purpose, the courts have related the nature of the immediate activity to the definition of agriculture. Generally, if the use bears some relation to the "cultivation of ground" or the "rearing or management of livestock" or the "production

of plants and animals useful to man" it has been found to fall within the meaning of "agricultural purpose." The courts have not relied on an analysis of the ultimate business objectives of the property owner. For example, in County of Grandy v. Soil Envictment Materials Cosp. (1971), 9 Ill App. 3d 746, 293 N E.2d 755, the county sought to enjoin the soil company from spreading raw sludge on farm land in violation of its zoning ordinances. The county argued that the soil company's principal business was the disposal of sludge pursuant to a contract with a local waste treatment plant, and as such was not engaged in agriculture. [***11] In rejecting this argument the court said:

"The fact that an organization may have many major objectives [*133] which have no agricultural connection would not operate to characterize the sale or gift of a fertilizer if, in fact, the fertilizer as applied has an agricultural purpose. The issue is not what appellant's main business interest is, but solely whether or not [****698] [**900] the application and use of digested sludge on farm lands is serving an agricultural purpose." 9 Ill. App. 3d 746, 753.

In a companion case, Sull Enrichment Materials Corp. of Zanume Board (1973). 15 th. App. 3d 432, 304 N.E.24 521, the court held that the construction of a 4-million-gallon holding pit for the purpose of storing digested sludge was an agricultural purpose. The court held that its storage and subsequent application to farm soil were agricultural purposes without making a distinction between the two. The rationale for the court's holding in Soil Enrichment Materials Corp. is simply that sooner or later the sludge became fertilizer, and fertilizer is clearly an element of agriculture. Its nature in that regard is unaffected by the objectives of those who [***12] deal with it.

2, 3 Likewise, HNO the rearing of livestock is an agricultural purpose. Horses are livestock. The purpose for which they are raised should have no bearing on a determination of whether the activities of raising them fall within the scope of the definition of "the rearing and management of livestock." The legislature elected to use the phrase "agricultural purpose" without expressly limiting the varied activities contemplated by its commonly accepted definition. In withholding from the county the authority to regulate the use of property dedicated to agricultural purposes, the legislature did not distinguish the rearing of animals for consumption from the rearing of animals for show. The legislative silence in this regard does not authorize the creation of such distinction by governmental entities.

Cushman (1976), 40 III, Apr. 3d 1045, 353 N.E. 2d 399.

4-6 We conclude that the purpose for which the plaintiff's property was to be used is agricultural. It follows, under our holding in *Cushman*, that the county has no authority to establish acreage minimums to which it will grant the statutory right of exemption from zoning regulations. Further [***13] the county has no zoning authority to require the plaintiff to obtain building and special use permits or to restrain her agricultural use of the property other than as to statutorily permitted building or set-back lines.

The defendant maintains that plaintiff's argument regarding the invalidity of the county's ordinance denying agricultural exemptions to properties with acreage of less than 15 acres was not contained in her complaint nor argued in the trial court. The defendant draws our attention to the language of Krayle v. Smith Marine Inc. (1975). 60 ill. 2d 141. 197. 324 N.E.Jd 417. 420, wherein the supreme court said:

"It has frequently been held that HNT[1] the theory upon which a case is [*134] tried in the lower court cannot be changed on review, and that an issue not presented to or considered by the trial court cannot be raised for the first time on review. [Citations.] A corollary to this rule permits an appellee to defend a judgment on review by raising an issue not previously ruled upon by the trial court if the necessary factual basis for the determination of such point was contained in the record."

However, defendant attempts to qualify this rule by [***14] suggesting that the corollary rule of Kravis is available only to appellees who were defendants in the trial court. While defendant cites no authority for this restriction on the rule referred to in Kravis, we note an earlier supreme court case wherein, affirming judgment for the appellee who was the plaintiff in the trial court, the court held HNS[] "here a litigant obtains the relief he has sought, he may rely upon any ground appearing in the record to support his judgment. [Citations.]" (La Salle National Bank v. Village of Grayslake (1963), 29 III. 2d 489, 492, 194 N.E.2d 250, 252.) Similarly, and after Kravis, the appellate court in Harris Trust & Saviors Bank v. Joanna-Western Mills (1977), 53 Ill. App. 3d 342 368 N.E.2d 629, held that the plaintiffappellee could urge any point on appeal in support of its judgment though not raised in the trial court, but where the facts to support the point were before the trial court. (53 Ill App. 3d 542 554.) [****699] [**901] We find no distinction exists as between plaintiff or defendant

76 III. App. 3d 128, *134-994 N.E.2d 896, **901-4979 III. App. LEXIS 3205, ***14-91 III. Dec. 694, ****699

appellees for the application of the general rule.

In sum, the plaintiff- appellee may raise for the first [***15] time on appeal any legal issue to defend her judgment for which there was a factual basis in the trial court. The defendant's zoning ordinance denying plaintiff the statutorily authorized agricultural exemption from zoning because the property would eventually consist of less than 15 acres is invalid, as are the requirements that she qualify for building or special use permits. The care and training of horses for show is an agricultural purpose within the contemplation of section 1 of "An Act in relation to county zoning." Ill. Rev. Stat. 1975, ch. 34, par. 3151.

For these reasons we affirm the judgment of the Circuit Court of Kane County.

Affirmed.

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Law Offices of

Daniel J. Kramer 1107A S. Bridge Street

Yorkville, Illinois 60560 630-553-9500 Fax: 630-553-5764 dkramer@dankramerlaw.com Kelly A. Helland D.J. Kramer

June 29, 2022

Daniel J. Kramer

Matt Asselmeier Kendall County Planning, Building, & Zoning masselmeier@co.kendall.il.us

RE: Forestry Issue

Dear Matt:

I have reviewed the proposed Agenda for this evening and in particular the item referencing discussion of Forestry, Tree Farm, and related text Amendments.

I have spoken with Attorney Boyd Ingemunson in regard to the same since apparently he has a Client going through that process currently.

I like he question the wisdom of adopting the Ordinance that is proposed with the language contained in the same. Illinois has long had an Enactment in a Counties Act, stating that Governmental bodies shall pass no law limiting Agriculture in the State of Illinois other than front road setbacks for safety purposes. In the preamble to the Act it relates Agricultural Uses and Zoning to being a prime Industry in the State of Illinois and one that should be encouraged and not subject to Government restriction in terms of Zoning.

Although I think you are making an honest attempt to adopt language from a totally different Act, I do not believe as a Non-home Rule County; that you have legal authority to make a definition that is tighter than the existing State Law in Illinois. In other words I believe the State Regulation through the Illinois Department of Agriculture pre-empts any limiting of activities that the County would have jurisdiction to impose in relation to Agriculture.

When you read the definition that they have in the Illinois Act as far as Forestry; Tree Farming it talks about end products arrived therefrom and is covered under the State Act.

I have an existing client that predates the proposed change I the Ordinance so in any event I do not believe it would be applicable to that Client given that they are a legal

existing use. However I wanted to make sure our position is noted and in in the comments that Attorney Ingemunson has given the Committee as well.

Very truly yours

Daniel J. Kramer

Daniel J. Kramer Attorney at Law

DJK:rg

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REPORT TOTALS

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DEPARTMENT OF PLANNING, BUILDING & ZONING



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

(630) 553-4141

Fax (630) 553-4179

Petition 22-01 Jose and Silvia Martinez A-1 Special Use Permit for Landscaping Business Variance to Allow a Landscaping Business on a Non-State, County, or Collector Highway Variance to Allow Driveway within Five Feet of a Side Yard Property Line

INTRODUCTION

In 2018, the Planning, Building and Zoning Department started investigating a landscaping business operating at the subject property without a special use permit. On February 23, 2021, the court imposed a fine of Thirty-Two Thousand, Eight Hundred Dollars (\$32,800) against the Petitioners for operating a landscaping business without a special use permit, installing the southern driveway without a permit, Junk and Debris Ordinance violations, and related court costs. The discovery of assets portion of the case has been continued with the hope that the Petitioners will apply for the applicable special use permit and variance.

The Petitioners purchased the property in 2018.

On December 9, 2021, the Petitioner submitted the necessary application for a special use permit for a landscaping business, a variance to allow a landscaping business on a non-State, County or Collector roadway as defined by the Kendall County Land Resource Management Plan, and a variance to allow the southern driveway to be within five feet (5') of the side yard property line.

The application materials are included as Attachment 1. The survey of the property is included as Attachment 2. The original landscaping plan is included as Attachment 3. The NRI Report is included as Attachment 4. The aerial of the property is included as Attachment 5.

Since the original application was submitted, the Petitioners worked with the Village of Oswego and the Kendall County Regional Planning Commission to address access issues. Documents related to these matters are included as Attachments 14, 15, 16, and 19. The Petitioners submitted a revised landscaping plan on June 8, 2022 (Attachment 3A). Based on comments from the Village of Oswego, the Petitioners again revised their landscaping plan on June 22, 2022. (Attachment 3B). As of the date of this memo, Staff was still waiting for comments from the Village of Oswego pertaining to the most recent landscaping plan.

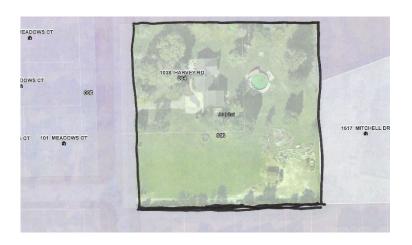
SITE INFORMATION

PETITIONERS: Jose and Silvia Martinez

ADDRESS: 1038 Harvey Road, Oswego

LOCATION: Approximately 0.9 Miles North of Wolf Road on the East Side of Harvey Road

Page 1 of 11



TOWNSHIP: Oswego

PARCEL #s: 03-12-100-004 and 03-12-100-013

LOT SIZE: 3.0 +/- Acres

EXISTING LAND Single-Family Residential

USE:

ZONING: A-1

LRMP:

Future Land Use	Suburban Residential (Max 1.00 DU/Acre) (County) Light Industrial (Oswego)
Roads	Harvey Road is classified as a Collector by the Village of Oswego in this area and is not classified as such in the Land Resource Management Plan.
Trails	There are no trails planned in the area.
Floodplain/ Wetlands	There are no floodplains or wetlands on the property.

REQUESTED

ACTIONS: Special Use Permit for a Landscaping Business

Variance to Allow a Landscaping Business on a Non-State, County, or Collector

Highway

Variance to Allow Driveway within Five Feet (5') of Side Yard Property Line

APPLICABLE Section 7:01.D.30 – A-1 Special Uses

REGULATIONS: Section 11:02.F.7.b – Driveways in Side Yards on A-1 Zoned Property

Section 13:04 – Variance Procedures Section 13:08 – Special Use Procedures

SURROUNDING LAND USE

Location	Adjacent Land Use	Adjacent Zoning	Land Resource Management Plan	Zoning within ½ Mile
North	Comed Right-of-Way	M-2 (Oswego)	Agricultural (Oswego)	A-1 and A-1 SU
				(County)
				R-4, B-3, and M-2

				(Oswego)
South	Industrial (Oswego)	M-1 and M-2 (Oswego)	Light Industrial (Oswego)	A-1 (County)
				R-1, R-2, R-4, M-1, and M-2 (Oswego)
East	Industrial/Stormwater Pond (Oswego)	M-2 (Oswego)	Light Industrial (Oswego)	R-1, R-3, B-3, B-3 SU, and M-1 (County)
				B-3 and M-2 (Oswego)
West	Single-Family Residential	R-2 (Oswego)	Single-Family Residential (Oswego)	R-2 (Oswego)

Oswego East High School is located within one half (1/2) mile of the property.

The A-1 special use permits to the north are for a landscaping business and a cemetery. The B-3 special use permit to the east is for a watchman's quarters.

PHYSICAL DATA

ENDANGERED SPECIES REPORT

EcoCAT Report was submitted on December 9, 2021, and consultation was terminated, see Attachment 1, Page 7.

NATURAL RESOURCES INVENTORY

The LESA Score was 124 indicating a low level of protection. The NRI Report is included as Attachment 4.

ACTION SUMMARY

OSWEGO TOWNSHIP

Petition information was sent to Oswego Township on December 22, 2021.

VILLAGE OF OSWEGO

Petition information was sent to the Village of Oswego on December 22, 2021. The Village of Oswego submitted an email requesting the southern driveway be moved at least five feet (5') north of the southern property line. The email was included as Attachment 14. As noted previously, the Petitioners worked with the Village of Oswego to address access issues.

On June 8, 2022, the Petitioners Attorney submitted a revised landscaping plan to the Village of Oswego (Attachment 3A). The differences between the new landscaping plan and the previously submitted landscaping plan are as follows:

- 1. The southern gravel driveway is shown to line up with the road across the street.
- 2. The southern gravel driveway is shown as five feet (5') from the southern property line.
- 3. The southern gravel driveway is shown as ten feet (10') in width instead of twenty feet (20') in width

- 4. The six foot by five foot (6'X5') dumpster is not shown next to the frame shed.
- 5. The landscaping around the southern driveway entrance has been altered to reflect the new driveway location. Also, the number of mission arborvitae has increased from eleven (11) to (12).

On June 13, 2022, the Village of Oswego sent an email to the Petitioner outlining the defects of the plan. The defects are as follows:

- 1. A base course is needed.
- 2. Flare does not meet minimum dimensions.
- 3. Driveway should be twenty feet (20') wide.

This email is included as Attachment 25.

The Petitioners submitted a revised landscaping plan on June 22, 2022 (Attachment 3B). The Village of Oswego approved the access point on Harvey Road, pending payment of applicable fees and deposits.

OSWEGO FIRE PROTECTION DISTRICT

Petition information was sent to the Oswego Fire Protection District on December 22, 2021.

ZPAC

ZPAC reviewed the proposal on January 4, 2022. The Petitioners' Attorney requested the start date for the business to be changed from April 1st to March 1st of each year. Discussion occurred regarding annexing the property into the Village of Oswego; the Petitioners' Attorney did not know why the Petitioners had not pursued annexation. The Petitioners' Attorney reiterated that no members of the public would be invited onto the property and no retail sales of landscaping materials would occur. Discussion occurred regarding the reasons why the Petitioner had not applied for proper zoning despite citation and court action. The Petitioners' Attorney indicated the Petitioners were agreeable to the proposed conditions provided the start date was moved to March 1st. ZPAC recommended approval of the special use permit with the conditions proposed by Staff with an amendment to move the start of the operating season to March 1st by a vote of five (5) in favor and two (2) in opposition with three (3) members absent. The minutes of the meeting were included as Attachment 10.

RPC

The Kendall County Regional Planning Commission did not have quorum for their meeting on January 26, 2022. The minutes of this meeting were included as Attachment 12.

At their meeting on February 23, 2022, the Commission voted to layover this proposal until issues related to the access permit for the southern driveway were resolved with the Village of Oswego by a vote of eight (8) in favor and zero (0) in opposition with one (1) member absent. The minutes of this meeting are included as Attachment 17.

The Petitioners did not attend the March 23, 2022, Kendall County Regional Planning Commission meeting and the proposal remained tabled. The minutes of the March 23, 2022 meeting are included as Attachment 20.

At the April Kendall County Regional Planning Commission meeting, the Petitioners requested that the hours of operation be changed to daily from 6:00 a.m. until 8:00 p.m. and that the business be allowed to operate year-round. Condition 18 has been amended to reflect this change. The Commission also told the Petitioners to submit an access permit application with a revised site plan to the Village of Oswego by May 18, 2022, in order for this topic to be placed on the May 25, 2022, Commission agenda. The minutes this meeting are included as Attachment 21.

Prior to the May Kendall County Regional Planning Commission meeting, the Petitioners' Attorney PBZ Memo – Prepared by Matt Asselmeier – July 1, 2022 Page 4 of 11

submitted an email requesting the proposal be continued as the Petitioners continued to work with the Village of Oswego regarding the access permit. The minutes of the May Regional Planning Commission are included as Attachment 23.

At their meeting on June 22, 2022, Commissioners reviewed the updated landscaping (Attachment 3B) plan. The Kendall County Regional Planning Commission recommended approval of the special use permit with the condition that the Village of Oswego sign-off on the landscaping/site plan by a vote of seven (7) in favor and zero (0) in opposition with two (2) members absent. The minutes of this meeting are included as Attachment 26.

ZBA

The Kendall County Zoning Board of Appeals started a public hearing on this proposal on January 31, 2022. The hearing was continued to February 28, 2022. The hearing was continued again until the driveway access permit issues were resolved. The minutes of the January 31, 2022, meeting were included as Attachment 11 and the minutes of the February 28, 2022, meeting were included as Attachment 13. Due to the Petitioners' lack of attendance at the March 23, 2022, Kendall County Regional Planning Commission meeting, the hearing was continued at the March 28, 2022, Kendall County Zoning Board of Appeals hearing. The minutes of this hearing are included as Attachment 18. The Kendall County Zoning Board of Appeals continued this Petition at their hearing on May 2, 2022. The minutes of this hearing are included as Attachment 22. The hearing was continued again at the May 31, 2022, Kendall County Zoning Board of Appeal hearing. The minutes of the May 31, 2022, Zoning Board of Appeals hearing are included as Attachment 24.

The Kendall County Zoning Board of Appeals completed the public hearing on June 27, 2022. Other than the Petitioners and their Attorney, no members of the public testified at the public hearing. Condition 1 was clarified to not allow grass clippings due to concerns about odor. Condition 5 was clarified to allow employees parking in the landscaping business to park on gravel. The Kendall County Zoning Board of Appeals recommended approval of the proposal with the conditions proposed by Staff and the above clarifications by a vote of five (5) in favor and zero (0) in opposition with one (1) member absent. The minutes are included as Attachment 27.

PBZ COMMITTEE

On April 11, 2022, the Kendall County Planning, Building and Zoning Committee met to discuss issuing new, additional citations at the property. The consensus of the Committee was to not have the Department issue new citations related to the operation of the landscaping business or the placement of the driveway. The Petitioners were given ten (10) days to clean up and organize the property. Updated photos were provided at the April 27, 2022, meeting.

The Kendall County Planning, Building and Zoning Committee met on May 9, 2022, and voted to issue citations for the installation of the driveway without a permit. The Committee voted not to issue a citation for operating a landscaping business without a special use permit. The Petitioners' court date for the illegal driveway installation is July 6, 2022.

GENERAL INFORMATION

Per Section 7:01.D.30 of the Kendall County Zoning Ordinance, landscaping businesses can be special uses on A-1 zoned property subject to the following conditions:

- 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 and the variance to the requirement to be located on a State, County or Collector Highway, the above conditions have been met.

BUSINESS OPERATIONS

The Petitioners would like the business to be open from 6:00 a.m. until 8:00 p.m. everyday throughout the year. According to the business plan found on page 2 of Attachment 1, the business has four (4) employees. Employees arrive at the property at approximately 6:30 a.m., go to work sites, and return to the property and leave to go home by around 7:00 p.m. Business equipment presently consists of three (3) trucks.

The landscaping business area on the southeast corner of the site will be of gravel and will be approximately thirteen thousand, two hundred fifty (13,250) square feet in size. If there is a motor vehicle or equipment related leak, the area impacted gravel will be removed and replaced with clean gravel.

BUILDINGS AND BUILDING CODES

One (1) one (1) story, approximately two thousand nine hundred (2,900) square foot house, constructed in 1955 with a two (2) story garage is located on the property. There is also one (1) approximately two hundred forty-five (245) square foot shed frame structure on the property near the landscaping storage area. There is also one (1) chicken coop and one (1) additional shed on the northeast corner of the property not associated with the landscaping business. The picture of the house is included as Attachment 7.

After the February 23, 2022, Kendall County Regional Planning Commission meeting, the Petitioners moved the chicken coop and other outbuilding on the north side of the property out of the side yard setback. The Petitioners also applied for and received a deck permit.

According to the most recent landscaping plan (Attachment 3B), the Petitioners plan to install open storage areas, one (1) for grass and brush clippings at twenty feet wide by approximately one hundred twenty feet in depth (20' X 120'), one (1) for mulch, and one (1) for sand. There would also be storage areas for brick pallets. No information was provided on the dimensions for the storage areas for mulch, sand, and brick pallets north of the existing frame shed. There would also be four (4) truck storage areas measured at fifteen feet wide by twenty-eight feet in depth (15' X 28'). There would also be one (1) mulch storage area south of the frame shed. This area would be twelve feet by twenty feet (12'X20') and would be a maximum three feet (3') in height. According to the business plan, no piles of materials would exceed three feet (3') in height.

Any structures related to the landscaping business would be required to obtain applicable building permits.

ENVIRONMENTAL HEALTH

Per the site survey (Attachment 2), the property is served by a septic system. No information was provided regarding a well.

No employees or customers would use restroom or water facilities on the property.

One six foot by five foot (6' X 5') dumpster was shown on the updated landscaping plan (Attachment 3B) in the landscaping business area.

STORMWATER

The property drains to the southeast and northeast.

ACCESS

Per the survey (Attachment 2), the house is served by an existing driveway with two (2) access points off of Harvey Road. Per the updated landscaping plan (Attachment 3B), one (1) ten foot (10') wide gravel driveway provides access from the landscaping storage area to Harvey Road; this access was installed without proper permits and will need to secure applicable permits. The southern driveway is five feet (5') north of the southern property line. A picture of the southern driveway is included as Attachment 8.

The Village of Oswego provided information regarding driveway standards; this information is included as part of an email included as Attachment 6.

Earlier in the review process, the Village of Oswego submitted an email requesting the driveway be moved at PBZ Memo – Prepared by Matt Asselmeier – July 1, 2022 Page 6 of 11

least five feet (5') from the property. Staff exchanged emails with the Petitioners' Attorney outlining the next steps. The Petitioners' Attorney believed that the driveway was located greater than five feet (5') from the southern property line. Staff requested the measurement of the driveway to the southern property line be added to the plat of survey (Attachment 2). The above referenced emails are included as Attachments 14 and 15. The distance was added to the updated landscaping plan (Attachment 3B)

An inspection of the property occurred on March 16, 2022, and new gravel appeared to have been added to the driveway per the picture included as Attachment 16.

The Petitioners' Attorney submitted an email stating the that Village of Oswego did not need to approve the access permit. This email is included as Attachment 19. This issue was ultimately addressed.

A variance will still be needed to address the gravel parking located inside the fenced area, unless the fenced area is moved five feet (5') from the property line.

PARKING AND INTERNAL TRAFFIC CIRCULATION

According to the plat of survey (Attachment 2), the Petitioners plan to have two (2) parking spaces and one (1) handicapped accessible parking space to the west of the garage. The parking spaces will be of brick pavers.

LIGHTING

The plat of survey (Attachment 2) shows two existing light poles. Existing lighting is used for residential purposes only. The Petitioners are not proposing any additional lighting.

SIGNAGE

The Petitioners are not proposing any business related signage.

SECURITY

The updated landscaping plan (Attachment 3B) shows one (1) solid fence eight feet (8') in height along the landscaping business area. One (1) security gate is also shown on the landscaping plan.

LANDSCAPING

The updated landscaping plan (Attachment 3B) shows twenty-eight (28) eight foot (8') tall mission arborvitaes, four (4) nine foot (9') tall blue spruces, and one (1) fifteen foot (15') mulch bed along the southwest corner of the property. No information was provided regarding the vegetation along the southern property line. The Petitioner has already installed twenty-two (22') mission arborvitaes and three (3) blue spruces. A picture of the existing landscaping is included as Attachment 9. The vegetation along the southern property line can be seen in the picture of the southern driveway (Attachment 8). The Village of Oswego also requested landscaping in their email included as Attachment 6, but did not provide details on type or nature of landscaping. The Petitioners requested ninety (90) days to install the vegetation after the special use permit is approved.

NOISE CONTROL

No information was provided regarding noise control.

ODORS

The Petitioners were agreeable to not store grass clippings on the property.

RELATION TO OTHER SPECIAL USES

If approved, this would be the nineteenth (19th) special use permit for a landscaping business in unincorporated Kendall County.

FINDINGS OF FACT-SPECIAL USE PERMIT

The Findings of Fact for the special use permit were as follows; Member Cherry dissented to all Findings:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided the site is developed in accordance with the submitted site plan and provided a variance is granted regarding the location of the parking area and driveway inside the fenced area, the operation of the special use will not be detrimental to the public health, safety, morals, comfort, or general welfare. Conditions may be placed in the special

use permit ordinance to address hours and seasons of operation.

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. Appropriate restrictions may be placed in the special use permit to regulate the number of employees, hours of operation, site landscaping, and noise. Therefore, the neighboring property owners should not suffer loss in property values and the use will not negatively impact the adjacent land uses.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. If the Village of Oswego approves the new access point for the southern driveway and if a variance is granted for the location of the southern driveway inside the fenced area, then adequate points of ingress and egress will be provided. The owners of the business allowed by the special use permit have agreed not pile materials in excess of three feet (3') in height.

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. Provided a variance is granted for the location of the driveway inside the fenced area and a variance is granted allowing the use on a non-state, county, or collector highway, the special use shall conform to the applicable regulations of the district.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed use is consistent with an objective found on Page 6-34 of the Kendall County Land Resource Management Plan which calls for "a strong base of agricultural, commercial and industrial uses that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents".

FINDINGS OF FACT-VARIANCE

The Findings of Fact for the variance are as follows; Member Cherry dissented to all Findings:

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. There are no topographic conditions or other outstanding conditions not caused by the Petitioners that created a particular hardship or difficulty upon the owner.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. It is unknown the exact number of A-1 zoned properties that could ask for similar variances. The Village of Oswego defines Harvey Road as a Collector while the Kendall County Land Resource Management Plan does not define Harvey Road as a Collector; it is unique to have this difference in classification.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The owners created the hardship by installing the driveway without proper permits and operating the business at the subject property. While the owners were not responsible for the differences in classification for Harvey Road, the owners voluntarily chose to operate a landscaping business at the subject property and, thus, created the hardship.

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. The requested variance should not negatively impact any of the neighbors and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood, provided the Village of Oswego grants access to Harvey Road at the location shown on the landscaping plan.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. Allowing the driveway to be on the property line and allowing the business to operate on a non-State, County, or Collector Highway will not impair any of the above items.

RECOMMENDATION

Staff believes that a landscaping business could operate at the subject property with reasonable restrictions. However, Staff has concerns, given the Petitioners' previous behavior, that reasonable restrictions will be followed. Staff believes the following conditions and restrictions are necessary for the operation of a special use permit at the subject property:

- 1. The site shall be developed substantially in accordance with the attached plat of survey (Attachment 2) and landscaping plan (Attachment 3B). The dumpster shall be a minimum six feet by five feet (6'X5'). No grass clippings related to the business allowed by the special use permit may be stored on the subject property. Within ninety days (90) of the approval of this special use permit, the owners of the business allowed by the special use permit shall install the fence shown on the landscaping plan. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to install the fence.
- 2. The existing house, garage, chicken coop, deck, swimming pool, and shed located on the northwest corner of the property shall be used for residential purposes only and shall be exempt from the site development conditions of the special use permit. The locations of these structures may change without requiring an amendment to the special use permit.
- 3. A variance to Section 11:02.F.7.b of the Kendall County Zoning Ordinance shall be granted allowing off-street parking and southern driveway to be no closer than zero feet (0') from the southern property line as shown on the landscaping plan (Attachment 3B). The driveway shall be a maximum of twenty feet (20') in width and shall be gravel.
- 4. A variance to Section 7:01.D.30.b of the Kendall County Zoning Ordinance shall be granted allowing the operation of a landscaping business at a property not located on and not having direct access to a State, County, or Collector highway as designed in the County's Land Resource Management Plan.
- 5. The owners of the business allowed by the special use permit shall maintain the parking area shown on the site plan and in substantially the same location as depicted on the attached plat of survey (Attachment 2). The parking area shall be brick pavers. Within ninety days (90) of the approval of this special use permit, the owners of the business allowed by the special use permit shall install the brick pavers and handicapped parking space with applicable signage shown on the plat of survey. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to install the brick pavers and handicapped parking space. Employees may park on the existing gravel area inside the fence as shown on the attached landscaping plan (Attachment 3B); this parking area may remain gravel.
- 6. The owners of the business allowed by the special use permit shall maintain the landscaping business area on the southeast corner of the site as depicted on the attached landscaping plan (Attachment 3B). This area shall be gravel. The mulch area south of the frame shed shall be approximately twelve feet by twenty feet (12'X20') in size and shall be a maximum three feet (3') in height.
- 7. The owners of the businesses allowed by this special use permit shall diligently monitor the property for leaks from equipment and vehicles parked and stored and items stored on the subject property and shall promptly clean up the site if leaks occur.
- 8. Any new structures constructed or installed related to the business allowed by this special use permit on the property shall not be considered for agricultural purposes and must secure applicable building permits.
- 9. Equipment and vehicles related to the business allowed by the special use permit may be stored outdoors.

- 10. 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.
- 11. 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.
- 12. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated storage areas shown on the attached landscaping plan (Attachment 3B). The maximum height of the piles of landscaping related material shall be less than three feet (3') in height.
- 13. No signage advertising or promoting the business shall be installed on the subject property. The owner of the business allowed by this special use permit may install appropriate handicapped parking signs and other directional signs within the fenced landscaping business area as shown on the attached landscaping plan (Attachment 3B).
- 14. Twenty-eight (28) eight foot (8') tall mission arborvitaes, four (4) nine foot (9') tall blue spruces, and one (1) fifteen foot (15') mulch bed along the southwest corner of the property shall be installed and maintained on the property in substantially the locations shown on the attached landscaping plan (Attachment 3B). Damaged or dead arborvitaes shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department. Within ninety days (90) of the approval of this special use permit, the owners of the business allowed by the special use permit shall install the previously described vegetation. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to install the vegetation.
- 15. No landscape waste generated off the property can be burned on the subject property.
- 16. A maximum of four (4) 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.
- 17. No 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.
- 18. The hours of operation of the business allowed by this special use permit shall be daily from 6:00 a.m. until 8:00 p.m. The owners of the business allowed by this special use permit may reduce these hours of operation.
- 19. 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.

20. 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.

- 21. The owners of the business allowed by this special use shall reside at the subject property as their primary place of residence.
- 22. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
- 23. 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.
- 24. 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.
- 25. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
- 26. 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 draft ordinance is included as Attachment 28.

ATTACHMENTS

- 1. Application Materials (Including Petitioner's Findings of Fact, NRI Application, and EcoCat)
- 2. Plat of Survey
- 3. Landscaping Plan
- 3A Landscaping Plan Dated June 8, 2022
- 3B Landscaping Plan Dated June 21, 2022
- 4. NRI
- 5. Aerial
- 6. November 30, 2021 Village of Oswego Email
- 7. Picture of House and Front Parking Area
- 8. Picture of Southern Driveway
- 9. Existing Landscaping
- 10. January 4, 2022 ZPAC Minutes (This Petition Only)
- 11. January 31, 2022 Kendall County Zoning Board of Appeals Minutes
- 12. January 26, 2022 Kendall County Regional Planning Commission Minutes
- 13. February 28, 2022 Kendall County Zoning Board of Appeals Minutes (This Petition Only)
- 14. March 15, 2022 Email from the Village of Oswego
- 15. March 15 and 16, 2022 Emails with the Petitioners' Attorney
- 16. March 16, 2022 Driveway Picture
- 17. February 23, 2022, Kendall County Regional Planning Commission Minutes (This Petition Only)
- 18. March 28, 2022 Kendall County Zoning Board of Appeals Minutes (This Petition Only)
- 19. April 11, 2022 Lofchie Email
- 20. March 23, 2022 Kendall County Regional Planning Commission Minutes (This Petition Only)
- 21. April 27, 2022 Kendall County Regional Planning Commission Minutes (This Petition Only)
- 22. May 2, 2022 Kendall County Zoning Board of Appeals Minutes (This Petition Only)
- 23. May 25, 2022 Kendall County Regional Planning Commission Minutes (This Petition Only)
- 24. May 31, 2022 Kendall County Zoning Board of Appeals Minutes (This Petition Only)
- 25. June 13, 2022 Village of Oswego Email
- 26. June 22, 2022 Kendall County Regional Planning Commission Minutes (This Petition Only)
- 27. June 27, 2022 Kendall County Zoning Board of Appeals Minutes (This Petition Only)
- 28. Draft Ordinance



DEPARTMENT OF PLANNING, BUILDING & ZONING

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

FILE#:

APPLICATION

NAME OF APPLICANT		
JOSE	A. MARTINEZ	
URRENT LANDOWNER/NAME	(s)	
JOSE	E A. MARTINEZ	
CRES	SITE ADDRESS OR LOCATION	ASSESSOR'S ID NUMBER (PIN)
3.175 EXISTING LAND USE	1038 Harvey Rd., Oswego, IT. 6054 CURRENT ZONING LAND CLASS	3 03-12-100-004 & 013 SIFICATION ON LRMP
Special Use Permi	it and Variance	
REQUESTED ACTION (Check A	II That Apply):	
X SPECIAL USE	MAP AMENDMENT (Rezone to)	X VARIANCE
ADMINISTRATIVE VARIAN		SITE PLAN REVIEW
TEXT AMENDMENT	RPD (Concept; Preliminary; Final)	
PRELIMINARY PLAT	FINAL PLAT	OTHER PLAT (Vacation, Dedication, etc.)
AMENDMENT TO A SPECIA	AL USE (Major; Minor)	
PRIMARY CONTACT	PRIMARY CONTACT MAILING ADDRESS	PRIMARY CONTACT EMAIL
Tudd Lafabia Att	OFDEV	
Tudd Lofchie, Att. PRIMARY CONTACT PHONE #	PRIMARY CONTACT FAX#	PRIMARY CONTACT OTHER #(Cell, etc.
ENGINEER CONTACT	ENGINEER MAILING ADDRESS	ENGINEER EMAIL
ENGINEER PHONE #	ENGINEER FAX #	ENGINEER OTHER # (Cell, etc.)
	The state of the s	
COLINITY OTACE O DOAD	Y SIGNING THIS FORM, THAT THE PROPERT RD/ COMMISSION MEMBERS THROUGHOUT T LISTED ABOVE WILL BE SUBJECT TO ALL	THE PETITION PROCESS AND THAT
COLINITY		
I CERTIFY THAT THE IN BEST OF MY KNOWLED ABOVE SIGNATURES.	FORMATION AND EXHIBITS SUBMITTED ARE GE AND THAT I AM TO FILE THIS APPLICATI	ON AND ACT ON BEHALF OF THE
SIGNATURE OF APPLIC	ANT	DATE 6/15/21
	FEE PAID:\$	
	FEE FAID.	

Last Revised: 11.24.14 Special Use

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

PROJECT: JOSE MARTINEZ, 1038 Harvey Rd., Oswego, IL - Kendall County

Petitioner needs a special use permit to operate his business and a variance to allow him to park along the east edge of his property.

Jose Martinez is the owner of the property located at 1038 Harvey Rd in Oswego. He lives there and runs a small landscaping company. He has 4 employees and works from April second week to November (months). His property is surrounded by businesses on all sides. His lot is 3.175 acres and he uses a portion of the back to store mulch, brick pavers, and firewood. None of his piles exceed 3 feet in height. He operates his business between the hours of 6:30 am and 7pm. He does not burn any trees or brush. He has a family of 3 children who live in the house with him.

When he moved into the home, he promptly planted a slew of evergreens along the front of the property to block any view of the rear of his property. Install a fence in the NEC He has about 20 customers he services.

He needs a special use permit to operate his landscape business from the home and a variance to allow him to park along the east edge of his property. The adjacent property owners are all commercial but there are 3 homes across the street.

Jose has 4 employees but only operates his business from about April 15 until Thanksgiving (weather permitting). He does not make much noise at all. The house and lot have about 8 parking spaces total, plus Jose has a 2 car garage.

LEGAL DESCRIPTION:

THAT PART OF THE NORTHWEST ¼ OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF SAID NORTHWEST ¼ WITH THE CENTERLINE OF HARVEY ROAD, THENCE SOUTH 00 DEGREES, 20 MINUTES, 00 SECONDS WEST ALONG SAID CENTERLINE 342.36 FEET FOR A POINT OF BEGINNING, THENCE SOUTH 89 DEGREES, 57 MINUTES, 00 SECONDS EAST ALONG THE NORTH LINE OF A TRACT OF LAND CONVEYED TO JAMES W. CADWELL AND HELEN G. CADWELL BY DEED RECORDED AS DOCUMENT 76-1116, AND SAID NORTH LINE EXTENDED, A DISTANCE OF 387.41 FEET, THENCE SOUTH 00 DEGREES, 20 MINUTES, 00 SECONDS WEST, 357.0 FEET, THENCE NORTH 89 DEGREES, 57 MINUTES, 00 SECONDS WEST TO SAID CENTERLINE, THENCE NORTH 00 DEGREES, 20 MINUTES 00 SECONDS, EAST ALONG SAID CENTER LINE, 357.00 FEET TO THE POINT OF BEGINNING, IN OSWEGO, KENDALL COUNTY, ILLINOIS.



WARRANTY DEED
Joint Tenancy

201800011479

MAIL TO: JOJE A. MARINEZ SILUM MARINEZ DEBBIE GILLETTE RECORDER - KENDALL COUNTY, IL

NAME & ADDRESS OF TAXPAYER:

JOSE A. MARTINEZ

CILVIA MARTINEZ

RECORDED: 8/10/2018 02:36 PM WD: 39.00 RHSPS FEE: 10.00 STATE TAX: 309.00 COUNTY TAX: 150.00 PAGES: 4

THE GRANTOR(S) Bryan J. Pierard and Sheridan E. Pierard, husband and wife, of Oswego, Illinois for and in consideration of Ten and no/100 (\$10.00) DOLLARS and other good and valuable considerations in hand paid CONVEY AND WARRANT to Jose A. Martinez and Silvia Martinez, Illinois, not as Tenants in Common, but as Joint Tenants, all

interest in the following described Real Estate situated in the County of Kennall in the State of Illinois to wit:

* A MARRIED NAN

** AN UNMARRIES WOMAN

THAT PART OF THE NORTHWEST 1/4 OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF SAID NORTHWEST 1/4 WITH THE CENTERLINE OF HARVEY ROAD, THENCE SOUTH OO DEGREES, 20 MINUTES, OO SECONDS WEST ALONG SAID CENTER INE 342, 36 FEET FOR A POINT OF BEGINNING, THENCE SOUTH 89 DEGREES, 37 MINUTES, OO SECONDS EAST ALONG THE NORTH LINE OF A TRACT OF LAND CONVEYED TO JAMES W. CADWELL AND HELEN G. CADWELL BY DEED RECORDED AS DOCUMENT 76-1116, AND SAID NORTH LINE EXTENDED, A DISTANCE OF 387/41FBET, THENCE SOUTH 00 DEGREES 20 MINUTES 00 SECONDS WEST, 357.0 FEET, THENCE NORTH 89 DEGREES 57 MINUTES 00 SECONDS WEST TO SAID CENTERLINE, THENCE NORTH 00 DEGREES 20 MINUTES 00 SECONDS, EAST ALONG SAID CENTER LINE, 357.00 FEET TO THE POINT OF BEGINNING, IN OSWEGO, KENDALL COUNTY ILLINOIS

hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois. TO HAVE AND TO HOLD said premises not in tenancy in common, but in joint tenancy forever.

Permanent Index Number(s): 03-12-100-004 and 03-12-100-013

Property Address:

1038 Harvey Road Oswego, Illinois 60543

STATE OF ILLINOIS

AUG.10.18

REAL ESTATE TRANSFER TAX DEPARTMENT OF REVENUE REAL ESTATE
TRANSFER TAX

0030000

** FP326656

FIRST AMERICAN TITLE FILE # 2920553

201800011479 1/4

DATED this	16	_day of _	uly 2018
Bryan J. Pierard			(SEAL)

STATE OF ILLINOIS) SS COUNTY OF DuPage)

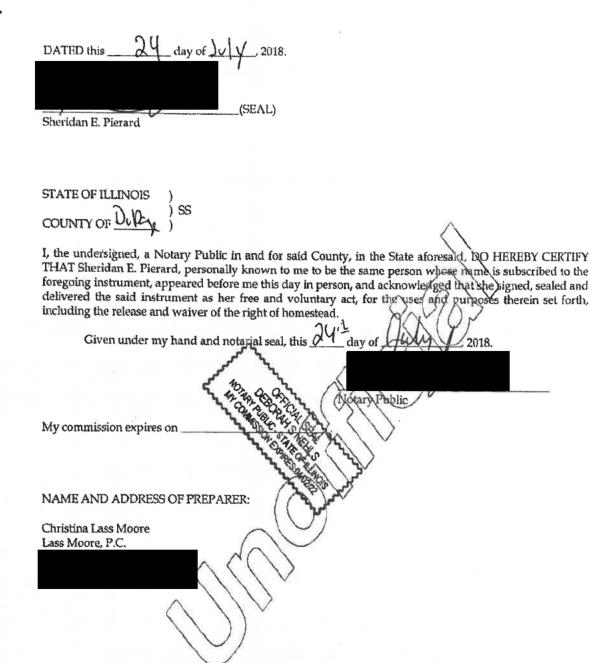
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Bryan J. Pierard, personally known to me to be the same person whose hape is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Motary Public

Given under my hand and notarial seal, this 19 day of July 2018.

My commission expires on 10/10/18

OFFICIAL SEAL
LAUREN IK ASKIN
NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXPIRES 10/19/18







12/09/2021

IDNR Project Number: 2207697

Date:

Applicant: Jose Martinez
Contact: Judd Lofchie

Address:



Project: 1038 Harvey, Oswego Address: 1038 Harvey Rd., Oswego

Description: We need a variance and special use permit from the County to operate a small landscaping business on a 1 acre(aprox) parcel.

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:

37N, 8E, 12

IL Department of Natural Resources Contact

Kyle Burkwald 217-785-5500

Division of Ecosystems & Environment



Government Jurisdiction
Kendall County

Judd Lofchie

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.

Attachment 1, Page 8

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

That the establishment, maintenance, and operation of the special use will not be detrimental to, or endanger, the public health, safety, morals, comfort, or general welfare.
The property is surrounded by large commercial buildings. It is a small landscap business.
And there already is a large landscape company within a block or so, Twin Oaks Lanscaping.
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.
Along the lines of the answer above, there are already commercial businesses and properties nearby.
And the applicant is proposing to put up a solid 8-foot fence. There is no proposed lighting or signage
that could bother any neighbors
This is true. See landscape plan and survey
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
So represented
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.
So represented

Attachment 1, Page 9

Please fill out the following findings of fact to the best of your capabilities. § 13:04 of the Zoning Ordinance outlines findings that the Zoning Board of Appeals shall take into consideration the extent to which the following conditions have been established by the evidence:

There already is a large commercial lanscaping company about a block or 2 away, Twin Oaks Landscaping. This business is much larger than the applicants. So there already is some precedent for this type of variance.

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out.

The variance asked for is very minimal and consistent with the other similar business down the street. The owner is going to put up fencing to block any negative views.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification.

The other properties in the area are already developed into commercial or nice new residential. It is doubtful that there would be any reason for any of these property owners to ask for a similar variance.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property.

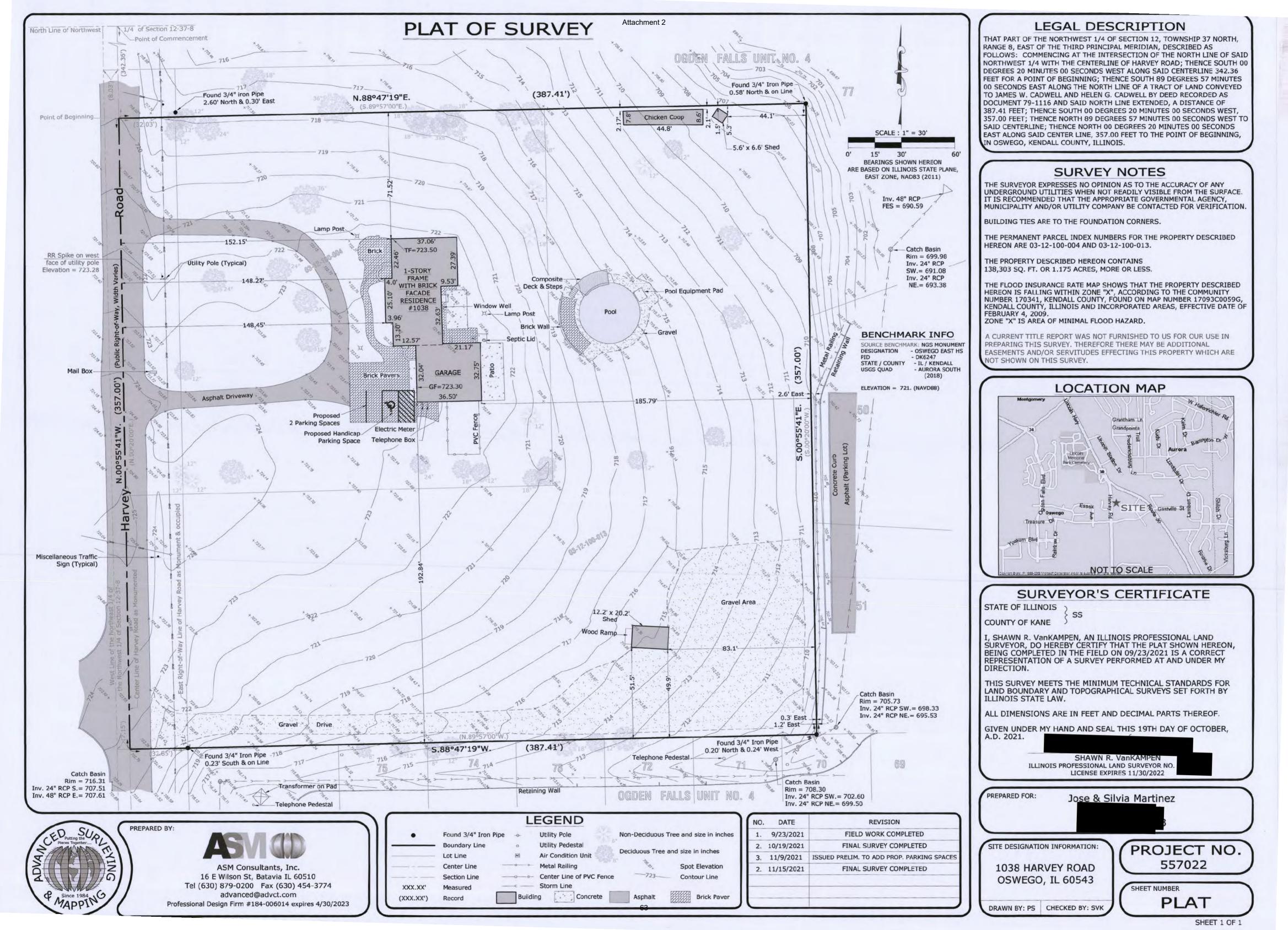
The driveway leading to the rear of the property was already in place when the owner purchased the property.

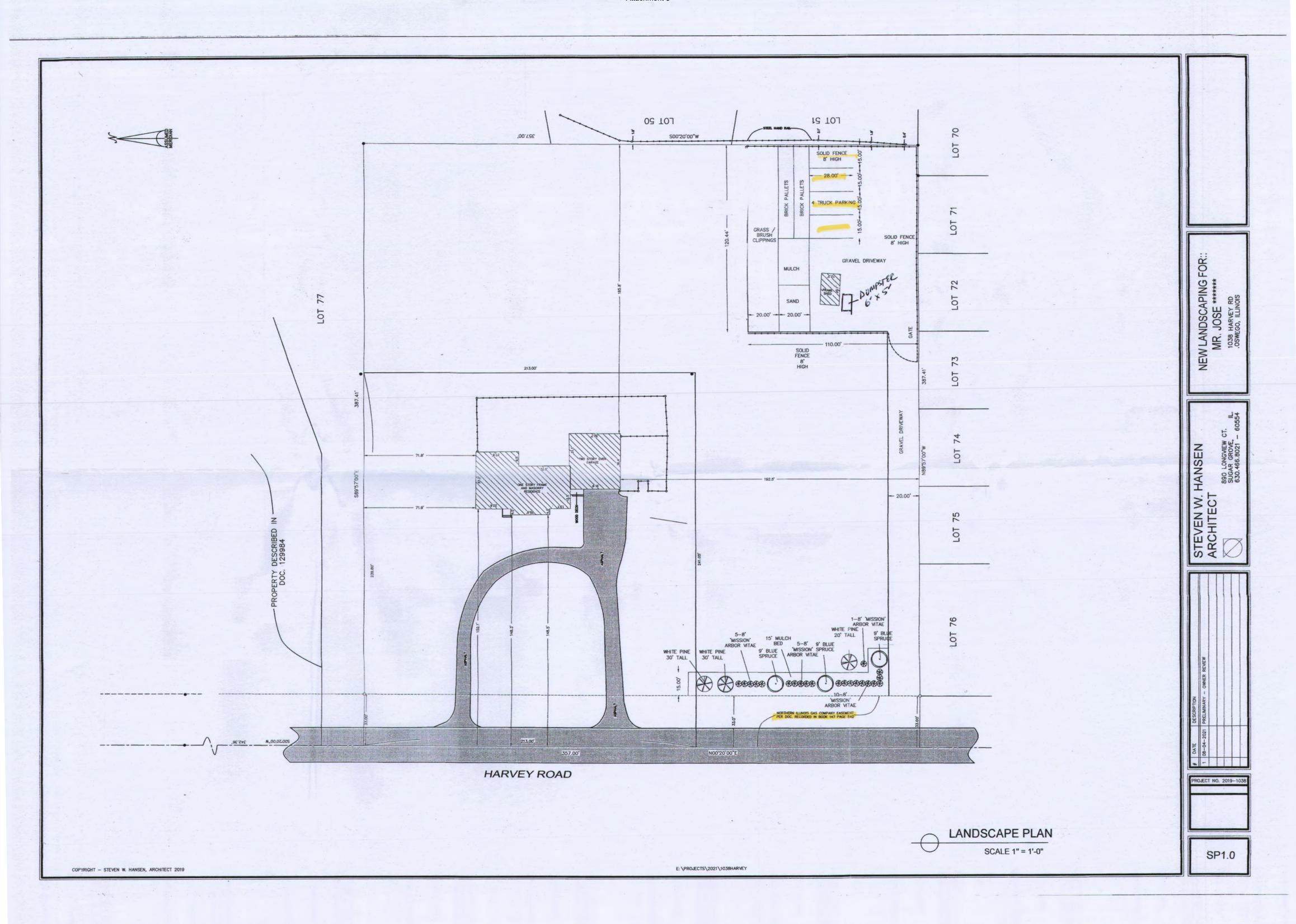
That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located.

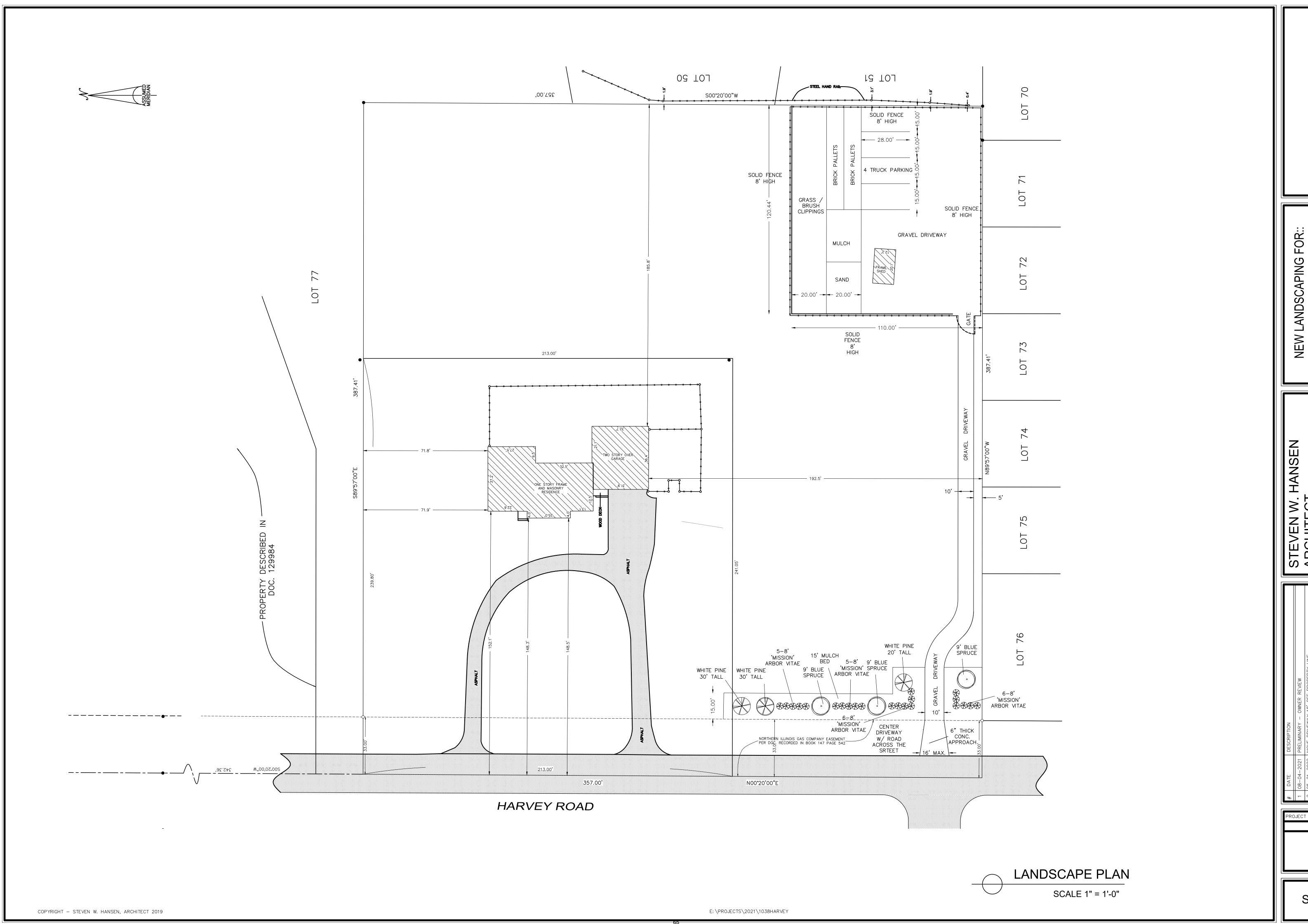
There are many commercial uses in the area including next door

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

No lighting or signage is being added so this will not bother the neighbors. The traffic is minimal coming in and out of the property. If the variance is granted, it will not impair property values.





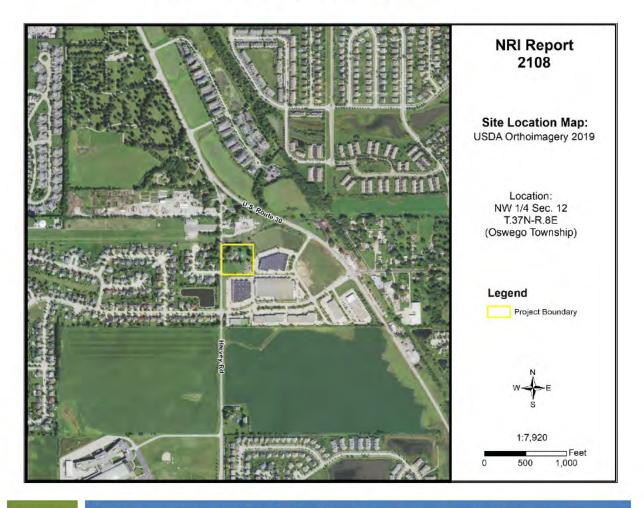


NEW LANDSCAPING FOR::

PROJECT NO. 2019-103

SP1.0

NATURAL RESOURCE INFORMATION (NRI) REPORT: #2108



July 2021 Petitioner: Natural World Landscaping – Jose Martinez Contact: Attorney Judd Lofchie

Prepared By:



7775A Route 47 Yorkville, Illinois 60560 Phone: (630) 553-5821 x3 Fax: (630) 553-7442 www.kendallswcd.org NRI 2108 July 2021

KENDALL COUNTY SOIL AND WATER CONSERVATION DISTRICT NATURAL RESOURCE INFORMATION (NRI) REPORT

Natural Resource Information Report Number	2108
Date District Board Reviews Application	July 2021
Applicant's Name	Natural World Landscaping – Jose Martinez
Size of Parcel	(+/-) 3.175 acres
Current Zoning & Use	A-1 Agricultural; Residence &
	Landscaping Business
Proposed Zoning & Use	A-1 Special Use & Variance;
	Residence & Landscaping Business
Parcel Index Number(s)	03-12-100-004 and 03-12-100-013
Contact Person	Attorney Judd Lofchie

Copies of this report or notification of the proposed land-use change was provided to:	Yes	No
The Applicant		Х
The Applicant's Legal Representation	×	
The Local/Township Planning Commission	Х	
The Village/City/County Planning and Zoning Department or Appropriate Agency	х	
The Kendall County Soil and Water Conservation District Files	X	

Report Prepared By: Alyse Olson Position: Resource Conservationist

NRI 2108 July 2021

PURPOSE AND INTENT

The purpose of this report is to provide officials of the local governing body and other decision-makers with natural resource information. This information may be useful when undertaking land use decisions concerning variations, amendments or relief of local zoning ordinances, proposed subdivision of vacant or agricultural lands and the subsequent development of these lands. This report is a requirement under Section 22.02a of the Illinois Soil and Water Conservation Districts Act.

The intent of this report is to present the most current natural resource information available in a readily understandable manner. It contains a description of the present site conditions, the present resources, and the potential impacts that the proposed change may have on the site and its resources. The natural resource information was gathered from standardized data, on-site investigations and information furnished by the petitioner. This report must be read in its entirety so that the relationship between the natural resource factors and the proposed land use change can be fully understood.

Due to the limitations of scale encountered with the various resource maps, the property boundaries depicted in the various exhibits in this report provide a generalized representation of the property location and may not precisely reflect the legal description of the PIQ (Parcel in Question).

This report, when used properly, will provide the basis for proper land use change decisions and development while protecting the natural resource base of the county. It should not be used in place of detailed environmental and/or engineering studies that are warranted under most circumstances, but in conjunction with those studies.

The conclusions of this report in no way indicate that a certain land use is not possible, but it should alert the reader to possible problems that may occur if the capabilities of the land are ignored. Any questions on the technical data supplied in this report or if anyone feels that they would like to see more additional specific information to make the report more effective, please contact:

> Kendall County Soil and Water Conservation District 7775A Route 47, Yorkville, IL 60560 Phone: (630) 553-5821 ext. 3

E-mail: Alyse.Olson@il.nacdnet.net

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EXECUTIVE SUMMARY

Natural Resource Information Report Number	#2108
Petitioner	Natural World Landscaping – Jose Martinez
Contact Person	Attorney Judd Lofchie
County or Municipality the Petition is Filed With	Kendall County
	NW ¼ of Section 12, Township 37 North, Range 8
Location of Parcel	East (Oswego Township) of the 3 rd Principal
	Meridian
D C.I.I N	N
Project or Subdivision Name	Natural World Landscaping
	A-1 Agricultural; Residence & Landscaping
Existing Zoning & Land Use	Business
	Business
	A-1 Special Use & Variance; Residence &
Proposed Zoning & Land Use	Landscaping business
Proposed Water Source	Well
Proposed Type of Sewage Disposal System	Septic
Proposed Type of Storm Water Management	N/A
Size of Site	(+/-) 3.175 acres
Land Evaluation Site Assessment Score	124 (Land Evaluation: 84; Site Assessment: 40)

NATURAL RESOURCE CONSIDERATIONS

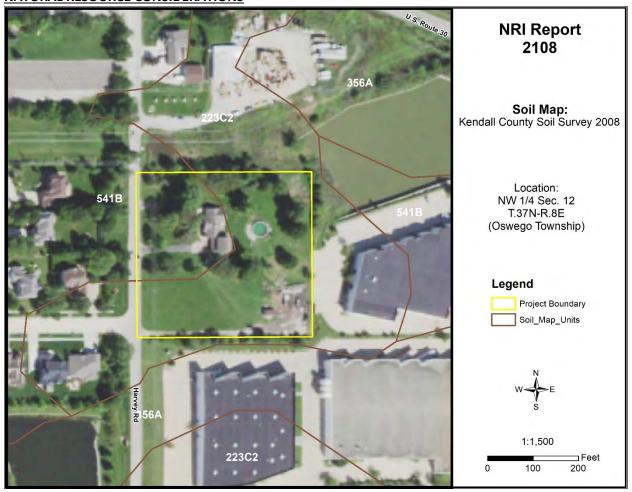


Figure 1: Soil Map

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; if completed, please refer to onsite soil test results for planning/engineering purposes):

Table 1: Soils Information

Map Unit	Soil Name	Drainage Class	Hydrologic Group	Hydric Designation	Farmland Designation
223C2	Varna silt loam, 4-6% slopes, eroded	Moderately Well Drained	С	Non-Hydric	Prime Farmland
541B	Graymont silt loam, 2-5% slopes	Moderately Well Drained	С	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 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 that supports the growth or regeneration of hydrophytic vegetation. Soils with hydric inclusions have map units dominantly made up of non-hydric soils that may have inclusions of hydric soils in the lower positions on the landscape. Of the soils found onsite, one is classified as non-hydric (223C2 Varna silt loam) and the other is a non-hydric soil that likely contains hydric inclusions (541B Graymont silt loam).

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, both are designated as prime farmland (223C2 Varna silt loam and 541B Graymont silt loam).

Soil Limitations — The USDA-NRCS Web Soil Survey rates the limitations of soils for dwellings with basements, dwellings without basements, small commercial buildings, shallow excavations, lawns/landscaping, and local roads and streets. Soils have different properties which influence the development of building sites. The USDA-NRCS classifies soils as Not Limited, Somewhat Limited, and Very Limited. Soils that are Not Limited indicates that the soil has properties that are favorable for the specified use. They will perform well and will have low maintenance. Soils that are Somewhat Limited are moderately favorable, and their limitations can be overcome through special planning, design, or installation. Soils that are Very Limited have features that are unfavorable for the specified use, and their limitations cannot easily be overcome.

Table 2: Soil Limitations

Soil Type	Dwellings with Basements	Dwellings without Basements	Small Commercial Buildings	Shallow Excavations	Lawns/ Landscaping	Local Roads & Streets	Conventional Septic Systems
91A	Somewhat	Somewhat	Somewhat	Somewhat	Somewhat	Very	Suitable/
91A	Limited	Limited	Limited	Limited	Limited	Limited	Not Limited
235A	Somewhat	Somewhat	Somewhat	Somewhat	Somewhat	Very	Suitable/
233A	Limited	Limited	Limited	Limited	Limited	Limited	Not Limited

Septic Systems – The factors considered for determining suitability are the characteristics and qualities of the soil that affect the limitations for absorbing waste from domestic sewage disposal systems. The major features considered are soil permeability, percolation rate, groundwater level, depth to bedrock, flooding hazards, and slope. Soils are deemed unsuitable per the Kendall County Subdivision Control Ordinance. Installation of an on-site sewage disposal system in soils designated as unsuitable may necessitate the installation of a non-conventional onsite sewage disposal system. For more information please contact the Kendall County Health Department (811 W. John Street, Yorkville, IL; (630) 553-9100 ext. 8026).

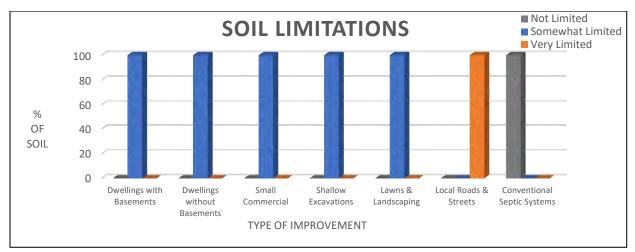


Figure 2: Soil Limitations

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.
 - The Land Evaluation score for this site is 84, indicating that this site is well suited for agricultural uses.

- 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 Site Assessment value is based on a 200-point scale and accounts
 for 2/3 of the total score. The Kendall County LESA Committee is responsible for this portion of
 the LESA system.
 - The Site Assessment score for this site is **40**.

The LESA Score for this site is 124 out of a possible 300, 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. If the project is agricultural in nature, however, a higher score may provide an indication of the suitability of the project as it relates to the compatibility with existing agricultural land use.

WETLANDS

The U.S. Fish & Wildlife Service's National Wetland Inventory map does not indicate the presence of a wetland(s) on the proposed project site. To determine if a wetland is present, 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 Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map (FIRM) for Kendall County, Community Panel No. 17093C0059G (effective date February 4, 2009) was reviewed to determine the presence of floodplain and floodway areas within the project site. According to the map, the parcel **is not located within** the floodplain or floodway.

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 FINDINGS:

The Kendall County Soil and Water Conservation District (SWCD) Board has reviewed the proposed development plans for Petitioner Jose Martinez with Natural World Landscaping for the proposed landscaping business (A-1 Special Use permit and variance request) within Oswego Township of Kendall County located in the NW ¼ of Section 12, Township 37N, and Range 8E of the 3rd Principal Meridian. 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 presents the following information.

The Kendall County SWCD has always had the opinion that Prime Farmland should be preserved whenever feasible. Of the soils found onsite, 100% are classified as prime farmland. A land evaluation (LE), which is a part of the Land Evaluation and Site Assessment (LESA), was conducted on this parcel. The soils on this parcel scored an 84 out of a possible 100 points indicating that the soils are well suited for agricultural uses. The total LESA Score for this site is 124 out of a possible 300, which indicates a low level of protection for the proposed project site. 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. If the project is agricultural in nature, however, a higher score may provide an indication of the suitability of the project as it relates to the compatibility with existing agricultural land use.

Soils found on the project site are rated for specific uses and can have potential limitations for development. 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 development with significant limitations. This report indicates that for soils located on the parcel, 100% are very limited for local roads & streets and 100% are somewhat limited for dwellings with basements, dwellings without basements, small commercial buildings, shallow excavations, and lawns/landscaping. Additionally, 100% of the soils are considered suitable for conventional septic systems. This information is based on the soil in an undisturbed state. If the scope of the project may include the use of onsite septic systems, please consult with the Kendall County Health Department.

This site is located within the Lower Fox River watershed and the Waubansee Creek sub watershed. This development should include a soil erosion and sediment control plan to be implemented during construction. Sediment may become a primary non-point source of pollution; eroded soils during the construction phase can create unsafe conditions on roadways, degrade water quality and destroy aquatic ecosystems lower in the watershed.

For intense use, it is recommended that a drainage tile survey be completed on the parcel to locate the subsurface drainage tile and should be taken into consideration during the land use planning process. 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 that the Land Developers take into full consideration the limitations of that land that they wish to develop. Guidelines and recommendations are also a part of this report and should be considered in the planning process. The Natural Resource Information Report is required by the Illinois Soil and Water Conservation District Act (III. Complied Statues, Ch. 70, Par 405/22.02a).

SWCD Board Representative

7/10/2021

PARCEL LOCATION

Location Map for Natural Resources Information Report #2108

NW ¼ of Section 12, Township 37 North, Range 8 East (Oswego Township) on 3.175 acres. This parcel is located on the east side of Harvey Road, south of U.S. Route 30, and north of Treasure Drive in Oswego, IL. The parcel is part of unincorporated Kendall County.

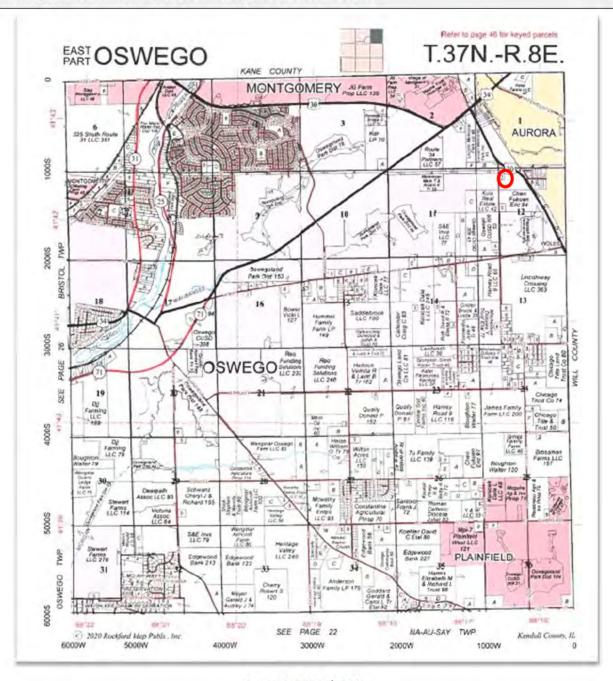


Figure 3: 2021 Plat Map

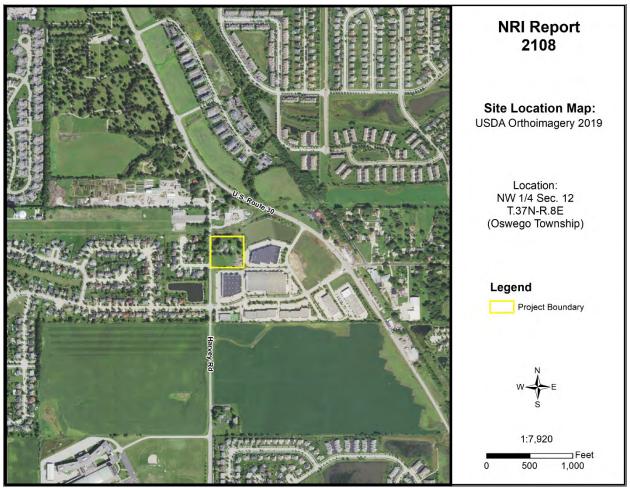


Figure 4: 2019 Aerial Map with NRI Site Boundary

ARCHAEOLOGIC/CULTURAL RESOURCES INFORMATION

Simply stated, cultural resources are all the past activities and accomplishments of people. They include the following: buildings; objects made or used by people; locations; and less tangible resources, such as stories, dance forms, and holiday traditions.

The Soil and Water Conservation District most often encounters cultural resources as historical properties. These may be prehistoric or historical sites, buildings, structures, features, or objects. The most common type of historical property that the Soil and Water Conservation District may encounter is non-structural archaeological sites. These sites often extend below the soil surface and must be protected against disruption by development or other earth moving activity if possible. Cultural resources are *non-renewable* because there is no way to "grow" a site to replace a disrupted site.

Landowners with historical properties on their land have ownership of that historical property. However, the State of Illinois owns all the following: human remains, grave markers, burial mounds, and artifacts associated with graves and human remains.

Non-grave artifacts from archaeological sites and historical buildings are the property of the landowner. The landowner may choose to disturb a historical property but may not receive federal or state assistance to do so. If an earth moving activity disturbs human remains, the landowner must contact the county coroner within 48 hours.

The Illinois Historic Preservation Agency has not been notified of the proposed land use change by the Kendall County SWCD. The applicant may need to contact the IHPA according to current Illinois law.

ECOLOGICALLY SENSITIVE AREAS

WHAT IS BIOLOGICAL DIVERSITY AND WHY SHOULD IT BE CONSERVED? 1

Biological diversity, or biodiversity, is the range of life on our planet. A more thorough definition is presented by botanist Peter H. Raven: "At the simplest level, biodiversity is the sum total of all the plants, animals, fungi and microorganisms in the world, or in a particular area; all of their individual variation; and all of the interactions between them. It is the set of living organisms that make up the fabric of the planet Earth and allow it to function as it does, by capturing energy from the sun and using it to drive all of life's processes; by forming communities of organisms that have, through the several billion years of life's history on Earth, altered the nature of the atmosphere, the soil and the water of our Planet; and by making possible the sustainability of our planet through their life activities now" (Raven 1994).

It is not known how many species occur on our planet. Presently, about 1.4 million species have been named. It has been estimated that there are perhaps 9 million more that have not been identified. What is known is that they are vanishing at an unprecedented rate. Reliable estimates show extinction occurring at a rate several orders of magnitude above "background" in some ecological systems (Wilson 1992, Hoose 1981).

The reasons for protecting biological diversity are complex, but they fall into four major categories. First, loss of diversity generally weakens entire natural systems. Healthy ecosystems tend to have many natural checks and balances. Every species plays a role in maintaining this system. When simplified by the loss of diversity, the system becomes more susceptible to natural and artificial perturbations. The chances of a system-wide collapse increase. In parts of the midwestern United States, for example, it was only the remnant areas of natural prairies that kept soil intact during the dust bowl years of the 1930s (Roush 1982).

Simplified ecosystems are almost always expensive to maintain. For example, when synthetic chemicals are relied upon to control pests, the target species are not the only ones affected. Their predators are almost always killed or driven away, exasperating the pest problem. In the meantime, people are unintentionally breeding pesticide-resistant pests. A process has begun where people become perpetual guardians of the affected area, which requires the expenditure of financial resources and human ingenuity to keep the system going.

A second reason for protecting biological diversity is that it represents one of our greatest untapped resources. Great benefits can be reaped from a single species. About 20 species provide 90% of the world's food. Of these 20, just three, wheat, maize, and rice-supply over one half of that food. American wheat farmers need new varieties every five to 15 years to compete with pests and diseases. Wild strains of wheat are critical genetic reservoirs for these new varieties.

Further, every species is a potential source of human medicine. In 1980, a published report identified the market value of prescription drugs from higher plants at over \$3 billion. Organic alkaloids, a class of

chemical compounds used in medicines, are found in an estimated 20% of plant species. Yet only 2% of plant species have been screened for these compounds (Hoose 1981).

The third reason for protecting diversity is that humans benefit from natural areas and depend on healthy ecosystems. The natural world supplies our air, our water, our food and supports human economic activity. Further, humans are creatures that evolved in a diverse natural environment between forest and grasslands. People need to be reassured that such places remain. When people speak of "going to the country," they generally mean more than getting out of town. For reasons of their own sanity and wellbeing, they need a holistic, organic experience. Prolonged exposure to urban monotony produces neuroses, for which cultural and natural diversity cure.

Historically, the lack of attention to biological diversity, and the ecological processes it supports, has resulted in economic hardships for segments of the basin's human population.

The final reason for protecting biological diversity is that species and natural systems are intrinsically valuable. The above reasons have focused on the benefits of the natural world to humans. All things possess intrinsic value simply because they exist.

BIOLOGICAL RESOURCES CONCERNING THE SUBJECT PARCEL

As part of the Natural Resources Information Report, staff checks office maps to determine if any nature preserves or ecologically sensitive areas are in the general vicinity of the parcel in question. If there is a nature preserve in the area, then that resource will be identified as part of the report. The SWCD recommends that every effort be made to protect that resource. Such efforts should include, but are not limited to erosion control, sediment control, stormwater management, and groundwater monitoring.

Office maps indicate that ecologically sensitive area(s) are <u>not</u> located near the parcel in question (PIQ).

11

¹Taken from <u>The Conservation of Biological Diversity in the Great Lakes Ecosystem: Issues and Opportunities</u>, prepared by the Nature Conservancy Great Lakes Program 79W. Monroe Street, Suite 1309, Chicago, IL 60603, January 1994.

SOILS INFORMATION

IMPORTANCE OF SOILS INFORMATION

Soils information comes from the Natural Resources Conservation Service Soil Maps and Descriptions for Kendall County. This information is important to all parties involved in determining the suitability of the proposed land use change.

Each soil polygon is given a number, which represents its soil type. The letter found after the soil type number indicates the soils slope class.

Each soil map unit has limitations for a variety of land uses such as septic systems, buildings with basements, and buildings without basements. It is important to remember that soils do not function independently of each other. The behavior of a soil depends upon the physical properties of adjacent soil types, the presence of artificial drainage, soil compaction, and its position in the local landscape.

The limitation categories (not limited, somewhat limited, or very limited) indicate the potential for difficulty in using that soil unit for the proposed activity and, thus, the degree of need for thorough soil borings and engineering studies. A limitation does not necessarily mean that the proposed activity cannot be done on that soil type. It does mean that the reasons for the limitation need to be thoroughly understood and dealt with to complete the proposed activity successfully. Very limited indicates that the proposed activity will be more difficult and costly to do on that soil type than on a soil type with a somewhat limited or not limited rating.

Soil survey interpretations are predictions of soil behavior for specified land uses and specified management practices. They are based on the soil properties that directly influence the specified use of the soil. Soil survey interpretations allow users of soil surveys to plan reasonable alternatives for the use and management of soils.

Soil interpretations do not eliminate the need for on-site study and testing of specific sites for the design and construction for specific uses. They can be used as a guide for planning more detailed investigations and for avoiding undesirable sites for an intended use. The scale of the maps and the range of error limit the use of the soil delineation.

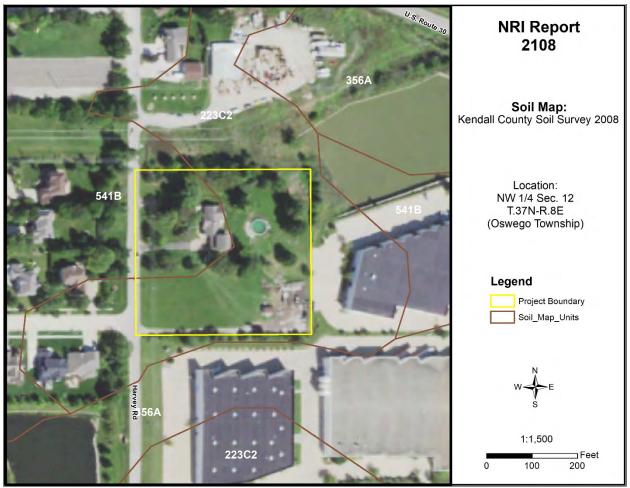


Figure 5: Soil Map

Table 3: Soil Map Unit Descriptions

Symbol	Descriptions	Acres	Percent
223C2	Varna silt loam, 4-6% slopes, eroded	2.2	69%
541B	Graymont silt loam, 2-5% slopes	1.0	31%

Source: National Cooperative Soil Survey – USDA-NRCS

SOILS INTERPRETATIONS EXPLANATION

GENERAL – NONAGRICULTURAL

These interpretative ratings help engineers, planners, and others to understand how soil properties influence behavior when used for nonagricultural uses such as building site development or construction materials. This report gives ratings for proposed uses in terms of limitations and restrictive features. The tables list only the most restrictive features.

Other features may need treatment to overcome soil limitations for a specific purpose. Ratings come from the soil's "natural" 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. Most of these practices, however, are costly. The final decision in selecting a site for a particular use generally involves weighing the costs for site preparation and maintenance. Soil properties influence development of building sites, including the selection of the site, the design of the structure, construction, performance after construction, and maintenance. Soil limitation ratings of not limited, somewhat limited, and very limited are given for the types of proposed improvements that are listed or inferred by the petitioner as entered on the report application and/or zoning petition. The most common types of building limitation that this report gives limitations ratings for is septic systems. It is understood that engineering practices can overcome most limitations for buildings with and without basements, and small commercial buildings. Limitation ratings for these types of buildings are not commonly provided. Organic soils, when present on the parcel, are referenced in the hydric soils section of the report. This type of soil is considered unsuitable for all types of construction.

LIMIATIONS RATINGS

- **Not Limited:** This soil has favorable properties for the use. The degree of limitation is minor. The people involved can expect good performance and low maintenance.
- **Somewhat Limited**: This soil has moderately favorable properties for the use. Special planning, design, or maintenance can overcome this degree of limitation. During some part of the year, the expected performance is less desirable than for soils rated slight.
- Very Limited: This soil has one or more properties that are unfavorable for the rated use. These
 may include the following: steep slopes, bedrock near the surface, flooding, high shrink-swell
 potential, a seasonal high water table, or low strength. This degree of limitation generally requires
 major soil reclamation, special design, or intensive maintenance, which in most situations is
 difficult and costly.

BUILDING LIMITATIONS

BUILDING ON POORLY SUITED OR UNSUITABLE SOILS

Building on poorly suited or unsuitable soils can present problems to future property owners such as cracked foundations, wet basements, lowered structural integrity and high maintenance costs associated with these problems. The staff of the Kendall County SWCD strongly urges scrutiny by the plat reviewers when granting parcels with these soils exclusively.

Dwellings with Basements – Ratings are for undisturbed soil for a building structure of less than 3 stories with a basement. The foundation is assumed to be spread footings of reinforced concrete built on undisturbed soil at a depth of about 7 feet. The ratings for dwellings are based on soil properties that affect the capacity of the soil to support a load without movement and on the properties that affect excavation and construction costs.

Dwellings without Basements – Ratings are for undisturbed soil for a house of three stories or less than 3 stories without a basement. The foundation is assumed to be spread footings of reinforced concrete at a depth of 2 feet or the depth of maximum frost penetration, whichever is deeper. The ratings for dwellings are based on soil properties that affect the capacity of the soil to support a load without movement and on the properties that affect excavation and construction costs.

Small Commercial Building – Ratings are for structures that are less than three stories high and do not have basements. The foundation is assumed to be spread footings of reinforced concrete built on disturbed soil at a depth of 2 feet or at the depth of maximum frost penetration, whichever is deeper. The ratings are based on soil properties that affect the capacity of the soil to support a load without movement and on the properties that affect excavation and construction costs.

Shallow Excavations – Trenches or holes dug to a maximum depth of 5 or 6 feet for utility lines, open ditches, or other purposes. Ratings are based on soil properties that influence the ease of digging and the resistance to sloughing.

Lawns and Landscaping – Require soils on which turf and ornamental trees and shrubs can be established and maintained (irrigation is not considered in the ratings). The ratings are based on the soil properties that affect plant growth and trafficability after vegetation is established.

Local Roads and Streets – They have an all-weather surface and carry automobile and light truck traffic all year. They have a subgrade of cut or fill soil material, a base of gravel, crushed rock or soil material stabilized by lime or cement; and a surface of flexible material (asphalt), rigid material (concrete) or gravel with a binder. The ratings are based on the soil properties that affect the east of excavation and grading and the traffic-supporting capacity.

Onsite Sewage Disposal – The factors considered are the characteristics and qualities of the soil that affect the limitations for absorbing waste from domestic sewage disposal systems. The major features

considered are soil permeability, percolation rate, groundwater level, depth to bedrock, flooding hazards, and slope. The table below indicates soils that are deemed unsuitable per the Kendall County Subdivision Control Ordinance. Installation of an on-site sewage disposal system in soils designated as unsuitable may necessitate the installation of a non-conventional onsite sewage disposal system. For more information please contact the Kendall County Health Department – Environmental Health at (630) 553-9100 x8026.

Table 4: Building Limitations

Soil Type	Dwellings with Basements	Dwellings without Basements	Small Commercial Buildings	Shallow Excavations	Lawns & Landscaping	Local Roads & Streets	Onsite Conventional Sewage Systems	Acres	%
223C2	Somewhat Limited:	Somewhat	Somewhat	Somewhat Limited:	Somewhat	Very Limited:	Suitable:	2.2	69%
	Depth to saturated	Limited:	Limited:	Depth to saturated zone;	Limited:	Low strength;			
	zone	Shrink-swell	Slope;	Dusty;	Dusty	Frost action;			
			Shrink-swell	Unstable excavation walls		Shrink-swell			
541B	Somewhat Limited:	Somewhat	Somewhat	Somewhat Limited:	Somewhat	Very Limited:	Suitable:	1.0	31%
	Depth to saturated	Limited:	Limited:	Depth to saturated zone;	Limited:	Frost action;			
	zone;	Shrink-swell	Shrink-swell	Dusty;	Dusty	Low strength;			
	Shrink-swell			Unstable excavation walls		Shrink-swell			
% Very	0%	0%	0%	0%	0%	100%	0%		
Limited	0%	0%	0%	070	0%	100%	0%		



Figure 6A: Map of Building Limitations – Dwellings with Basements, Dwellings without Basements, Small Commercial Buildings, Shallow Excavations, and Lawns/Landscaping

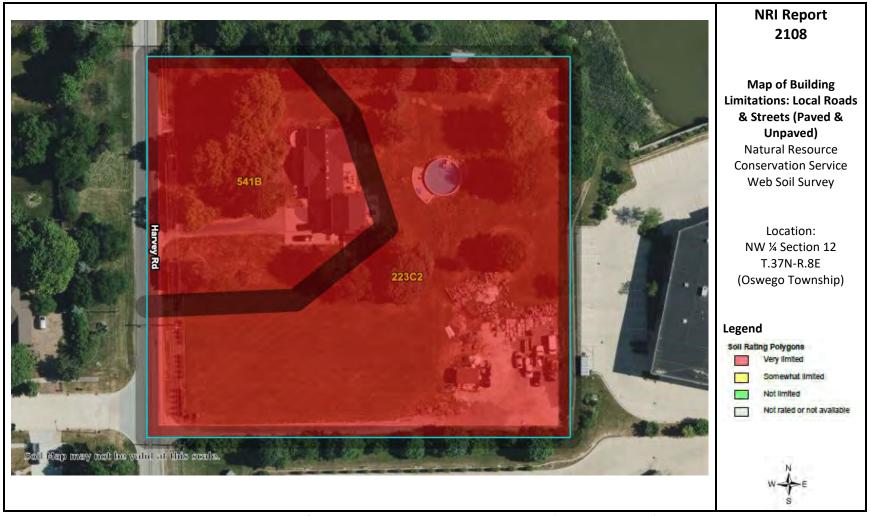


Figure 6B: Map of Building Limitations – Local Roads & Streets (Paved & Unpaved)

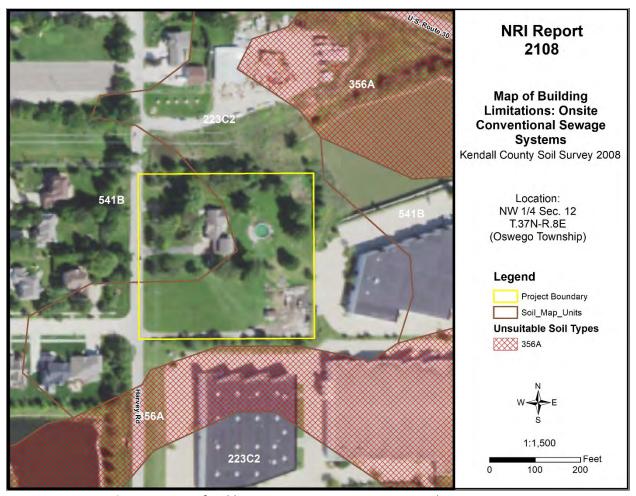


Figure 6C: Map of Building Limitations – Onsite Conventional Sewage System

SOIL WATER FEATURES

Table 5, below, gives estimates of various soil water features that should be taken into consideration when reviewing engineering for a land use project.

HYDROLOGIC SOIL GROUPS (HSGs) — The groups are based on estimates of runoff potential. Soils are assigned to one of four groups according to the rate of water infiltration when the soils are not protected by vegetation, are thoroughly wet, and receive precipitation from long-duration storms.

- **Group A:** Soils having 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.
- Group B: Soils having a moderate infiltration rate when thoroughly wet. These consist chiefly of
 moderately deep or deep, moderately well drained, or well drained soils that have moderately
 fine texture to moderately coarse texture. These soils have a moderate rate of water transmission.
- **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.
- **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, soils that 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.

Note: 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 is for undrained areas.

SURFACE RUNOFF – 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 and 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). The classes are negligible, very low, low, medium, high, and very high.

MONTHS – The portion of the year in which a water table, ponding, and/or flooding is most likely to be a concern.

WATER TABLE – Water table refers to a saturated zone in the soil and the data indicates, by month, depth to the top (upper limit) and base (lower limit) of the saturated zone in most years. These estimates are based upon observations of the water table at selected sites and on evidence of a saturated zone (grayish colors or mottles (redoximorphic features)) in the soil. Note: A saturated zone that lasts for less than a month is not considered a water table.

PONDING – Ponding refers to standing water in a closed depression, and the data indicates surface water depth, duration, and frequency of ponding.

- **Duration:** Expressed as *very brief* if less than 2 days, *brief* if 2 to 7 days, *long* if 7 to 30 days and *very long* if more than 30 days.
- **Frequency:** Expressed as: *none* meaning ponding is not possible; *rare* means unlikely but possible under unusual weather conditions (chance of ponding is 0-5% in any year); *occasional* means that it occurs, on the average, once or less in 2 years (chance of ponding is 5 to 50% in any year); and frequent means that it occurs, on the average, more than once in 2 years (chance of ponding is more than 50% in any year).

FLOODING – The 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: *extremely brief* if 0.1 hour to 4 hours; *very brief* if 4 hours to 2 days; *brief* if 2 to 7 days; *long* if 7 to 30 days; and *very long* if more than 30 days.
- Frequency: Expressed as: none means flooding is not probable; very rare means that it is very unlikely but possible under extremely unusual weather conditions (chance of flooding is less than 1% in any year); rare means that it is unlikely but possible under unusual weather conditions (chance of flooding is 1 to 5% in any year); occasional means that it occurs infrequently under normal weather conditions (chance of flooding is 5 to 50% in any year but is less than 50% in all months in any year); and very frequent means that it is likely to occur very often under normal weather conditions (chance of flooding is more than 50% in all months of any year).

Note: The information is based on evidence in the soil profile. In addition, consideration is also given to local information about the extent and levels of flooding and the relation of each soil on the landscape to historic floods. Information on the extent of flooding based on soil data is less specific than that provided by detailed engineering surveys that delineate flood-prone areas at specific flood frequency levels.

Table 5: Water Features

Map Unit	Hydrologic Group	Surface Runoff	Water Table	Ponding	Flooding
223C2	С	High	<u>January</u>	January – December	January – December
			Upper/Lower Limit:	Surface Water Depth:	Duration:
			<u>February – April</u>	Duration:	Frequency: None
			Upper Limit : 2.0'-3.5'	Frequency: None	
			Lower Limit: 2.2'-5.5'		
			May – December		
			Upper/Lower Limit:		
541B	С	Low	<u>January</u>	January – December	January – December
			Upper/Lower Limit:	Surface Water Depth:	Duration:
			<u>February – April</u>	Duration:	Frequency: None
			Upper Limit : 2.0'-3.5'	Frequency: None	
			Lower Limit: 2.2'-4.3'		
			May – December		
			Upper/Lower Limit:		

SOIL EROSION AND SEDIMENT CONTROL

Erosion is the wearing away of the soil by water, wind, and other forces. Soil erosion threatens the Nation's soil productivity and contributes the most pollutants in our waterways. Water causes about two thirds of erosion on agricultural land. Four properties, mainly, determine a soil's erodibility: texture, slope, structure, and organic matter content.

Slope has the most influence on soil erosion potential when the site is under construction. Erosivity and runoff increase as slope grade increases. The runoff then exerts more force on the particles, breaking their bonds more readily and carrying them farther before deposition. The longer water flows along a slope before reaching a major waterway, the greater the potential for erosion.

Soil erosion during and after this proposed construction can be a primary non-point source of water pollution. Eroded soil during the construction phase can create unsafe conditions on roadways, decrease the storage capacity of lakes, clog streams and drainage channels, cause deterioration of aquatic habitats, and increase water treatment costs. Soil erosion also increases the risk of flooding by choking culverts, ditches, and storm sewers and by reducing the capacity of natural and man-made detention facilities.

The general principles of erosion and sedimentation control measures include:

- Reducing or diverting flow from exposed areas, storing flows, or limiting runoff from exposed areas
- Staging construction to keep disturbed areas to a minimum
- Establishing or maintaining temporary or permanent groundcover
- Retaining sediment on site
- Properly installing, inspecting, and maintaining control measures

Erosion control practices are useful controls only if they are properly located, installed, inspected, and maintained.

The SWCD recommends an erosion and sediment control plan for all building sites, especially if there is a wetland or stream nearby.

Table 6: Soil Erosion Potential

	Soil Type	Slope	Rating	Acreage	Percent of Parcel
ſ	223C2	4-6%	Moderate	2.2	69%
	541B	2-5%	Slight	1.0	31%

PRIME FARMLAND SOILS

Prime farmland soils are an important resource to Kendall County. Some of the most productive soils in the United States occur locally. Each soil map unit in the United States is assigned a prime or non-prime rating. Prime agricultural land does not need to be in the production of food & fiber.

Section 310 of the NRCS general manual states that urban or built-up land on prime farmland soils is <u>not</u> prime farmland. The percentages of soils map units on the parcel reflect the determination that urban or built up land on prime farmland soils is not prime farmland.

Table 7: Prime Farmland Soils

Soil Types	Prime Designation	Acreage	Percent
223C2	Prime Farmland	2.2	69%
541B	Prime Farmland	1.0	31%
% Prime Farmland	100%		

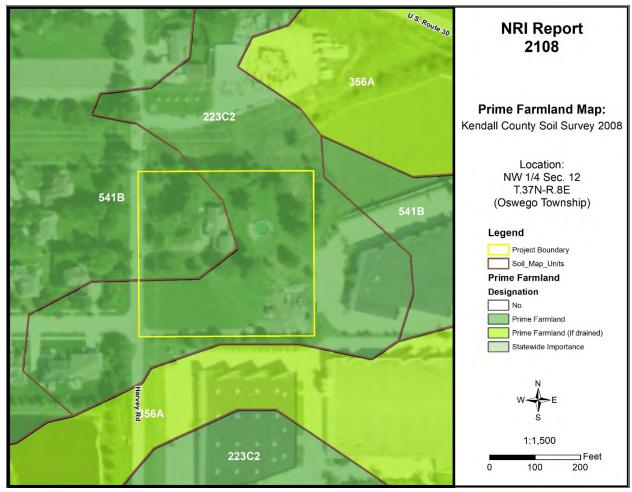


Figure 7: Map of Prime Farmland Soils

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 LE score is calculated by multiplying the relative value of each soil type by the number of acres of that soil. The sum of the products is then divided by the total number of acres; the answer is the Land Evaluation score on this site. 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 value group is a predetermined value based upon prime farmland designation. The Kendall County LESA Committee is responsible for this portion of the LESA system.

Please Note: A land evaluation (LE) score will be compiled for every project parcel. However, when a parcel is located within municipal planning boundaries, a site assessment (SA) score is not compiled as the scoring factors are not applicable. As a result, only the LE score is available, and a full LESA score is unavailable for the parcel.

Table 8A: Land Evaluation Computation

Soil Type	Value Group	Relative Value	Acres	Product (Relative Value x Acres)	
223C2	4	79	2.2	173.8	
541B	2	94	1.0	94	
Totals			3.2	267.8	
LE Calculation	I. Coloulation			t of relative value / Total Acres)	
LE Calculation			267.8 / 3.2 = 83.7		
LE Score			LE = 84		

The Land Evaluation score for this site is 84, indicating that this site is designated as prime farmland that is well suited for agricultural uses considering the Land Evaluation score is above 80.

Table 8B: 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)	5
	2. Current land use adjacent to site. (30-20-15-10-0)	0
	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
В.	Compatibility / Impact on Uses	
	1. Distance from city or village limits. (20-10-0)	0
	2. Consistency of proposed use with County Land Resource Management Concept Plan	20
	and/or municipal comprehensive land use plan. (20-10-0)	
	3. Compatibility of agricultural and non-agricultural uses. (15-7-0)	0
C.	Existence of Infrastructure	
	1. Availability of public sewage system. (10-8-6-0)	0
	2. Availability of public water system. (10-8-6-0)	0
	3. Transportation systems. (15-7-0)	7
	4. Distance from fire protection service. (10-8-6-2-0)	8
	Site Assessment Score:	40

The Site Assessment score for this site is 40. The Land Evaluation value (84) is added to the Site Assessment value (40) to obtain a LESA Score of 124. The table below shows the level of protection for the proposed project site based on the LESA Score.

Table 9: LESA Score Summary

<u> </u>	
LESA SCORE	LEVEL OF PROTECTION
<mark>0-200</mark>	Low
201-225	Medium
226-250	High
251-300	Very High

Land Evaluation Value: <u>84</u> + Site Assessment Value: <u>40</u> = LESA Score: <u>124</u>

The LESA Score for this site is 124 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. If the project is agricultural in nature, however, a higher score may provide an indication of the suitability of the project as it relates to the compatibility with existing agricultural land use.

LAND USE PLANS

Many counties, municipalities, villages, and townships have developed land-use plans. These plans are intended to reflect the existing and future land-use needs of a given community. Please contact the Kendall County Planning, Building & Zoning for information regarding the County's comprehensive land use plan and map.

DRAINAGE, RUNOFF, AND FLOOD INFORMATION

U.S.G.S Topographic maps give information on elevations, which are important mostly to determine slopes, drainage directions, and watershed information.

Elevations determine the area of impact of floods of record. Slope information determines steepness and erosion potential. Drainage directions determine where water leaves the PIQ, possibly impacting surrounding natural resources.

Watershed information is given for changing land use to a subdivision type of development on parcels greater than 10 acres.

WHAT IS A WATERSHED?

Simply stated, a watershed is the area of land that contributes water to a certain point. The watershed boundary is important because the area of land in the watershed can now be calculated using an irregular shape area calculator such as a dot counter or planimeter.

Using regional storm event information, and site-specific soils and land use information, the peak stormwater flow through the point marked "O" for a specified storm event can be calculated. This value is called a "Q" value (for the given storm event) and is measured in cubic feet per second (CFS).

When construction occurs, the Q value naturally increases because of the increase in impermeable surfaces. This process decreases the ability of soils to accept and temporarily hold water. Therefore, more water runs off and increases the Q value.

Theoretically, if each development, no matter how large or small, maintains their preconstruction Q value after construction by the installation of stormwater management systems, the streams and wetlands and lakes will not suffer damage from excessive urban stormwater.

For this reason, the Kendall County SWCD recommends that the developer for intense uses such as a subdivision calculate the preconstruction Q value for the exit point(s). A stormwater management system

should be designed, installed, and maintained to limit the postconstruction Q value to be at or below the preconstruction value.

IMPORTANCE OF FLOOD INFORMATION

A floodplain is defined as land adjoining a watercourse (riverine) or an inland depression (non-riverine) that is subject to periodic inundation by high water. Floodplains are important areas demanding protection since they have water storage and conveyance functions which affect upstream and downstream flows, water quality and quantity, and suitability of the land for human activity. Since floodplains play distinct and vital roles in the hydrologic cycle, development that interferes with their hydrologic and biologic functions should be carefully considered.

Flooding is both dangerous to people and destructive to their properties. The following maps, when combined with wetland and topographic information, can help developers and future homeowners to "sidestep" potential flooding or ponding problems.

FIRM is the acronym for the Flood Insurance Rate Map, produced by the Federal Emergency Management Agency (FEMA). These maps define flood elevation adjacent to tributaries and major bodies of water and superimpose that onto a simplified USGS topographic map. The scale of the FIRM maps is generally dependent on the size and density of parcels in that area. (This is to correctly determine the parcel location and floodplain location.) The FIRM map has three (3) zones. Zone A includes the 100-year flood, Zone B or Zone X (shaded) is the 100 to 500-year flood, and Zone C or Zone X (unshaded) is outside the floodplain.

The Hydrologic Atlas (H.A.) Series of the Flood of Record Map is also used for the topographic information. This map is different from the FIRM map mainly because it will show isolated or pocketed flooded areas. Kendall County uses both these maps in conjunction with each other for flooded area determinations. The Flood of Record maps show the areas of flood for various years. Both maps <u>stress</u> that the recurrence of flooding is merely statistical. A 100-year flood may occur twice in one year, or twice in one week, for that matter.

It should be noted that greater floods than those shown on the two maps are possible. The flood boundaries indicated provide a historic record only until the map publication date. Additionally, these flood boundaries are a function of the watershed conditions existing when the maps were produced. Cumulative changes in runoff characteristics caused by urbanization can result in an increase in flood height of future flood episodes.

Floodplains play a vital role in reducing the flood damage potential associated with an urbanizing area and, when left in an undisturbed state, also provide valuable wildlife habitat benefits. If it is the petitioner's intent to conduct floodplain filling or modification activities, the petitioner, and the Unit of Government responsible need to consider the potentially adverse effects this type of action could have on adjacent properties. The change or loss of natural floodplain storage often increases the frequency and severity of flooding on adjacent property.

If the available maps indicate the presence of a floodplain on the PIQ, the petitioner should contact the IDOT-OWR and FEMA to delineate a floodplain elevation for the parcel. If a portion of the property is indeed floodplain, applicable state, county, and local regulations will need to be reflected in the site plans.

Another indication of flooding potential can be found in the soils information. Hydric soils indicate the presence of drainageways, areas subject to ponding, or a naturally occurring high water table. These need to be considered along with the floodplain information when developing the site plan and the stormwater management plan. Development on hydric soils can contribute to the loss of water storage within the soil and the potential for increased flooding in the area.

This parcel is located on gradual topography (slopes 2 to 6%) with an elevation of approximately 720' above sea level. According to the FIRM map, the parcel in question does not contain floodway or floodplain. The parcel drains east/northeast towards an adjacent retention pond.

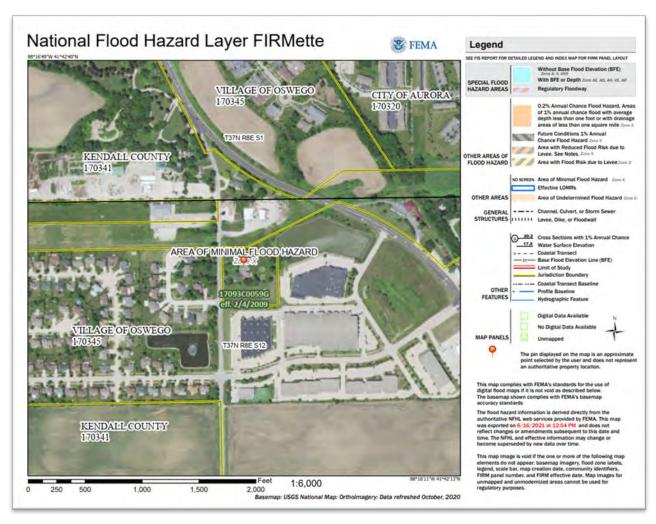


Figure 8: FEMA Floodplain Map

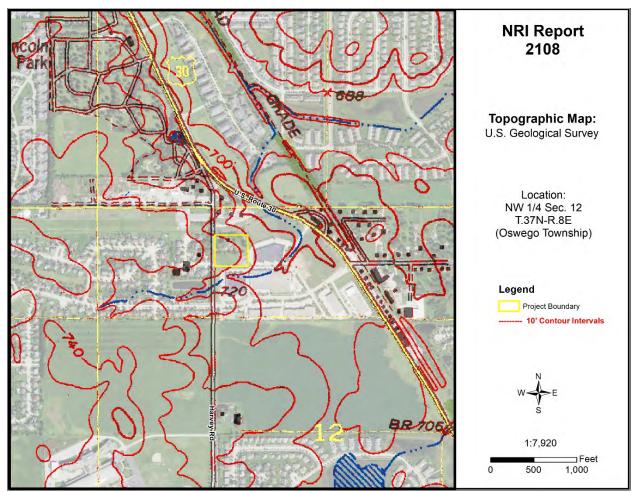


Figure 9: USGS Topographic Map

WATERSHED PLANS

WATERSHED AND SUB WATERSHED INFORMATION

A watershed is the area of land that drains into a specific point including a stream, lake, or other body of water. High points on the Earth's surface, such as hills and ridges define watersheds. When rain falls in the watershed, it flows across the ground towards a stream or lake. Rainwater carries pollutants such as oils, pesticides, and soil.

Everyone lives in a watershed. Their actions can impact natural resources and people living downstream. Residents can minimize this impact by being aware of their environment and the implications of their activities, implementing practices recommended in watershed plans, and educating others about their watershed.

The following are recommendations to developers for protection of this watershed:

- Preserve open space
- Maintain wetlands as part of development
- Use natural water management
- Prevent soil from leaving a construction site
- Protect subsurface drainage
- Use native vegetation
- Retain natural features
- Mix housing styles and types
- Decrease impervious surfaces
- Reduce area disturbed by mass grading
- Shrink lot size and create more open space
- Maintain historical and cultural resources
- Treat water where it falls
- Preserve views
- Establish and link trails

This parcel is located within the Lower Fox River Watershed and the Waubansee Creek Sub Watershed.

WETLAND INFORMATION

IMPORTANCE OF WETLAND INFORMATION

Wetlands function in many ways to provide numerous benefits to society. They control flooding by offering a slow release of excess water downstream or through the soil. They cleanse water by filtering out sediment and some pollutants and can function as rechargers of our valuable groundwater. They also are essential breeding, rearing, and feeding grounds for many species of wildlife.

These benefits are particularly valuable in urbanizing areas as development activity typically adversely affects water quality, increases the volume of stormwater runoff, and increases the demand for groundwater. In an area where many individual homes rely on shallow groundwater wells for domestic water supplies, activities that threaten potential groundwater recharge areas are contrary to the public good. The conversion of wetlands, with their sediment trapping and nutrient absorbing vegetation, to biologically barren stormwater detention ponds can cause additional degradation of water quality in downstream or adjacent areas.

It has been estimated that over 95% of the wetlands that were historically present in Illinois have been destroyed while only recently has the true environmental significance of wetlands been fully recognized. America is losing 100,000 acres of wetland a year and has saved 5 million acres total (since 1934). One acre of wetland can filter 7.3 million gallons of water a year. These are reasons why our wetlands are high quality and important.

This section contains the NRCS (Natural Resources Conservation Service) Wetlands Inventory, which is the most comprehensive inventory to date. The NRCS Wetlands Inventory is reproduced from an aerial photo at a scale of 1" equals 660 feet. The NRCS developed these maps in cooperation with U.S. EPA (Environmental Protection Agency,) and the U.S. Fish and Wildlife Service, using the National Food Security Act Manual, 3rd Edition. The main purpose of these maps is to determine wetland areas on agricultural fields and areas that may be wetlands but are in a non-agriculture setting.

The NRCS Wetlands Inventory in no way gives an exact delineation of the wetlands, but merely an outline, or the determination that there is a wetland within the outline. For the final, most accurate wetland **determination** of a specific wetland, a wetland **delineation** must be certified by NRCS staff using the National Food Security Act Manual (on agricultural land.) On urban land, a certified wetland delineator must perform the delineation using the ACOE 1987 Manual. See the glossary section for the definitions of "delineation" and "determination.

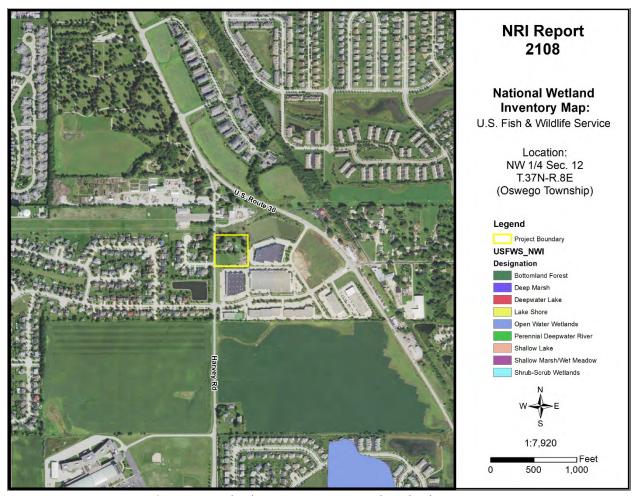


Figure 10: Wetland Map – USFWS National Wetland Inventory

Office maps indicate that mapped wetlands are not present on the parcel in question (PIQ).

HYDRIC SOILS

Soils information gives another indication of flooding potential. The soils map on the following page indicates the soil(s) on the parcel that the Natural Resources Conservation Service indicates as hydric. Hydric soils, by definition, have seasonal high water at or near the soil surface and/or have potential flooding or ponding problems. All hydric soils range from poorly suited to unsuitable for building. One group of the hydric soils are the organic soils, which formed from dead organic material. Organic soils are unsuitable for building because of not only the high water table but also their subsidence problems.

It is important to add the possibility of hydric inclusions in a soil type. An inclusion is a soil polygon that is too small to appear on these maps. While relatively insignificant for agricultural use, hydric soil inclusions become more important to more intense uses such as a residential subdivision.

While considering hydric soils and hydric inclusions, it is noteworthy to mention that subsurface agriculture drainage tile occurs in almost all poorly drained and somewhat poorly drained soils. Drainage tile expedites drainage and facilitates farming. It is imperative that these drainage tiles remain undisturbed. A damaged subsurface drainage tile may return original hydrologic conditions to all the areas that drained through the tile (ranging from less than one acre to many square miles.)

For an intense land use, such as a subdivision, the Kendall County SWCD recommends the following: a topographical survey with 1 foot contour intervals to accurately define the flood area on the parcel, an intensive soil survey to define most accurately the locations of the hydric soils and inclusions, and a drainage tile survey on the area to locate the tiles that must be preserved to maintain subsurface drainage.

Table 10: Hydric Soils

Soil Types	Drainage Class	Hydric Designation	Hydric Inclusions Likely	Acreage	Percent
223C2	Moderately Well Drained	Non-Hydric	No	2.2	69%
541B	Moderately Well Drained	Non-Hydric	Yes	1.0	31%

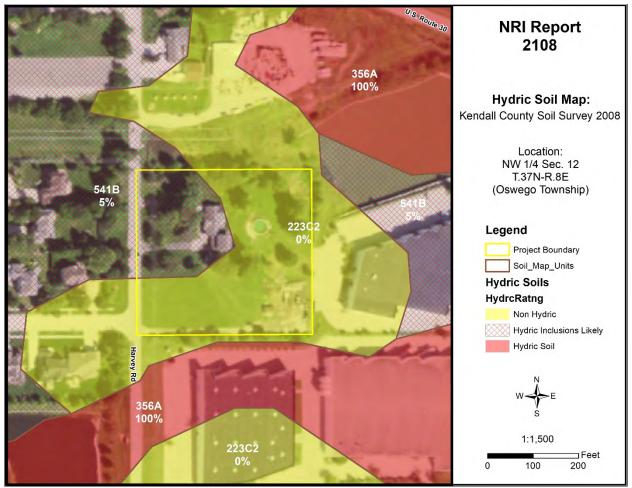


Figure 11: Hydric Soil Map

WETLAND AND FLOODPLAIN REGULATIONS

PLEASE READ THE FOLLOWING IF YOU ARE PLANNING TO DO ANY WORK NEAR A STREAM (THIS INCLUDES SMALL UNNAMED STREAMS), LAKE, WETLAND OR FLOODWAY.

The laws of the United States and the State of Illinois assign certain agencies specific and different regulatory roles to protect the waters within the State's boundaries. These roles, when considered together, include protection of navigation channels and harbors, protection against floodway encroachments, maintenance and enhancement of water quality, protection of fish and wildlife habitat and recreational resources, and, in general, the protection of total public interest. Unregulated use of the waters within the State of Illinois could permanently destroy or alter the character of these valuable resources and adversely impact the public. Therefore, please contact the proper regulatory authorities when planning any work associated with Illinois waters so that proper consideration and approval can be obtained.

WHO MUST APPLY?

Anyone proposing to dredge, fill, rip rap, or otherwise alter the banks or beds of, or construct, operate, or maintain any dock, pier, wharf, sluice, dam, piling, wall, fence, utility, floodplain or floodway subject to State or Federal regulatory jurisdiction should apply for agency approvals.

REGULATORY AGENCIES

- Wetland or U.S. Waters: U.S. Army Corps of Engineers, Rock Island District, Clock Tower Building, Rock Island, IL
- **Floodplains**: Illinois Department of Natural Resources/Office of Water Resources, Natural Resources Way, Springfield, IL 62702-1270.
- Water Quality/Erosion Control: Illinois Environmental Protection Agency, Springfield, IL

COORDINATION

We recommend early coordination with the regulatory agencies <u>BEFORE</u> finalizing work plans. This allows the agencies to recommend measures to mitigate or compensate for adverse impacts. Also, the agency can make possible environmental enhancement provisions early in the project planning stages. This could reduce time required to process necessary approvals.

CAUTION: Contact with the United States Army Corps of Engineers is strongly advised before commencement of any work in or near a Waters of the United States. This could save considerable time and expense. Persons responsible for willful and direct violation of Section 10 of the River and Harbor Act of 1899 or Section 404 of the Federal Water Pollution Control Act are subject to fines ranging up to \$27,500 per day of violation and imprisonment for up to one year or both.

GLOSSARY

AGRICULTURAL PROTECTION AREAS (AG AREAS) - Allowed by P.A. 81-1173. An AG AREA consists of a minimum of 350 acres of farmland, as contiguous and compact as possible. Petitioned by landowners, AG AREAS protect for a period of ten years initially, then reviewed every eight years thereafter. AG AREA establishment exempts landowners from local nuisance ordinances directed at farming operations, and designated land cannot receive special tax assessments on public improvements that do not benefit the land, e.g. water and sewer lines.

AGRICULTURE - The growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm buildings used for growing, harvesting and preparing crop products for market, or for use on the farm; roadside stands, farm buildings for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm dwellings occupied by farm owners, operators, tenants or seasonal or year around hired farm workers.

B.G. - Below Grade. Under the surface of the Earth.

BEDROCK - Indicates depth at which bedrock occurs. Also lists hardness as rippable or hard.

FLOODING - Indicates frequency, duration, and period during year when floods are likely to occur.

HIGH LEVEL MANAGEMENT - The application of effective practices adapted to different crops, soils, and climatic conditions. Such practices include providing for adequate soil drainage, protection from flooding, erosion and runoff control, near optimum tillage, and planting the correct kind and amount of high-quality seed. Weeds, diseases, and harmful insects are controlled. Favorable soil reaction and near optimum levels of available nitrogen, phosphorus, and potassium for individual crops are maintained. Efficient use is made of available crop residues, barnyard manure, and/or green manure crops. All operations, when combined efficiently and timely, can create favorable growing conditions and reduce harvesting losses -- within limits imposed by weather.

HIGH WATERTABLE - A seasonal high watertable is a zone of saturation at the highest average depth during the wettest part of the year. May be apparent, perched, or artesian kinds of water tables.

- Watertable, Apparent: A thick zone of free water in the soil. An apparent water table is indicated
 by the level at which water stands in an uncased borehole after adequate time is allowed for
 adjustment in the surrounding soil.
- Watertable, Artesian: A water table under hydrostatic head, generally beneath an impermeable layer. When this layer is penetrated, the water level rises in an uncased borehole.
- **Watertable, Perched**: A water table standing above an unsaturated zone. In places an upper, or perched, water table is separated from a lower one by a dry zone.

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DELINEATION - For Wetlands: A series of orange flags placed on the ground by a certified professional that outlines the wetland boundary on a parcel.

DETERMINATION - A polygon drawn on a map using map information that gives an outline of a wetland.

HYDRIC SOIL - This type of soil is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part (USDA Natural Resources Conservation Service 1987).

INTENSIVE SOIL MAPPING - Mapping done on a smaller more intensive scale than a modern soil survey to determine soil properties of a specific site, e.g. mapping for septic suitability.

LAND EVALUATION AND SITE ASSESSMENT (L.E.S.A.) - LESA is a systematic approach for evaluating a parcel of land and to determine a numerical value for the parcel for farmland preservation purposes.

MODERN SOIL SURVEY - A soil survey is a field investigation of the soils of a specific area, supported by information from other sources. The kinds of soil in the survey area are identified and their extent shown on a map, and an accompanying report describes, defines, classifies, and interprets the soils. Interpretations predict the behavior of the soils under different used and the soils' response to management. Predictions are made for areas of soil at specific places. Soils information collected in a soil survey is useful in developing land-use plans and alternatives involving soil management systems and in evaluating and predicting the effects of land use.

PALUSTRINE - Name given to inland freshwater wetlands.

PERMEABILITY - Values listed estimate the range (in rate and time) it takes for downward movement of water in the major soil layers when saturated but allowed to drain freely. The estimates are based on soil texture, soil structure, available data on permeability and infiltration tests, and observation of water movement through soils or other geologic materials.

PIQ - Parcel in question

POTENTIAL FROST ACTION - Damage that may occur to structures and roads due to ice lens formation causing upward and lateral soil movement. Based primarily on soil texture and wetness.

PRIME FARMLAND - Prime farmland soils are lands that are best suited to food, feed, forage, fiber and oilseed crops. It may be cropland, pasture, woodland, or other land, but it is not urban and built up land or water areas. It either is used for food or fiber or is available for those uses. The soil qualities, growing season, and moisture supply are those needed for a well-managed soil economically to produce a sustained high yield of crops. Prime farmland produces in highest yields with minimum inputs of energy and economic resources and farming the land results in the least damage to the environment. Prime farmland has an adequate and dependable supply of moisture from precipitation or irrigation. The temperature and growing season are favorable. The level of acidity or alkalinity is acceptable. Prime farmland has few or no rocks and is permeable to water and air. It is not excessively erodible or saturated

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with water for long periods and is not frequently flooded during the growing season. The slope ranges mainly from 0 to 5 percent (USDA Natural Resources Conservation Service).

PRODUCTIVITY INDEXES - Productivity indexes for grain crops express the estimated yields of the major grain crops grown in Illinois as a single percentage of the average yields obtained under basic management from several of the more productive soils in the state. This group of soils is composed of the Muscatine, Ipava, Sable, Lisbon, Drummer, Flanagan, Littleton, Elburn and Joy soils. Each of the 425 soils found in Illinois are found in Circular 1156 from the Illinois Cooperative Extension Service.

SEASONAL - When used in reference to wetlands indicates that the area is flooded only during a portion of the year.

SHRINK-SWELL POTENTIAL - Indicates volume changes to be expected for the specific soil material with changes in moisture content.

SOIL MAPPING UNIT - A map unit is a collection of soil areas of miscellaneous areas delineated in mapping. A map unit is generally an aggregate of the delineations of many different bodies of a kind of soil or miscellaneous area but may consist of only one delineated body. Taxonomic class names and accompanying phase terms are used to name soil map units. They are described in terms of ranges of soil properties within the limits defined for taxa and in terms of ranges of taxadjuncts and inclusions.

SOIL SERIES - A group of soils, formed from a particular type of parent material, having horizons that, except for texture of the A or surface horizon, are similar in all profile characteristics and in arrangement in the soil profile. Among these characteristics are color, texture, structure, reaction, consistence, and mineralogical and chemical composition.

SUBSIDENCE - Applies mainly to organic soils after drainage. Soil material subsides due to shrinkage and oxidation.

TERRAIN - The area or surface over which a particular rock or group of rocks is prevalent.

TOPSOIL - That portion of the soil profile where higher concentrations of organic material, fertility, bacterial activity and plant growth take place. Depths of topsoil vary between soil types.

WATERSHED - An area of land that drains to an associated water resource such as a wetland, river or lake. Depending on the size and topography, watersheds can contain numerous tributaries, such as streams and ditches, and ponding areas such as detention structures, natural ponds and wetlands.

WETLAND - An area that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient enough to support, and under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.

REFERENCES

Hydric Soils of the United States. USDA Natural Resources Conservation Service, 2007.

<u>DFIRM – Digital Flood Insurance Rate Maps for Kendall County.</u> Prepared by FEMA – Federal Emergency Management Agency.

<u>Hydrologic Unit Map for Kendall County.</u> Natural Resources Conservation Service, United States Department of Agriculture.

<u>Land Evaluation and Site Assessment System.</u> The Kendall County Department of Planning Building and Zoning, and The Kendall County Soil and Water Conservation District. In cooperation with: USDA, Natural Resources Conservation Service.

<u>Soil Survey of Kendall County</u>. United States Department of Agriculture 2008, Natural Resources Conservation Service.

Illinois Urban Manual. Association of Illinois Soil & Water Conservation Districts, 2020.

Kendall County Land Atlas and Plat Book. 21st Edition, 2021.

<u>Potential For Contamination of Shallow Aquifers from Land Burial of Municipal Wastes</u>. Illinois State Geological Survey.

<u>Natural Resources Conservation Service National Wetland Inventory Map.</u> United States Department of Agriculture.

<u>Geologic Road Map of Illinois.</u> Department of Natural Resources, Illinois State Geological Survey, Natural Resources Building, 615 East Peabody, Champaign IL 61820-6964.

Wetlands - The Corps of Engineers' Administration of the Section 404 Program (GAO/RCED-88-110).

<u>Soil Erosion by Water</u> - United States Department of Agriculture Natural Resources Conservation Service. Agriculture Information Bulletin 513.

<u>The Conservation of Biological Diversity in the Great Lakes Ecosystem: Issues and Opportunities</u>, prepared by the Nature Conservancy Great Lakes Program 79W. Monroe Street, Suite 1309, Chicago, IL 60603, January 1994.

Attachment 5



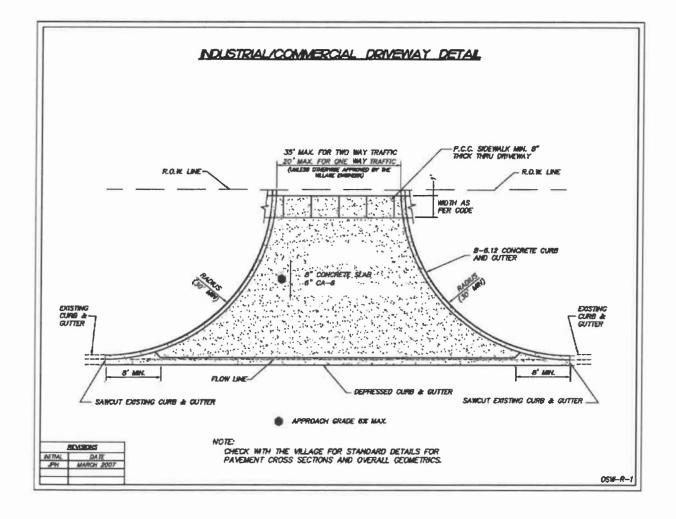
Matt Asselmeier

From: Jennifer Hughes <JHughes@oswegoil.org>
Sent: Tuesday, November 30, 2021 1:45 PM
To: Fran Klaas; Matt Asselmeier; Rod Zenner
Cc: Scott Gengler; Scott Koeppel; Dan Di Santo
Subject: RE: [External]RE: Harvey Road Question

Good afternoon,

The property is shown as industrial on the future land use plan. The Village requests nice screening (landscape or fence) along Harvey Road to screen the activity from the Village residents across Harvey Road to the west.

In addition, the driveway shall comply with our Industrial/Commercial Driveway Detail. More information can be found in our Subdivision Regulations.



Sincerely,

Jennifer Hughes, P.E., CFMPublic Works Director/Village Engineer







ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC) January 4, 2022 – Unapproved Meeting Minutes

PBZ Senior Planner Matt Asselmeier called the meeting to order at 9:00 a.m.

Present:

Matt Asselmeier – PBZ Department
Meagan Briganti – GIS Department
Brian Holdiman – PBZ Department
Fran Klaas – Highway Department
Alyse Olson – Soil and Water Conservation District
Undersheriff Bobby Richardson – Sheriff's Department
Aaron Rybski – Health Department

Absent:

Greg Chismark – WBK Engineering, LLC Scott Gengler – PBZ Committee Chair David Guritz – Forest Preserve

Audience:

Judd Lofchie, Andrew Doyle, Kelley Chrisse, Patti Bernhard, and Tom Green

PETITIONS

Petition 22-01 Jose and Silvia Martinez

Mr. Asselmeier summarized the request.

In 2018, the Planning, Building and Zoning Department started investigating a landscaping business operating at the subject property without a special use permit. On February 23, 2021, the court imposed a fine of Thirty-Two Thousand, Eight Hundred Dollars (\$32,800) against the Petitioners for operating a landscaping business without a special use permit, installing the southern driveway without a permit, Junk and Debris Ordinance violations, and related court costs. The discovery of assets portion of the case has been continued with the hope that the Petitioners will apply for the applicable special use permit and variance.

The Petitioners purchased the property in 2018.

On December 9, 2021, the Petitioner submitted the necessary application for a special use permit for a landscaping business, a variance to allow a landscaping business on a non-State, County or Collector roadway as defined by the Kendall County Land Resource Management Plan, and a variance to allow the southern driveway to be within five feet (5') of the side yard property line.

The application materials, survey of the property, landscaping plan, NRI Report, and aerial of the property were provided.

The property is located at 1038 Harvey Road.

The property is approximately three (3) acres.

The existing land use is Single-Family Residential.

The Future Land Use Map calls for the area to be Suburban Residential (Max 1.0 DU/Acre). Oswego's Future Land Use Map calls for the area to be Industrial.

Harvey Road is classified as a Collector by the Village of Oswego in this area and is not classified as such in the Land Resource Management Plan.

There are no trails planned in the area.

There are no floodplains or wetlands on the property.

The adjacent land use are Comed Right-of-Way, Industrial, Stormwater Pond, and Single-Family Residential.

The adjacent properties are zoned R-2, M-1, and M-2 by the Village of Oswego.

Oswego's Future Land Use Map calls for the area to be Agricultural, Single-Family Residential, and Light Industrial.

The zoning districts within one half (1/2) mile are A-1, A-1 SU, R-1, R-3, B-3, B-3 SU, and M-1 in the County and R-1, R-2, R-4, B-3, M-1, and M-2 inside the Village of Oswego.

Oswego East High School is located within one half (1/2) mile of the property.

The A-1 special use permits to the north are for a landscaping business and a cemetery. The B-3 special use permit to the east is for a watchman's quarters.

EcoCAT Report was submitted on December 9, 2021, and consultation was terminated.

The LESA Score was 124 indicating a low level of protection. The NRI Report was provided.

Petition information was sent to Oswego Township on December 22, 2021.

Petition information was sent to the Village of Oswego on December 22, 2021.

Petition information was sent to the Oswego Fire Protection District on December 22, 2021.

Per Section 7:01.D.30 of the Kendall County Zoning Ordinance, landscaping businesses can be special uses on A-1 zoned property subject to the following conditions:

- 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 and the variance to the requirement to be located on a State, County or Collector Highway, the above conditions have been met.

According to the business plan, the business has four (4) employees. Employees arrive at the property at approximately 6:30 a.m., go to work sites, and return to the property and leave to go home by 7:00 p.m. No information was provided regarding days of operation. However, the business originally planned to operate from April 15th until Thanksgiving. Mr. Asselmeier read an email requesting that the business be allowed to open for the season on March 1st Business equipment presently consists of three (3) trucks.

The landscaping business area on the southwest corner of the site will be of gravel and will be approximately thirteen thousand, two hundred fifty (13,250) square feet in size. If there is a motor vehicle or equipment related leak, the area impacted gravel will be removed and replaced with clean gravel.

One (1) one (1) story, approximately two thousand nine hundred (2,900) square foot house, constructed in 1955 with a two (2) story garage is located on the property. There is also one (1) approximately two hundred forty-five (245) square foot shed frame shed on the property near the landscaping storage area. There is also one (1) chicken coop and one (1) additional shed on the northeast corner of the property not associated with the landscaping business. The picture of the house was provided.

According to the landscaping plan, the Petitioners plan to install open storage areas, one (1) for grass and brush clippings at twenty feet wide by approximately one hundred twenty feet in depth (20' X 120'), one (1) for mulch, and one (1) for sand. There would also be storage areas for brick pallets. No information was provided on the dimensions for the storage areas for mulch, sand, and brick pallets. There would also be four (4) truck storage areas measured at fifteen feet wide by twenty-eight feet in depth (15' X 28'). According to the business plan, no piles of materials would exceed three feet (3') in height.

Any structures related to the landscaping business would be required to obtain applicable building permits.

Per the site survey, the property is served by a septic system. No information was provided regarding a well.

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No information was provided regarding whether or not employees or customers would use restroom or water facilities on the property.

One six foot by five foot (6' X 5') dumpster was shown on the landscaping plan in the landscaping business area.

The property drains to the southeast and northeast.

Per the survey and landscaping plan, the house is served by an existing driveway with two (2) access points off of Harvey Road. One (1) twenty foot (20') wide gravel driveway provides access from the landscaping storage area to Harvey Road; this access was installed without proper permits and will need to secure applicable permits. The southern driveway is also too close to the side yard property line and will need a variance. A picture of the southern driveway was provided.

The Village of Oswego provided information regarding driveway standards; this information was provided.

According to the plat of survey, the Petitioners plan to have two (2) parking spaces and one (1) handicapped accessible parking space to the west of the garage. The parking spaces will be of brick pavers. It was unclear if the parking spaces serve employees, customers or both employees and customers.

The plat of survey shows two existing light poles. Existing lighting is used for residential purposes only. The Petitioners are not proposing any additional lighting.

The Petitioners are not proposing any business related signage.

The landscaping plan shows one (1) solid fence eight feet (8') in height along the east, west, and south sides of the landscaping business area. One (1) security gate is also shown on the landscaping plan.

The landscaping plan shows three (3) thirty foot (30') tall white pines, eleven (11) eight foot (8') tall mission arborvitaes, three (3) nine foot (9') tall blue spruces, and one (1) fifteen foot (15') mulch bed along the southwest corner of the property. No information was provided regarding the vegetation along the southern property line. A picture of the landscaping was provided. The vegetation along the southern property line can be seen in the picture of the southern driveway. The Village of Oswego also requested landscaping, but did not provide details on type or nature of landscaping.

No information was provided regarding noise control.

No new odors are foreseen by the proposed use.

If approved, this would be the nineteenth (19th) special use permit for a landscaping business in unincorporated Kendall County.

The proposed Findings of Fact for the special use permit were as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided the site is developed in accordance with the submitted site plan and provided a variance is granted regarding the location of the driveway, the operation of the special use will not be detrimental to the public health, safety, morals, comfort, or general welfare. Conditions may be placed in the special use permit ordinance to address hours and seasons of operation.

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. Appropriate restrictions may be placed in the special use permit to regulate the number of employees, hours of operation, site landscaping, and noise. Therefore, the neighboring property owners should not suffer loss in property values and the use will not negatively impact the adjacent land uses.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. If the Village of Oswego approves the new access point for the southern driveway and if a

variance is granted for the location of the southern driveway, then adequate points of ingress and egress will be provided. The owners of the business allowed by the special use permit have agreed not pile materials in excess of three feet (3') in height.

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. Provided a variance is granted for the location of the driveway, the special use shall conform to the applicable regulations of the district.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed use is consistent with an objective found on Page 6-34 of the Kendall County Land Resource Management Plan which calls for "a strong base of agricultural, commercial and industrial uses that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents".

The proposed Findings of Fact for the variances were as follows:

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. There are no topographic conditions or other outstanding conditions not caused by the Petitioner that created a particular hardship or difficulty upon the owner.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. It is unknown the exact number of A-1 zoned properties that could ask for similar variances. There are no unique conditions that caused the driveway to be located on the southern property line. The Village of Oswego defines Harvey Road as a Collector while the Kendall County Land Resource Management Plan does not define Harvey Road as a Collector; it is unique to have this difference in classification.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The owners created the hardship by installing the driveway without proper permits and operating the business at the subject property. The owners were not responsible in the differences in classification for Harvey Road.

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. The requested variance should not negatively impact any of the neighbors and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood, provided the Village of Oswego grants access to Harvey Road at the location shown on the landscaping plan.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. Allowing the driveway to be on the property line and allowing the business to operate on a non-State, County, or Collector Highway will not impair any of the above items.

Staff believed that a landscaping business could operate at the subject property with reasonable restrictions. However, Staff had concerns, given the Petitioner's previous behavior, that reasonable restrictions will be followed. Staff believed the following conditions and restrictions were necessary for the operation of a special use permit at the subject property. The Petitioner had not agreed to these conditions prior to the meeting:

- 1. The site shall be developed substantially in accordance with the plat of survey and landscaping plan.
- 2. The existing house, garage, chicken coop, swimming pool, and shed located on the northwest corner of the property shall be used for residential purposes only and shall be exempt from the site development conditions of the special use permit. The locations of these structures may change without requiring an amendment to the special use permit.
- 3. A variance to Section 11:02.F.7.b of the Kendall County Zoning Ordinance shall be granted allowing off-street parking and southern driveway to be no closer than zero feet (0') from the southern property line as shown on the landscaping plan. The driveway shall be a maximum of twenty feet (20') in width and shall be gravel.
- 4. A variance to Section 7:01.D.30.b of the Kendall County Zoning Ordinance shall be granted allowing the operation of a landscaping business at a property not located on and not having direct access to a State, County, or Collector ZPAC Meeting Minutes 01.04.22

- highway as designed in the County's Land Resource Management Plan.
- 5. The owners of the business allowed by the special use permit shall maintain the parking area shown on the site plan and in substantially the same location as depicted on the plat of survey. The parking area shall be brick pavers.
- 6. The owners of the business allowed by the special use permit shall maintain the landscaping business area on the southwest corner of the site as depicted on the landscaping plan. This area shall be gravel.
- 7. The owners of the businesses allowed by this special use permit shall diligently monitor the property for leaks from equipment and vehicles parked and stored and items stored on the subject property and shall promptly clean up the site if leaks occur.
- 8. Any new structures constructed or installed related to the business allowed by this special use permit on the property shall not be considered for agricultural purposes and must secure applicable building permits.
- 9. Equipment and vehicles related to the business allowed by the special use permit may be stored outdoors.
- 10. 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.
- 11. 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.
- 12. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated storage areas shown on the landscaping plan. The maximum height of the piles of landscaping related material shall be less than three feet (3') in height.
- 13. No signage advertising or promoting the business shall be installed on the subject property. The owner of the business allowed by this special use permit may install appropriate handicapped parking signs and other directional signs within the fenced landscaping business area as shown on the landscaping plan.
- 14. Three (3) thirty foot (30') tall white pines, eleven (11) eight foot (8') tall mission arborvitaes, three (3) nine foot (9') tall blue spruces, and one (1) fifteen foot (15') mulch bed along the southwest corner of the property shall be installed and maintained on the property in substantially the locations shown on the landscaping plan. Damaged or dead arborvitaes shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.
- 15. No landscape waste generated off the property can be burned on the subject property.
- 16. A maximum of four (4) 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.
- 17. No 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.
- 18. The hours of operation of the business allowed by this special use permit shall be Monday through Saturday from 6:30 a.m. until 7:00 p.m. The owners of the business allowed by this special use permit may reduce these hours of operation. The business allowed by this special use permit may operate at the subject property starting March 1st and ending November 30th of each year.
- 19. 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.

- 20. 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.
- 21. The owners of the business allowed by this special use shall reside at the subject property as their primary place of residence.
- 22. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
- 23. 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.
- 24. 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.
- 25. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
- 26. 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.

Mr. Klaas asked if the Village of Oswego submitted any comments. Mr. Asselmeier responded that they submitted an email regarding access standards, landscaping, and screening. Mr. Klaas questioned why the property would not be annexed into Oswego.

Mr. Rybski asked if a change of use process would occur; the septic system would have to be evaluated. No customers would be invited onsite and workers onsite would not use restroom facilities onsite.

Mr. Asselmeier asked if the County has reviewed a special use permit where the Petitioner had started a business without proper zoning, been found guilty by the court, fined by the court, and then applied for a special use permit after the fact. Nobody on the Committee had ever seen a case like this one (1). Mr. Asselmeier expressed concerns that the Petitioner would follow through with the conditions.

Judd Lofchie, Attorney for Petitioner, said the Petitioner had difficulty finding a Spanish speaking zoning attorney. He noted the Petitioner lived at the site. There would no members of the public invited onto the property and no retail sales of landscaping materials would occur. Mr. Lofchie did not know why the Petitioner had pursued annexation to Oswego. The Petitioner has been responsive since he started working with Mr. Lofchie. The Petitioner was agreeable to the proposed conditions as amended to allow operations to start on March 1st. The business is presently closed.

Mr. Holdiman asked about the revocation process for the special use permit. Mr. Asselmeier explained the process.

Mr. Klaas made a motion, seconded by Undersheriff Richardson, to recommend approval of the special use permit and variances with the conditions proposed by Staff as amended to allow the business to start operating on March 1st.

The votes were follows

Ayes (5): Briganti, Klaas, Olson, Richardson, and Rybski

Nays (2): Asselmeier and Holdiman

Abstain (0): None

Absent (3): Chismark, Gengler, and Guritz

The motion passed.

The proposal goes to the Kendall County Regional Planning Commission on January 26, 2022.

Attachment 10, Page 7

PUBLIC COMMENT

Mr. Asselmeier reported that the Kendall County Regional Planning Commission Annual Meeting will be Saturday, February 5, 2022, at 9:00 a.m.

ADJOURNMENT

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

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

The ZPAC, at 10:16 a.m., adjourned.

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

Enc.

KENDALL COUNTY ZONING & PLATTING ADVISORY COMMITTEE JANUARY 4, 2022

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)	
Juddhin Lofchin	1999 W. Galena	Judd 1299@ gwail.com	
ANDREW DIYLE	760 COTTAGE ST SHOKEWORD, IL	adoyle@thoyfpd.crn	
Kelley Chrisse	One Towne Center Blvd. Shorewood, IL	kchrisse Vil. Shorewood.il.	k\$
Posti A. Berhard	127 Amora And Naperi We IZ	patio rw-attorneys.	ian
Tom Green		tgreen@cecinc.co	m
П			

Matt Asselmeier

From: judd lofchie <judd1299@gmail.com>

Sent: Tuesday, January 4, 2022 8:06 AM

To: Matt Asselmeier

Subject: [External]Re: Natural World

Hey Matt

Just heard from my client who is out of the country. He is ok with your conditions but said he would like the right to start his business March 1 instead of APril 1. He said with the warming temperatures, he might be able to start earlier. Hope we can amend this.

See you soon.

JUDD

On Mon, Jan 3, 2022 at 2:58 PM judd lofchie < judd1299@gmail.com > wrote: Hey Matt

Received info on your questions.

- 1. Pool was in place when my client bought the house, and its an above-ground removable pool, so hopefully he does not need a permit
- 2. He is registered with the IL Sec of State. See attached.
- 3. He will get a deck permit upon return

See you tomorrow a.m.

Judd Lofchie, LLM, P.C. Attorneys at Law 1999 W. Galena Blvd. Aurora, IL 60506 fax 630-236-3525 630-236-3600 www.AuroraPropertyLaw.com

Judd Lofchie is a Rotarian and the founder of StreetWise Magazine in Chicago; please buy it, take it, read it, share it, and leave it on your work coffee table. Thank you!

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

January 31, 2022 - 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, Anne Vickery, and Dick

Whitfield

Members Absent: Scott Cherry

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

Others Present: None

MINUTES:

Member LeCuyer made a motion, seconded by Member Fox, to approve the minutes of the December 13, 2021, hearing/meeting.

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

PETITIONS

The Zoning Board of Appeals started their review of Petition 21-49, 22-01, 22-03, and 22-04 at 7:00 p.m.

Petition 21 – 49 – Irma Loya Quezada

Map Amendment Rezoning the Subject Property from A-1 Agricultural District to R-1 Request:

One Family Residential District

PINs: 09-18-300-018 (Part) and 09-18-300-019 (Part)

Location: On the East Side of Brisbin Road Across from 14859 and 14975 Brisbin Road, Seward

Township

Purpose: Petitioner Wants to Rezone the Property in Order to Divide the Property and Construct

Two Homes

Petition 22 – 01 – Jose and Silvia Martinez

Request: Special Use Permit for a Landscaping Business, Variance to Section 7:01.D.30.b to Allow

> a Landscaping Business a Non-State, County, or Collector Highway as Defined by the Kendall County Land Resource Management Plan, and Variance to Section 11:02.F.7.b of the Kendall County Zoning Ordinance to Allow a Driveway Zero Feet from the Southern

Property Line

PINs: 03-12-100-004 and 03-12-100-013 Location: 1038 Harvey Road, Oswego Township

Purpose: Petitioner Wants to Operate a Landscaping Business at the Subject Property; Property is

Zoned A-1

Petition 22 – 03 – Executive Pastor Sean Mabee on Behalf of Grace Bible Church of Shorewood and Fire Chief Andrew Doyle on Behalf of the Troy Fire Protection District

Request: Special Use Permit for a Governmental Building or Facility (Fire Station) and the

Revocation of a Special Use Permit for a Church Granted by Ordinance 2004-24

PIN: 09-12-300-017

Location: 748 Jones Road, Seward Township

Purpose: Petitioners Want to Operate a Fire Station and Remove the Special Use Permit for a

Church at the Subject Property; Property is Zoned A-1

Petition 22 – 04 – John and Laura Gay

Request: Major Amendment to an Existing Special Use Permit for a Kennel Granted by Ordinance

2019-33 by Changing the Site Plan

PIN: 03-28-100-004

Location: 3601 Plainfield Road, Oswego Township

Purpose: Petitioner Wants to Change the Orientation of the Building, Change the Access Point on

Plainfield Road, Move the Parking Area, and Change the Layout of the Turnaround Area;

Property is Zoned A-1

Mr. Asselmeier stated a quorum was not present at the January 26, 2022, Kendall County Regional Planning Commission meeting. He requested the hearings for the Petitions be continued to February 28, 2022, at 7:00 p.m.

Member Vickery made a motion, seconded by Member LeCuyer, to continue the hearings for Petitions 21-49, 22-01, 22-03, and 22-04 to February 28, 2022, at 7:00 p.m.

The votes were as follows:

Ayes (6): Fox, LeCuyer, Mohr, Thompson, Vickery, and Whitfield

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

The motion passed.

The Zoning Board of Appeals completed their review of Petitions 21-49, 22-01, 22-03, and 22-04 at 7:01 p.m.

NEW BUSINESS/OLD BUSINESS

Kendall County Regional Planning Commission Annual Meeting-February 5, 2022 at 9:00 A.M. Mr. Asselmeier reported the date and time of the Annual Meeting.

REVIEW OF PETITIONS THAT WENT TO THE COUNTY BOARD

Mr. Asselmeier reported that Petitions 21-37, 21-38, 21-40, 21-41, and 21-46 were approved by the County Board.

PUBLIC COMMENTS

Mr. Asselmeier reported there were no additional Petitions for the February hearing.

ADJOURNMENT OF THE ZONING BOARD OF APPEALS

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

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

The Zoning Board of Appeals meeting adjourned at 7:02 p.m.

The next hearing/meeting will be on February 28, 2022.

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

Exhibits

- 1. Memo on Petitions 21-49, 22-01, 22-03, and 22-04 Dated January 27, 2022
- 2. Certificate of Publication for Petition 21-49 (Not Included with Report but on file in Planning, Building and Zoning Office)
- 3. Certificate of Publication and Certified Mail Receipts for Petition 22-01 (Not Included with Report but on file in Planning, Building and Zoning Office)
- 4. Certificate of Publication and Certified Mail Receipts for Petition 22-03 (Not Included with Report but on file in Planning, Building and Zoning Office)
- 5. Certificate of Publication and Certified Mail Receipts for Petition 22-04 (Not Included with Report but on file in Planning, Building and Zoning Office)



DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 204 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: January 27, 2022

Re: Petitions 21-49, 22-01, 22-03, and 22-04

The Kendall County Regional Planning Commission did not have a quorum for their January 26, 2022, meeting. As such, the Commission was unable to review at issue recommendations on the subject Petitions.

Accordingly, Staff requests that the Kendall County Zoning Board of Appeals meets as scheduled on January 31, 2022, and votes to continue the hearings on the subject Petitions to February 28, 2022, at 7:00 p.m.

As of the date of this memo, the subject Petitions would be the only Petitions on the February 28th agenda.

If you have any questions regarding this memo, please let me know.

MHA

Attachment 12 KENDALL COUNTY REGIONAL PLANNING COMMISSION

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

Meeting Minutes of January 26, 2022 - 7:00 p.m.

Chairman Ashton called the meeting to order at 7:10 p.m.

ROLL CALL

Members Present: Bill Ashton, Tom Casey, Claire Wilson, and Seth Wormley

Members Absent: Roger Bledsoe, Dave Hamman, Karin McCarthy-Lange, Larry Nelson, Ruben Rodriguez,

and Bob Stewart

Staff Present: Matthew H. Asselmeier, Senior Planner

Others Present: Dan Kramer, Anne Vickery, Pete Fleming, Laruin Family, Dustin Walzer, Jim Martin, Judd

Lofchie, Andrew Doyle, Patti Bernhard, Lee Bryan, and Tom Green

ADJOURNMENT

Due to an absence of a quorum, the Kendall County Regional Planning Commission meeting adjourned at 7:10 p.m.

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

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

February 28, 2022 – 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, and Anne Vickery

Members Absent: Dick Thompson and Dick Whitfield

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

Others Present: Andrew Doyle and Patti Bernhard

Chairman Mohr swore in Andrew Doyle and Patti Bernhard prior to the start of the public hearings.

PETITIONS

Without objections, Chairman Mohr continued Petition 21-49 until May 2, 2022, and Petition 22-01 until after the Petitioner resolved the access permit issues with the Village of Oswego.

PUBLIC COMMENTS

For the March hearing, there will be a request from Seward Township for a moratorium on certain applications and a request from the Kendall County Planning, Building and Zoning Committee adding definitions of landscaping businesses and excavating businesses to the Zoning Ordinance.

ADJOURNMENT OF THE ZONING BOARD OF APPEALS

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

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

The Zoning Board of Appeals meeting adjourned at 8:19 p.m.

The next hearing/meeting will be on March 28, 2022.

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

Exhibits

- 1. Memo on Petition 22-01 Dated February 24, 2022
- 2. Certificate of Publication and Certified Mail Receipts for Petition 22-01 (Not Included with Report but on file in Planning, Building and Zoning Office)



KENDALL COUNTY ZONING BOARD OF APPEALS FEBRUARY 28, 2022

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.

but the truth.	ADDDECC	CICMATUDE
NAME	ADDRESS	SIGNATURE
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Jasti A Shal		



DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 204
Yorkville, IL • 60560
F53 4144

(630) 553-4141

Fax (630) 553-4179

MEMORANDUM

To: Kendall County Zoning Board of Appeals

From: Matthew H. Asselmeier, AICP, CFM, Senior Planner

Date: February 24, 2022

Re: Petition 22-01 Request for a Special Use Permit and Variances for a Landscaping Business

at 1038 Harvey Road in Oswego Township

At their meeting on February 23, 2022, the Kendall County Regional Planning Commission, by a vote of eight (8) in favor and zero (0) in opposition with one (1) member absent, voted to table Petition 22-01 until the Petitioner secured an access permit from the Village of Oswego for the southern driveway at the property or amended their site plan to remove the driveway, if the access permit was denied.

Accordingly, Staff requests that the Kendall County Zoning Board of Appeals vote to continue the public hearing on this Petition until such time as either the Petitioner submits an approved access permit from the Village of Oswego or the Petitioner submits an amended site plan showing the southern driveway removed from the property.

If you have any questions regarding this memo, please let me know.

MHA

Attachment 14

Matt Asselmeier

From:

Rod Zenner < RZenner@oswegoil.org>

Sent:

Tuesday, March 15, 2022 9:26 AM

To:

Matt Asselmeier; Jay Hoover

Cc:

Jennifer Hughes

Subject:

RE: [External]Fwd: 1038 Harvey Rd.

Matt, we have discussed this issue. We would prefer that the driveway is at least 5 feet from the property line. This is what we typically require of properties in the Village. They could apply for a variance, but they do not meet any hardships for a variance.

Thanks

Rod

From: Matt Asselmeier < masselmeier@co.kendall.il.us>

Sent: Thursday, March 10, 2022 9:58 AM **To:** Jay Hoover <JHoover@oswegoil.org>

Cc: Jennifer Hughes < JHughes@oswegoil.org>; Rod Zenner < RZenner@oswegoil.org>

Subject: RE: [External]Fwd: 1038 Harvey Rd.

Jay:

Any update on this one?

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

Matt Asselmeier

Judd:

From: Sent: To: Cc: Subject: Attachments:	Matt Asselmeier Wednesday, March 16, 2022 11:39 AM judd lofchie Scott Koeppel; Scott Gengler; Ruben Rodriguez; Faith D. Hook RE: [External]Fwd: 1038 Harvey Rd. Attachment 2 Plat of Survey_Redacted.pdf; Attachment 3 Landscaping Plan.pdf	
Judd:		
at the previous meeting, my gu	plan have the driveways at different locations (see attachments). Given the comments ess is the Regional Planning Commission will want clarity on the location of the to get the measurement of the distance from the driveway to the southern property line	
Has your client applied for an a	ccess permit from the Village of Oswego?	
client could have to alter the si	encern exists that the County Board could approve the special use permit, but that you te plan per the Village of Oswego's requirements. In such a case, you client could have to again and pay most of, if not all, of the fees again.	
Thanks,		
Matthew H. Asselmeier, AICP, C Senior Planner Kendall County Planning, Buildi 111 West Fox Street Yorkville, IL 60560-1498 PH: 630-553-4139 Fax: 630-553-4179		
From: judd lofchie [mailto Sent: Wednesday, March 16, 2022 11:27 AM To: Matt Asselmeier <masselmeier@co.kendall.il.us> Cc: Scott Koeppel <skoeppel@co.kendall.il.us>; Scott Gengler <sgengler@co.kendall.il.us>; Ruben Rodriguez <rrodriguez@co.kendall.il.us>; Faith D. Hook <fhook@co.kendall.il.us> Subject: Re: [External]Fwd: 1038 Harvey Rd.</fhook@co.kendall.il.us></rrodriguez@co.kendall.il.us></sgengler@co.kendall.il.us></skoeppel@co.kendall.il.us></masselmeier@co.kendall.il.us>		
Hey Matt		
It looks on the survey that the driveway is at least 5 feet from the property line. So we can keep going please.		

On Wed, Mar 16, 2022 at 8:20 AM Matt Asselmeier < masselmeier@co.kendall.il.us > wrote:

Attachment 15, Page 2 Have you had an opportunity to discuss the next steps with your client? If yes, have you determined which avenue you would like to pursue?

Also, per the attached picture, when was the new gravel placed on the property? 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, March 15, 2022 9:40 AM To: judd lofchie < Cc: Scott Koeppel <skoeppel@co.kendall.il.us>; Scott Gengler <sgengler@co.kendall.il.us>; Ruben Rodriguez <<u>rrodriguez@co.kendall.il.us</u>>; Faith D. Hook <<u>fhook@co.kendall.il.us</u>> Subject: FW: [External]Fwd: 1038 Harvey Rd. Judd: Please see the following message from Rod Zenner from the Village of Oswego.

Based on Rod's email, your client has a couple options if they still want to pursue the special use permit:

Attachment 15, Page 3

- 1. Submit an amended application dropping the request for a variance for the driveway location. This would also require the submittal of a revised site plan showing the new location of the driveway outside of the required setback.
- 2. Submit a variance request to the Village of Oswego for the driveway location. While I can't speak for the Regional Planning Commission, based on the comments stated at the February meeting, my educated guess is that they (the Regional Planning Commission) would want to wait with reviewing this Petition until the Village of Oswego either approved or denied the variance request.
- 3. Continue to move forward with the application "as is" with the knowledge that the Village of Oswego might not grant an access permit for the driveway. If the special use permit is approved by the County Board and your client decides to move the driveway location after approval, a major amendment to the special use permit would be required and your client would have to go through this entire process again (and pay most of the same fees again).

Since the Village of Oswego has a large amount of control regarding the access and, indirectly, the uses at this property, your client might want to consider pursuing annexation to the Village of Oswego and negotiating a favorable annexation agreement.

Please advise as to how you would like to proceed.

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: Rod Zenner [mailto:RZenner@oswegoil.org]

Sent: Tuesday, March 15, 2022 9:26 AM



Attachment 17, Page 1 KENDALL COUNTY REGIONAL PLANNING COMMISSION

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

Meeting Minutes of February 23, 2022 - 7:00 p.m.

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

ROLL CALL

Members Present: Tom Casey, Dave Hamman, Karin McCarthy-Lange, Larry Nelson, Ruben Rodriguez, Bob

Stewart, Claire Wilson (Arrived at 7:03 p.m.), and Seth Wormley

Members Absent: Bill Ashton

Staff Present: Matthew H. Asselmeier, Senior Planner

Others Present: Miguel Angel Fernandez, Larson Family, Rusty Kamp, Robert Schwartz, Aaron Klima, Patti

Bernhard, and Tom Green

PETITIONS

Petition 22-01 Jose and Silvia Martinez

Mr. Asselmeier summarized the request.

In 2018, the Planning, Building and Zoning Department started investigating a landscaping business operating at the subject property without a special use permit. On February 23, 2021, the court imposed a fine of Thirty-Two Thousand, Eight Hundred Dollars (\$32,800) against the Petitioners for operating a landscaping business without a special use permit, installing the southern driveway without a permit, Junk and Debris Ordinance violations, and related court costs. The discovery of assets portion of the case has been continued with the hope that the Petitioners will apply for the applicable special use permit and variance.

The Petitioners purchased the property in 2018.

On December 9, 2021, the Petitioner submitted the necessary application for a special use permit for a landscaping business, a variance to allow a landscaping business on a non-State, County or Collector roadway as defined by the Kendall County Land Resource Management Plan, and a variance to allow the southern driveway to be within five feet (5') of the side yard property line.

The application materials, survey of the property, landscaping plan, NRI Report, and aerial of the property were provided.

The property is located at 1038 Harvey Road.

The property is approximately three (3) acres.

The existing land use is Single-Family Residential.

The Future Land Use Map calls for the area to be Suburban Residential (Max 1.0 DU/Acre). Oswego's Future Land Use Map calls for the area to be Industrial.

Harvey Road is classified as a Collector by the Village of Oswego in this area and is not classified as such in the Land Resource Management Plan.

There are no trails planned in the area.

KCRPC Meeting Minutes 02.23.22

There are no floodplains or wetlands on the property.

The adjacent land use are Comed Right-of-Way, Industrial, Stormwater Pond, and Single-Family Residential.

The adjacent properties are zoned R-2, M-1, and M-2 by the Village of Oswego.

Oswego's Future Land Use Map calls for the area to be Agricultural, Single-Family Residential, and Light Industrial.

The zoning districts within one half (1/2) mile are A-1, A-1 SU, R-1, R-3, B-3, B-3 SU, and M-1 in the County and R-1, R-2, R-4, B-3, M-1, and M-2 inside the Village of Oswego.

Oswego East High School is located within one half (1/2) mile of the property.

The A-1 special use permits to the north are for a landscaping business and a cemetery. The B-3 special use permit to the east is for a watchman's quarters.

EcoCAT Report was submitted on December 9, 2021, and consultation was terminated.

The LESA Score was 124 indicating a low level of protection. The NRI Report was provided.

Petition information was sent to Oswego Township on December 22, 2021.

Petition information was sent to the Village of Oswego on December 22, 2021.

Petition information was sent to the Oswego Fire Protection District on December 22, 2021.

ZPAC reviewed the proposal on January 4, 2022. The Petitioners' Attorney requested the start date for the business to be changed from April 1st to March 1st of each year. Discussion occurred regarding annexing the property into the Village of Oswego; the Petitioners' Attorney did not know why the Petitioners had not pursued annexation. The Petitioners' Attorney reiterated that no members of the public would be invited onto the property and no retail sales of landscaping materials would occur. Discussion occurred regarding the reasons why the Petitioner had not applied for proper zoning despite citation and court action. The Petitioners' Attorney indicated the Petitioners were agreeable to the proposed conditions provided the start dates was moved to March 1st. ZPAC recommended approval of the special use permit with the conditions proposed by Staff with an amendment to move the start of the operating season to March 1st by a vote of five (5) in favor and two (2) in opposition with three (3) members absent. The minutes of the meeting were provided.

Per Section 7:01.D.30 of the Kendall County Zoning Ordinance, landscaping businesses can be special uses on A-1 zoned property subject to the following conditions:

- 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 and the variance to the requirement to be located on a State, County or Collector Highway, the above conditions have been met.

According to the business plan, the business has four (4) employees. Employees arrive at the property at approximately 6:30 a.m., go to work sites, and return to the property and leave to go home by 7:00 p.m. No information was provided regarding days of operation. The business would operate between March 1st and Thanksgiving. Business equipment presently consists of three (3) trucks.

The landscaping business area on the southwest corner of the site will be of gravel and will be approximately thirteen thousand, two hundred fifty (13,250) square feet in size. If there is a motor vehicle or equipment related leak, the area impacted gravel will be removed and replaced with clean gravel.

One (1) one (1) story, approximately two thousand nine hundred (2,900) square foot house, constructed in 1955 with a two (2) story garage is located on the property. There is also one (1) approximately two hundred forty-five (245) square foot frame shed on the property near the landscaping storage area. There is also one (1) chicken coop and one (1) additional shed on the northeast corner of the property not associated with the landscaping business. The picture of the house was provided.

According to the landscaping plan, the Petitioners plan to install open storage areas, one (1) for grass and brush clippings at twenty feet wide by approximately one hundred twenty feet in depth (20' X 120'), one (1) for mulch, and one (1) for sand. There would also be storage areas for brick pallets. No information was provided on the dimensions for the storage areas for mulch, sand, and brick pallets. There would also be four (4) truck storage areas measured at fifteen feet wide by twenty-eight feet in depth (15' X 28'). According to the business plan, no piles of materials would exceed three feet (3') in height.

Any structures related to the landscaping business would be required to obtain applicable building permits.

Per the site survey, the property is served by a septic system. No information was provided regarding a well.

No employees or customers would use restroom or water facilities on the property.

One six foot by five foot (6' X 5') dumpster was shown on the landscaping plan in the landscaping business area.

The property drains to the southeast and northeast.

Per the survey and landscaping plan, the house is served by an existing driveway with two (2) access points off of Harvey Road. One (1) twenty foot (20') wide gravel driveway provides access from the landscaping storage area to Harvey Road; this access was installed without proper permits and will need to secure applicable permits. The southern driveway is also too close to the side yard property line and will need a variance. A picture of the southern driveway was provided.

The Village of Oswego provided information regarding driveway standards; this information is included as part of an email which was provided.

According to the plat of survey, the Petitioners plan to have two (2) parking spaces and one (1) handicapped accessible parking space to the west of the garage. The parking spaces will be of brick pavers.

Attachment 17, Page 4

The plat of survey shows two existing light poles. Existing lighting is used for residential purposes only. The Petitioners are not proposing any additional lighting.

The Petitioners were not proposing any business related signage.

The landscaping plan shows one (1) solid fence eight feet (8') in height along the east, west, and south sides of the landscaping business area. One (1) security gate is also shown on the landscaping plan.

The landscaping plan shows three (3) thirty foot (30') tall white pines, eleven (11) eight foot (8') tall mission arborvitaes, three (3) nine foot (9') tall blue spruces, and one (1) fifteen foot (15') mulch bed along the southwest corner of the property. No information was provided regarding the vegetation along the southern property line. A picture of the landscaping was provided. The vegetation along the southern property line can be seen in the picture of the southern driveway. The Village of Oswego also requested landscaping in their email, but did not provide details on type or nature of landscaping.

No information was provided regarding noise control.

No new odors were foreseen by the proposed use.

If approved, this would be the nineteenth (19th) special use permit for a landscaping business in unincorporated Kendall County.

The proposed Findings of Fact for the special use permit were as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided the site is developed in accordance with the submitted site plan and provided a variance is granted regarding the location of the driveway, the operation of the special use will not be detrimental to the public health, safety, morals, comfort, or general welfare. Conditions may be placed in the special use permit ordinance to address hours and seasons of operation.

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. Appropriate restrictions may be placed in the special use permit to regulate the number of employees, hours of operation, site landscaping, and noise. Therefore, the neighboring property owners should not suffer loss in property values and the use will not negatively impact the adjacent land uses.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. If the Village of Oswego approves the new access point for the southern driveway and if a variance is granted for the location of the southern driveway, then adequate points of ingress and egress will be provided. The owners of the business allowed by the special use permit have agreed not pile materials in excess of three feet (3') in height.

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. Provided a variance is granted for the location of the driveway, the special use shall conform to the applicable regulations of the district.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed use is consistent with an objective found on Page 6-34 of the Kendall County Land Resource Management Plan which calls for "a strong base of agricultural, commercial and industrial uses that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents".

The proposed Findings of Fact for the variances were as follows:

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. There are no topographic conditions or other outstanding conditions not caused by the Petitioner that created a particular hardship or difficulty upon the owner.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. It is unknown the exact number of A-1 zoned properties that could ask for similar variances. There are no unique conditions that caused the driveway to be located on the southern property line. The Village of Oswego defines Harvey Road as a Collector while the Kendall County Land Resource Management Plan does not define Harvey Road as a Collector; it is unique to have this difference in classification.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The owners created the hardship by installing the driveway without proper permits and operating the business at the subject property. The owners were not responsible in the differences in classification for Harvey Road.

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. The requested variance should not negatively impact any of the neighbors and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood, provided the Village of Oswego grants access to Harvey Road at the location shown on the landscaping plan.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. Allowing the driveway to be on the property line and allowing the business to operate on a non-State, County, or Collector Highway will not impair any of the above items.

Staff believed that a landscaping business could operate at the subject property with reasonable restrictions. However, Staff had concerns, given the Petitioners' previous behavior, that reasonable restrictions will be followed. Staff believed the following conditions and restrictions are necessary for the operation of a special use permit at the subject property:

- 1. The site shall be developed substantially in accordance with the plat of survey and landscaping plan.
- 2. The existing house, garage, chicken coop, deck, swimming pool, and shed located on the northwest corner of the property shall be used for residential purposes only and shall be exempt from the site development conditions of the special use permit. The locations of these structures may change without requiring an amendment to the special use permit.
- 3. A variance to Section 11:02.F.7.b of the Kendall County Zoning Ordinance shall be granted allowing off-street parking and southern driveway to be no closer than zero feet (0') from the southern property line as shown on the landscaping plan. The driveway shall be a maximum of twenty feet (20') in width and shall be gravel.
- 4. A variance to Section 7:01.D.30.b of the Kendall County Zoning Ordinance shall be granted allowing the operation of a landscaping business at a property not located on and not having direct access to a State, County, or Collector highway as designed in the County's Land Resource Management Plan.
- 5. The owners of the business allowed by the special use permit shall maintain the parking area shown on the site plan and in substantially the same location as depicted on the plat of survey. The parking area shall be brick pavers.
- 6. The owners of the business allowed by the special use permit shall maintain the landscaping business area on the southeast corner of the site as depicted on the landscaping plan. This area shall be gravel.
- 7. The owners of the businesses allowed by this special use permit shall diligently monitor the property for leaks from equipment and vehicles parked and stored and items stored on the subject property and shall promptly clean up the site if leaks occur.
- 8. Any new structures constructed or installed related to the business allowed by this special use permit on the property shall not be considered for agricultural purposes and must secure applicable building permits.
- 9. Equipment and vehicles related to the business allowed by the special use permit may be stored outdoors.
- 10. 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.
- 11. 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.
- 12. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated storage areas shown on the landscaping plan. The maximum height of the piles of landscaping related material shall be less than three feet (3') in height.
- 13. No signage advertising or promoting the business shall be installed on the subject property. The owner of the business allowed by this special use permit may install appropriate handicapped parking signs and other directional signs within the fenced landscaping business area as shown on the landscaping plan.
- 14. Three (3) thirty foot (30') tall white pines, eleven (11) eight foot (8') tall mission arborvitaes, three (3) nine foot (9') tall blue spruces, and one (1) fifteen foot (15') mulch bed along the southwest corner of the property shall be installed and maintained on the property in substantially the locations shown on the landscaping plan. Damaged or dead arborvitaes shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.

- 15. No landscape waste generated off the property can be burned on the subject property.
- 16. A maximum of four (4) 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.
- 17. No 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.
- 18. The hours of operation of the business allowed by this special use permit shall be Monday through Saturday from 6:30 a.m. until 7:00 p.m. The owners of the business allowed by this special use permit may reduce these hours of operation. The business allowed by this special use permit may operate at the subject property starting March 1st and ending November 30th of each year.
- 19. 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.

- 20. 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.
- 21. The owners of the business allowed by this special use shall reside at the subject property as their primary place of residence.
- 22. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
- 23. 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.
- 24. 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.
- 25. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

Attachment 17, Page 8

26. 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.

Miguel Angel Fernandez, Attorney for the Petitioner, requested that the special use permit and variances be approved.

Member Nelson asked why the Petitioner waited with applying for a special use permit. Mr. Fernandez responded that the Petitioner had heard from other landscaping businesses that a special use permit was not required and other landscaping businesses were operating without such permits. Mr. Asselmeier requested the names and addresses of the landscaping businesses operating without special use permits. Mr. Fernandez was unable to provide this information.

Mr. Fernandez noted that the Petitioner was not fluent in English and had tried to get a Spanish speaking zoning attorney. The Petitioner used a different attorney previously.

Member Nelson requested a history of the investigation at the property. Mr. Asselmeier provided a history of the investigation at the property.

Member Wilson asked why the Petitioner had not attended court when the fine was set. Mr. Fernandez did not know why the Petitioner was absent from court.

Vice-Chairman Rodriguez told a story about getting bitten by a dog as child. He also discussed his interactions with another landscaping business that had gone through the special use process.

Member Nelson expressed concerns about the Petitioner not following the conditions in the special use permit. He felt that County resources would be wastefully spent if the special use permit was approved and if the County had to constantly take the Petitioner to court.

Discussion occurred the need for an access permit from the Village of Oswego for the southern driveway. Member Nelson expressed concerns that the Village could require the driveway location be altered and the could cause the Petitioner to have to seek an amendment to the special use permit in the future. Mr. Fernandez stated that the Petitioner had not been aware of this requirement until the previous day. Mr. Asselmeier noted that the email from the Village of Oswego had been in the packet for the ZPAC meeting.

Discussion occurred about requiring the Petitioner to pay a bond or portion of the fine prior to the issuance of the special use permit. The consensus was that this type of requirement was not allowed by law.

Member Nelson made a motion, seconded by Member Wilson, to table the Petition until the Petitioner provided proof of approval of an access permit by the Village of Oswego and, if necessary, provided an updated site plan showing changes to the driveway as required by the Village of Oswego in order to obtain the access permit.

The votes were as follows:

Ayes (8): Casey, Hamman, McCarthy-Lange, Nelson, Rodriguez, Stewart, Wilson, and Wormley

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

The motion carried.

Attachment 17, Page 9

This proposal will return to the Commission's agenda after the requested documents are provided.

CITIZENS TO BE HEARD/PUBLIC COMMENT

A representative of the Larson Family requested to know the time of the April 27, 2022, Commission meeting. The meeting will be at 7:00 p.m.

ADJOURNMENT

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

The Kendall County Regional Planning Commission meeting adjourned at 8:45 p.m.

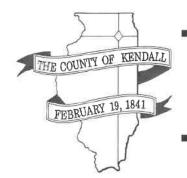
Respectfully submitted by, Matthew H. Asselmeier, AICP, CFM Senior Planner

Enc.

KENDALL COUNTY REGIONAL PLANNING COMMISSION FEBRUARY 23, 2022

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)
Ton Green		
Palli Bernhad		
Mignel Argel Fornandez		
Lama Paraily		
Losty Kamps		



DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 204 Yorkville, IL • 60560 Fax (630) 553-4179

(630) 553-4141

VIOLATION

October 11, 2018

Jose and Silvia Martinez 1038 Harvey Road Oswego, IL 60543

Dear Property Owners,

According to the records of the Kendall County Tax Assessor's Office, you are the owner of property located at 1038 Harvey Road, Oswego, IL (P.I.N. #: 03-12-100-004). It has come to our attention that you are operating a landscaping business at the subject property which is zoned A-1 Agricultural District under the Kendall County Zoning Ordinance.

According to Section 7.01.D.28 of the Kendall County Zoning Ordinance, landscaping businesses require a special use permit to operate in the A-1 Agricultural District and landscaping businesses are required to be located on a State, County, or Collector Highway as defined by the Kendall County Land Resource Management Plan. Harvey Road does not meet this criteria.

Please consider this your thirty (30) day warning to initiate compliance with the Ordinance. Compliance, in this case, consists of applying for a special use permit and variance to lawfully operate a landscaping business at the subject property or ceasing operations of a landscape business at the subject property. Applications for a special use permit and variance are attached to this letter. Please respond to this letter in writing by the November 10, 2018 deadline.

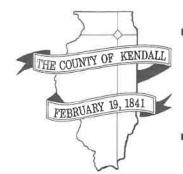
Thank you in advance for your cooperation in this matter. If you have any questions, feel free to contact our office at 630-553-4139

Sincerely,

THE COUNTY OF KENDALL

Matthew H. Asselmeier, AICP Senior Planner Kendall County Planning, Building and Zoning Department

Encs.



DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 204 Yorkville, IL • 60560

(630) 553-4141

Fax (630) 553-4179

VIOLATION

November 14, 2018

Jose and Silvia Martinez 1038 Harvey Road Oswego, IL 60543

Dear Property Owners,

You should have received a letter dated October 11, 2018, on this topic. According to the records of the Kendall County Tax Assessor's Office, you are the owner of property located at 1038 Harvey Road, Oswego, IL (P.I.N. #: 03-12-100-004). It has come to our attention that you are operating a landscaping business at the subject property which is zoned A-1 Agricultural District under the Kendall County Zoning Ordinance.

According to Section 7.01.D.28 of the Kendall County Zoning Ordinance, landscaping businesses require a special use permit to operate in the A-1 Agricultural District and landscaping businesses are required to be located on a State, County, or Collector Highway as defined by the Kendall County Land Resource Management Plan. Harvey Road does not meet this criteria.

Please consider this your second thirty (30) day warning to initiate compliance with the Ordinance. Compliance, in this case, consists of applying for a special use permit and variance to lawfully operate a landscaping business at the subject property or ceasing operations of a landscape business at the subject property. Applications for a special use permit and variance are attached to this letter. Please respond to this letter in writing by December 14, 2018. Please be advised that failure to respond to this letter by the deadline date could result in additional legal action against you.

Thank you in advance for your cooperation in this matter. If you have any questions, feel free to contact our office at 630-553-4139.

Sincerely,

THE COUNTY OF KENDALL

Matthew H. Asselmeier, AICP Senior Planner Kendall County Planning, Building and Zoning Department

Encs.

THE COUNTY OF KENDALL FEBRUARY 19, 1841

Attachment 17, Page 13 CODE ENFORCEMENT INVESTIGATION REPORT

DEPARTMENT OF PLANNING, BUILDING & ZONING

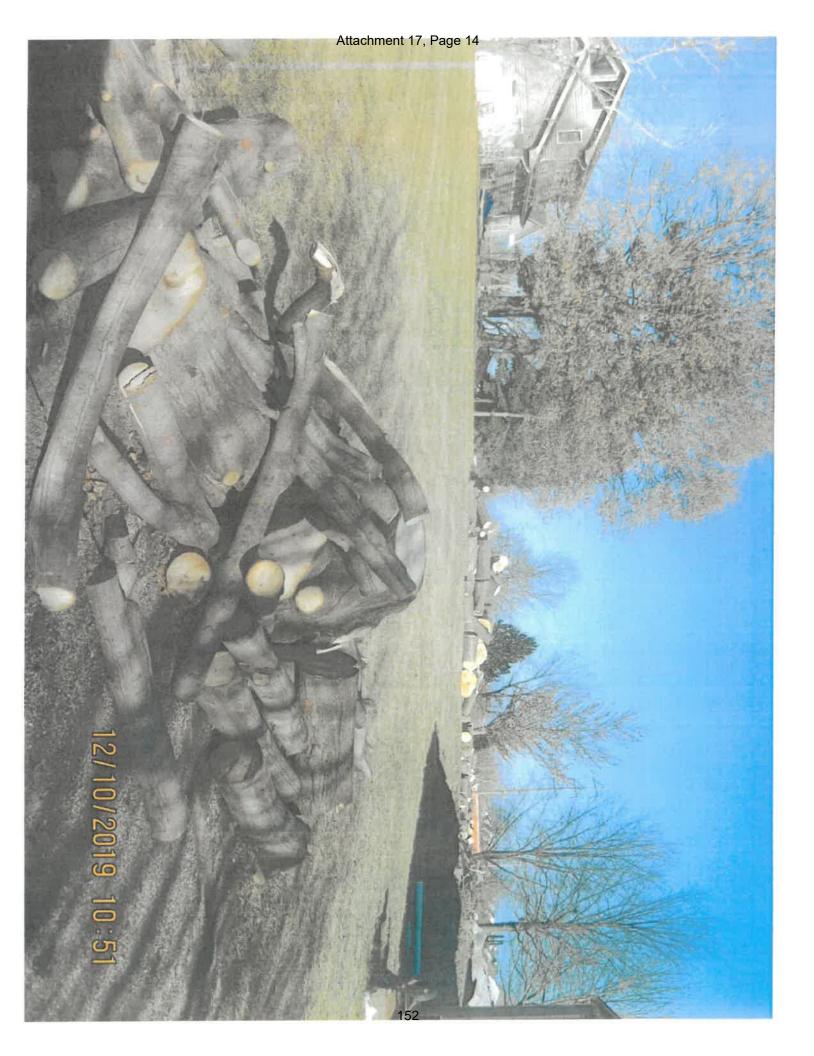
111 West Fox Street • Room 316

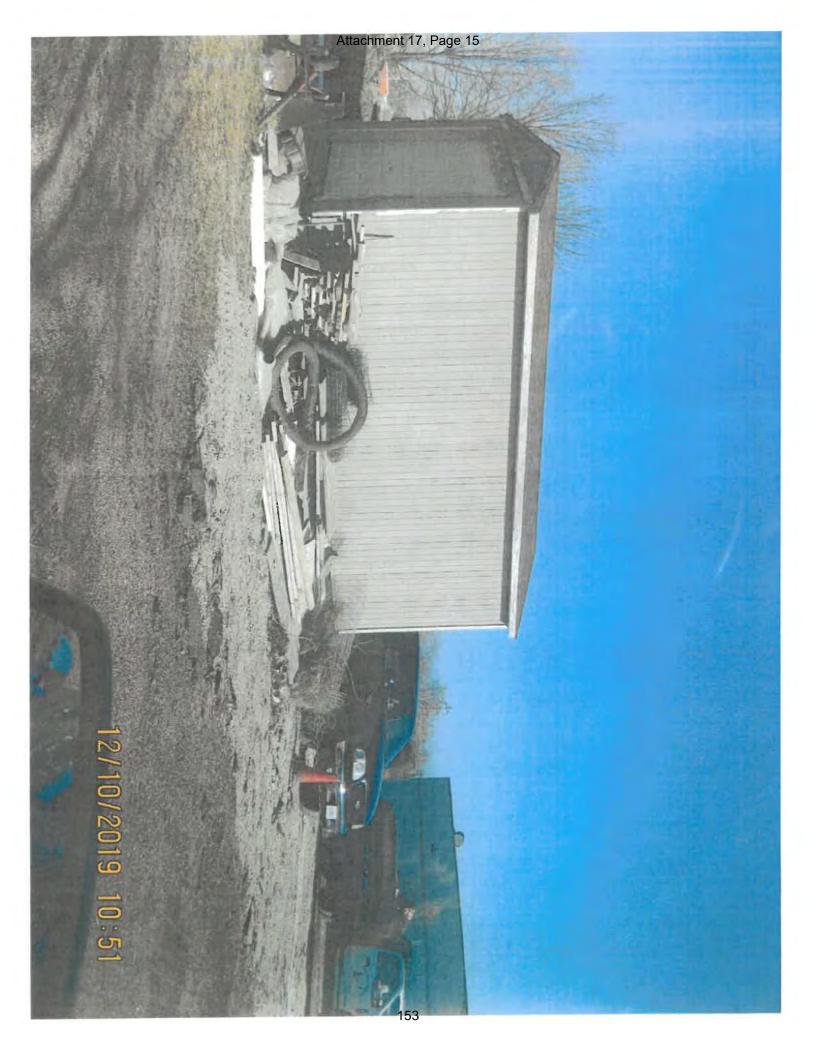
Yorkville, IL • 60560

(630) 553-4141

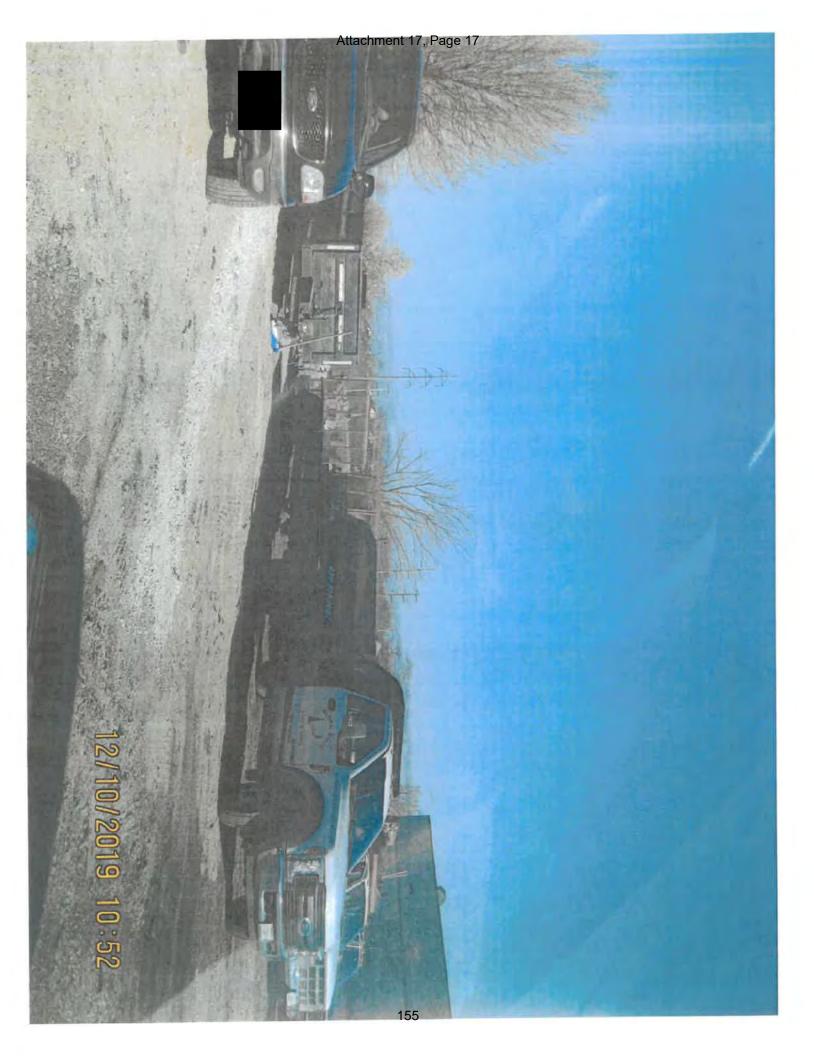
Fax (630) 553-4179

Date 5/13/19	Violation a	19-049
Address of Violation: 1038	Harvey Por	24
City & Zip: Osweso	00543	
Subdivision:	Unit	Lot
Parcel Number: 03-12-100	0-004 Zoning:	A7
Owner or Tenant: 5050	+ Silvia 1	nartnez
	"	
Description of Complaint:	et Debris	
Diversay + Pe	irking area	- No Pernut
Operation of	la landsca	pe husiness
Complaintant's Name		
Contact Info:		
Inspector BLH		Date 5/13/19
Field Notes Driveway + Parking F	trea - No Pennit (no	dinance 2014-07)
Landserpe Buishers	Prohibited in A-	1 zam Special Use Permit Requires (2003 ardinate 7.01)
Junk + Debris (0	belinance)	(20mg ordinate 7,01)
Photos Taken? Yes	No	
Section of Applicable Code (See Fue	ld Notes)	
NOTES: 1st Notice 5/14/19	9/17/19 Left	Messas
2nd Notice 6/3/19		
F/U 8/1/19		
DATE CLOSED:		



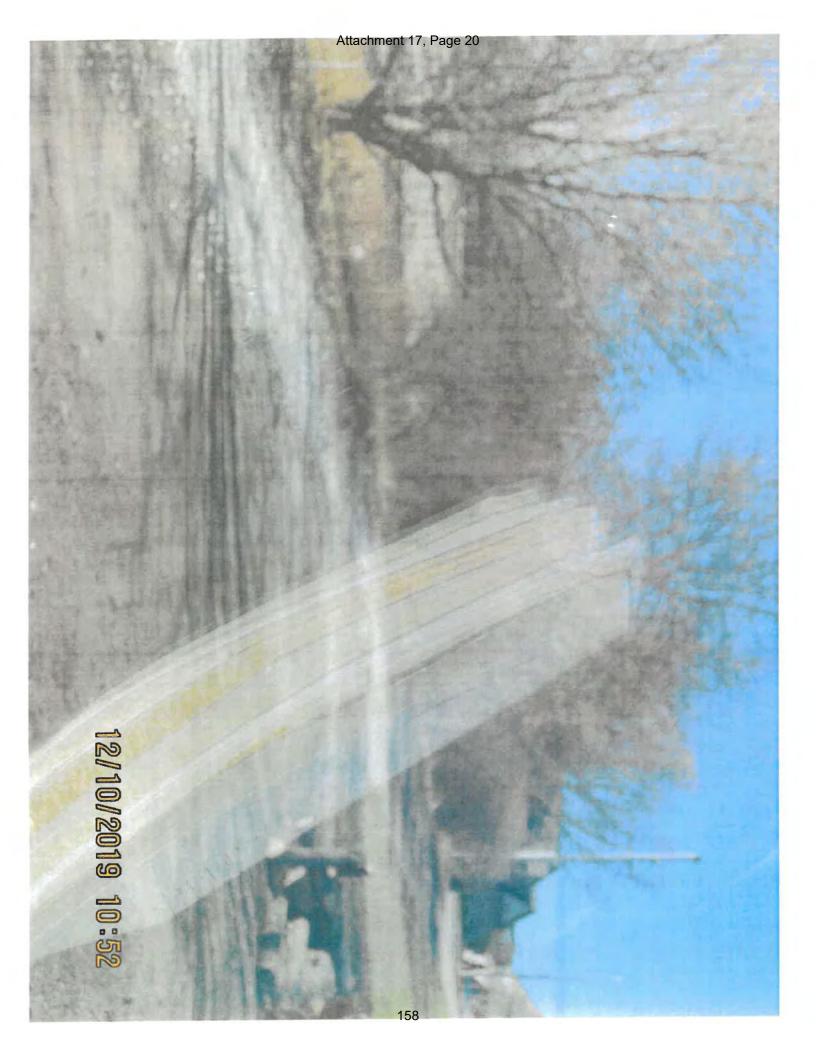


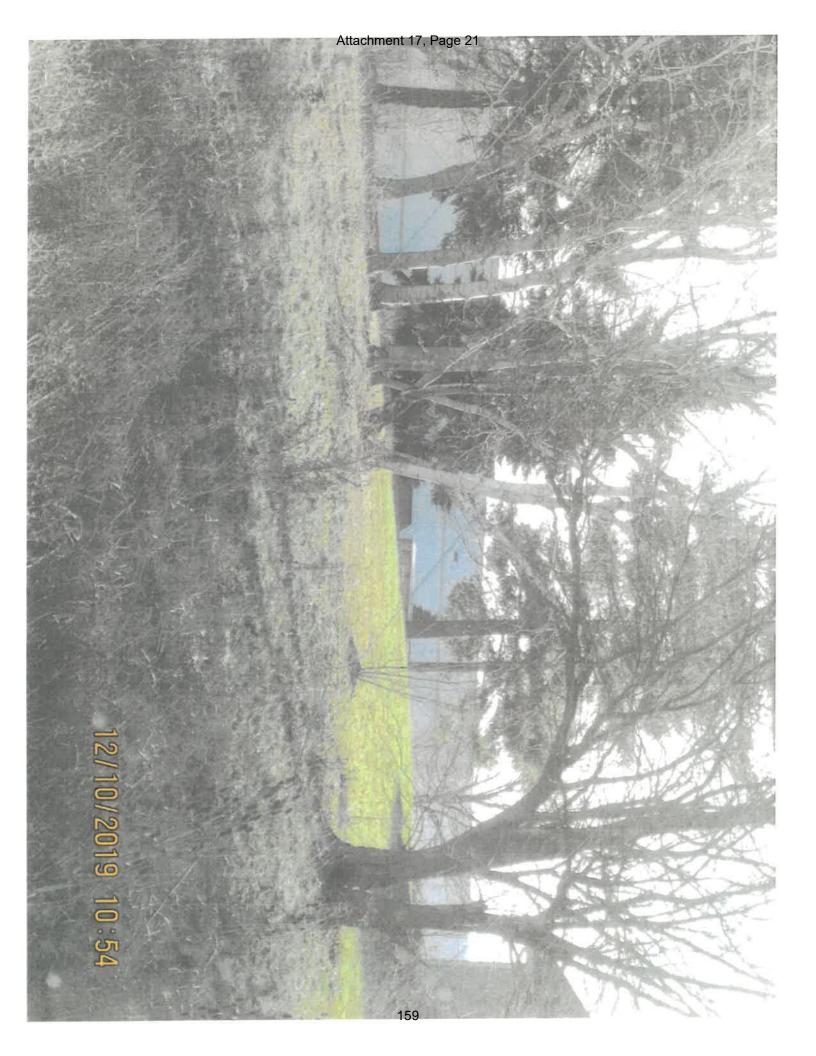


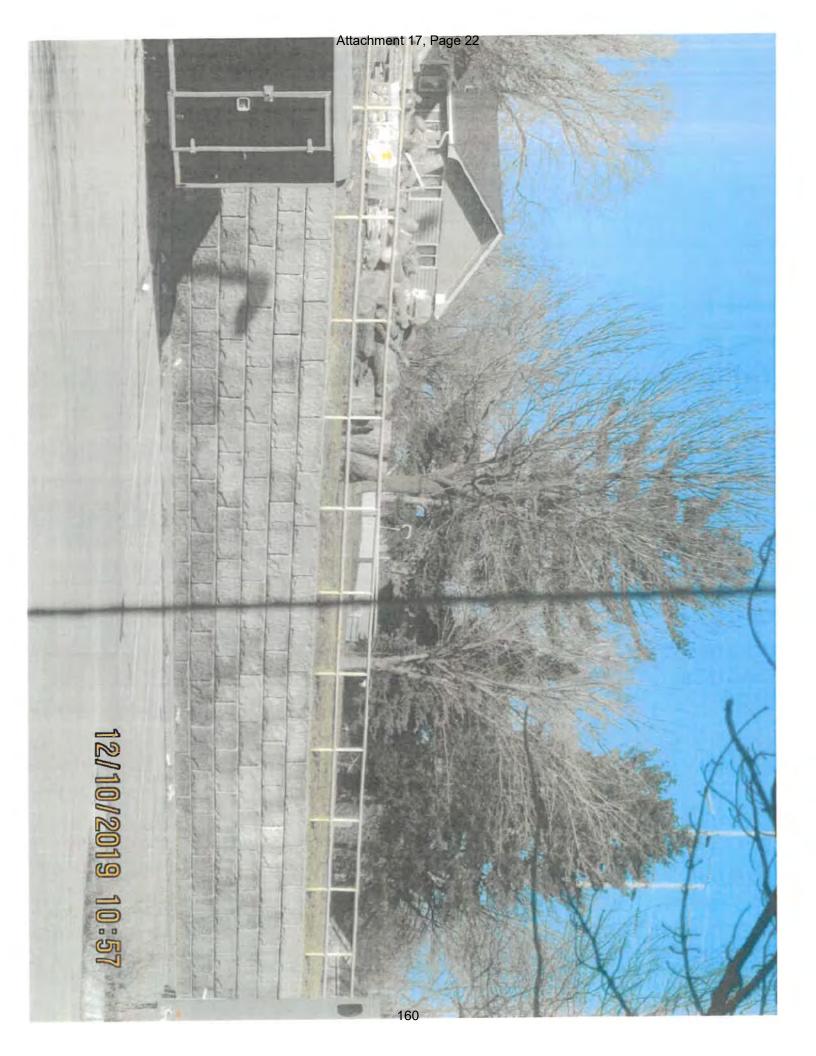




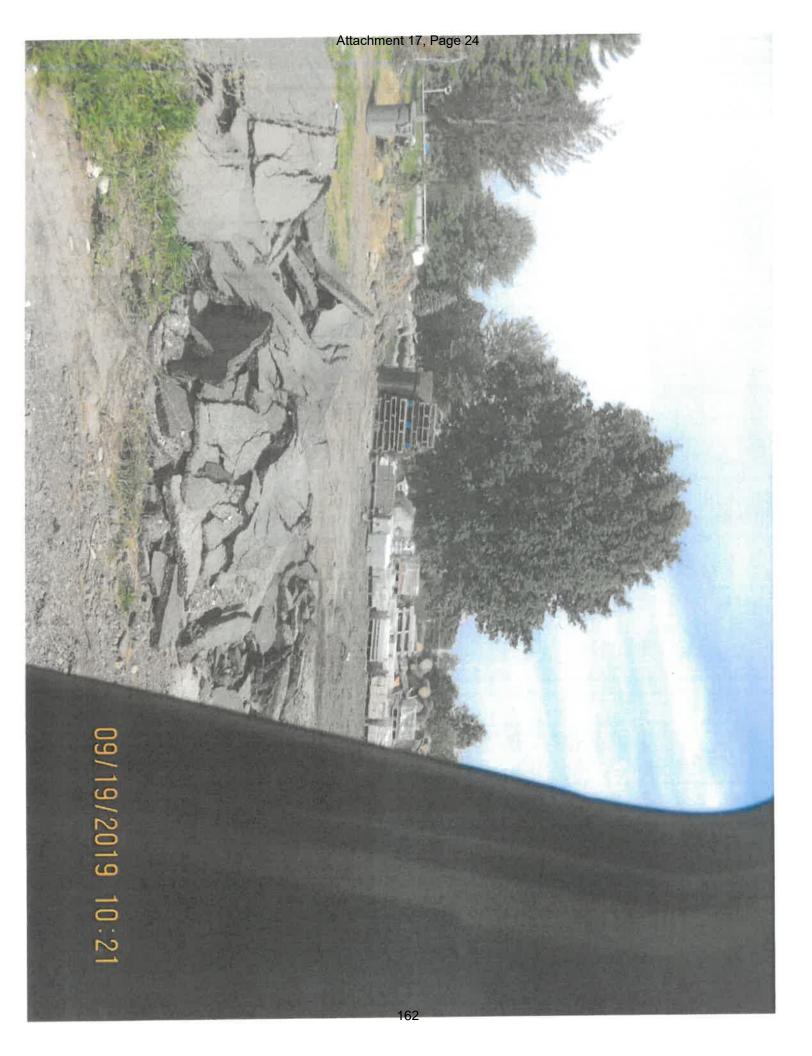


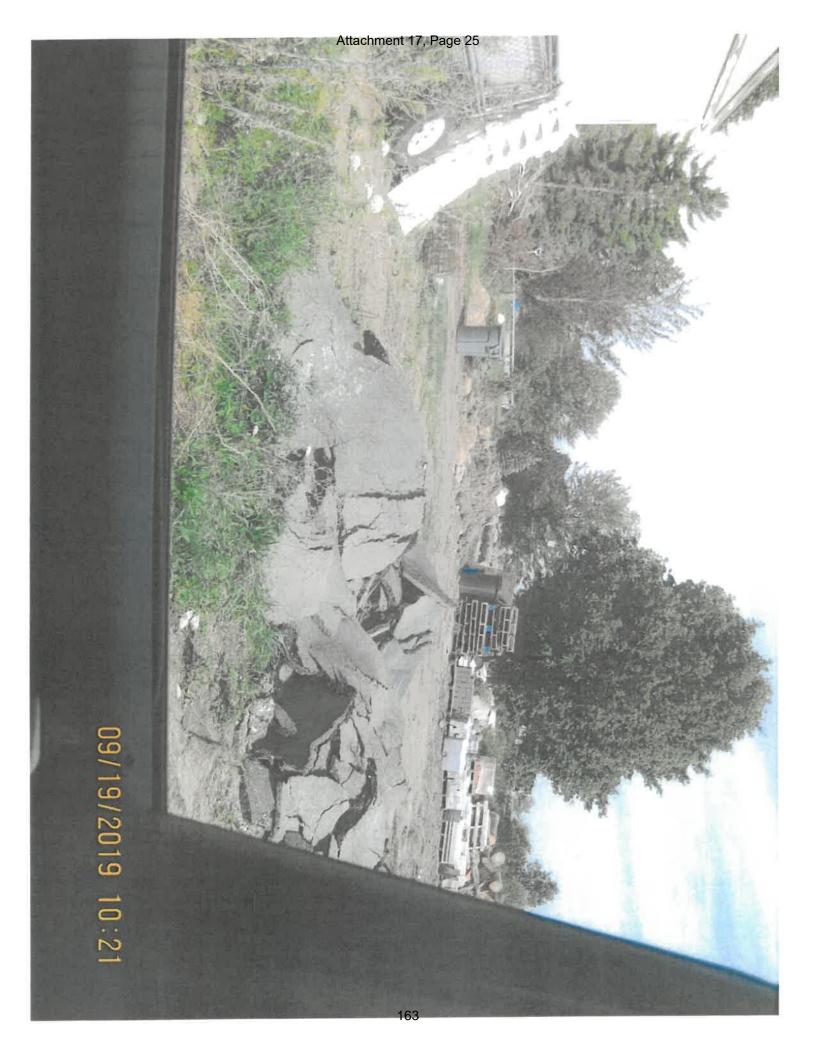








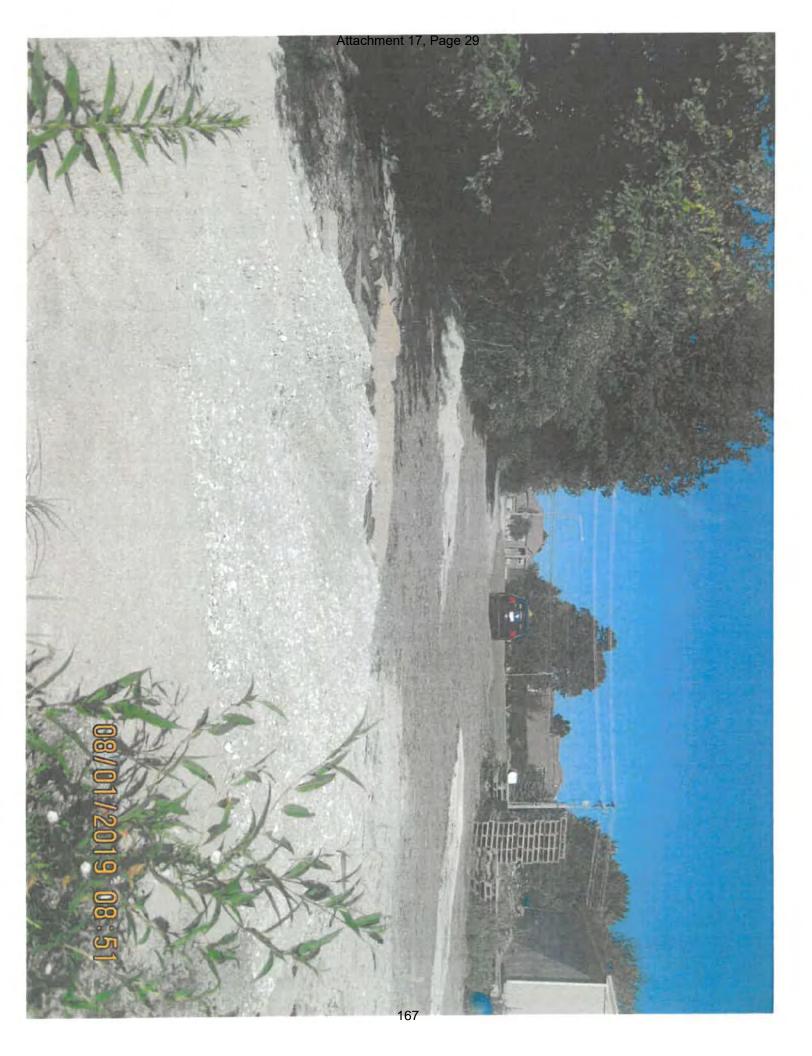


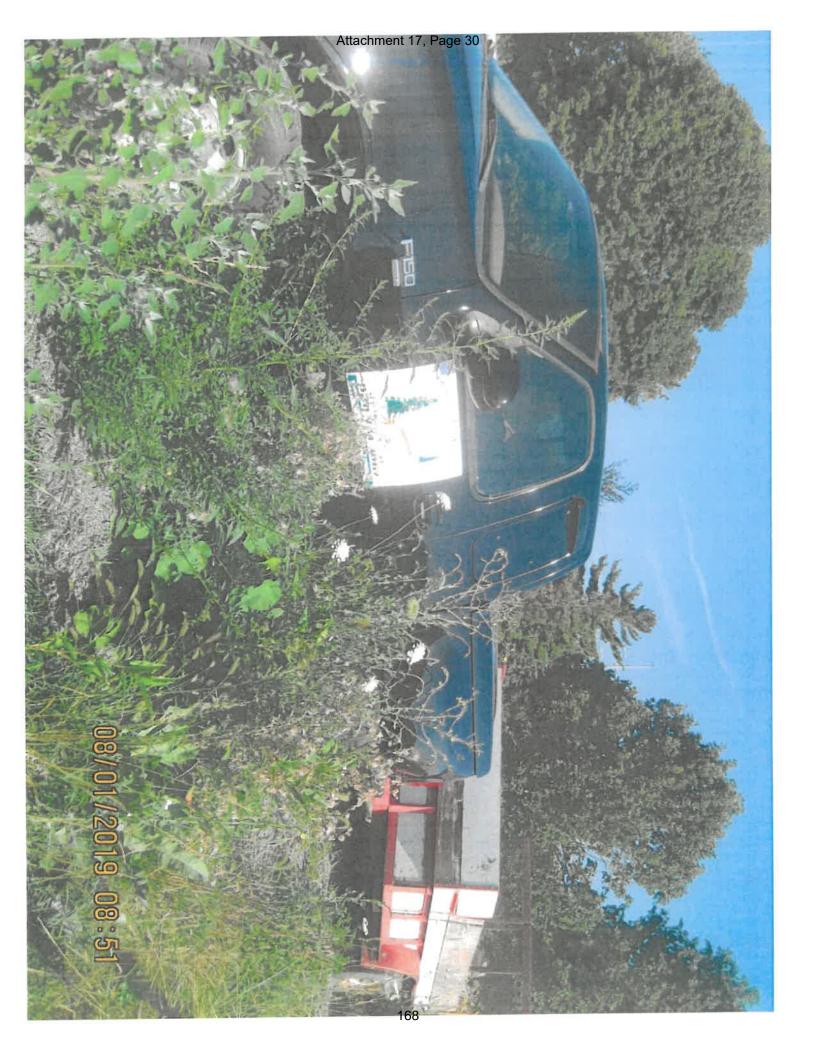






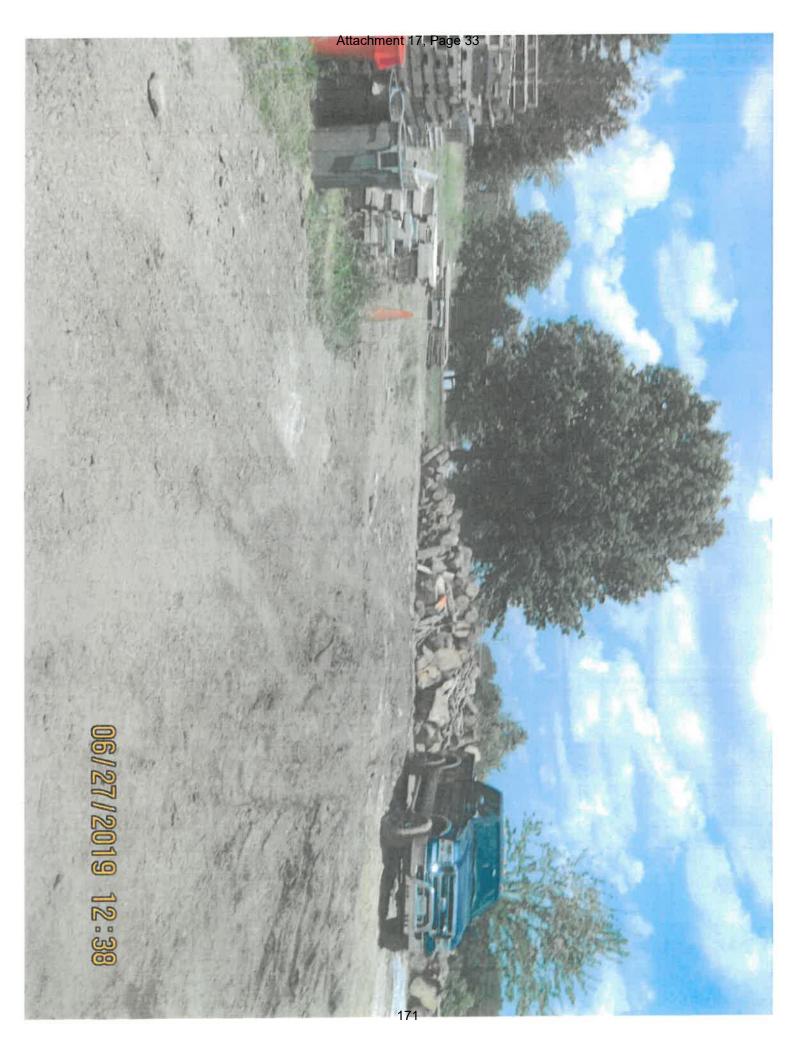






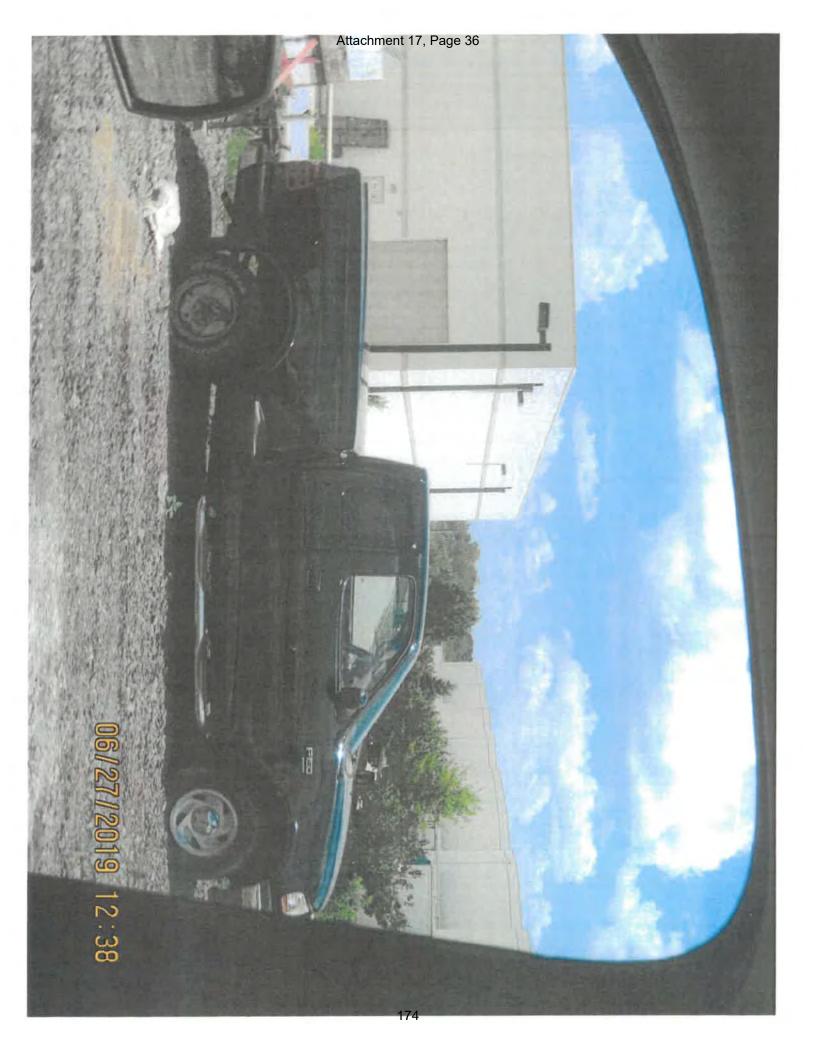






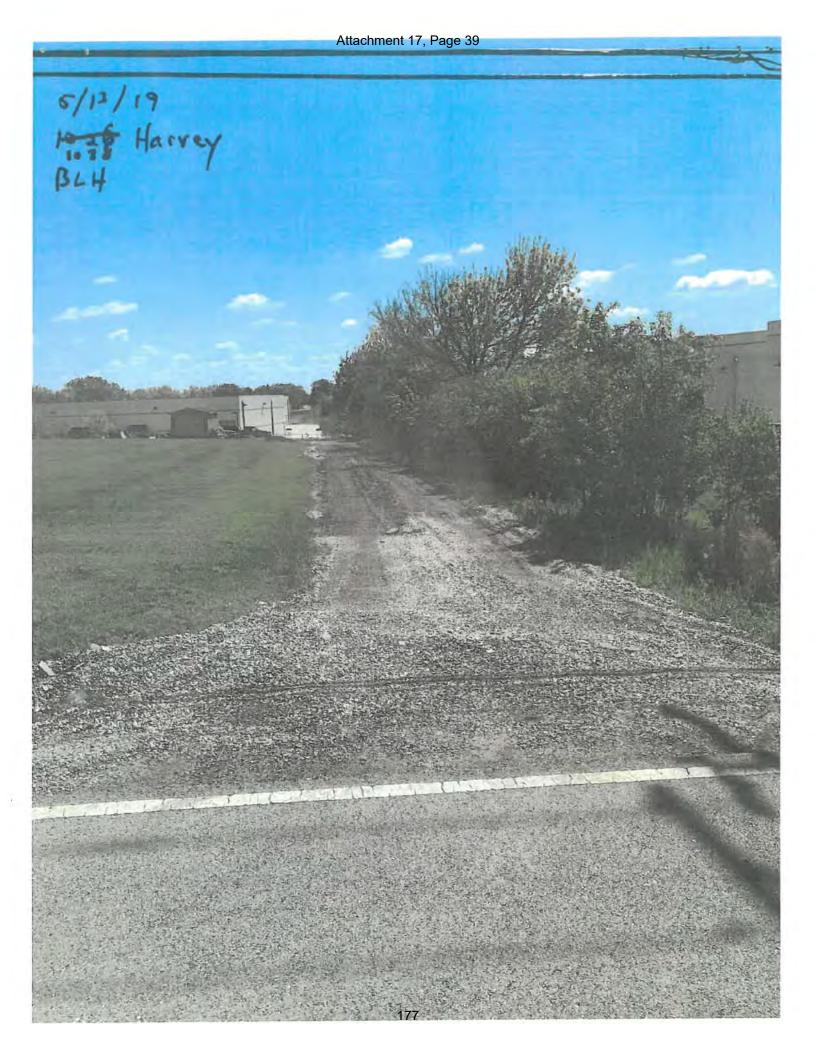


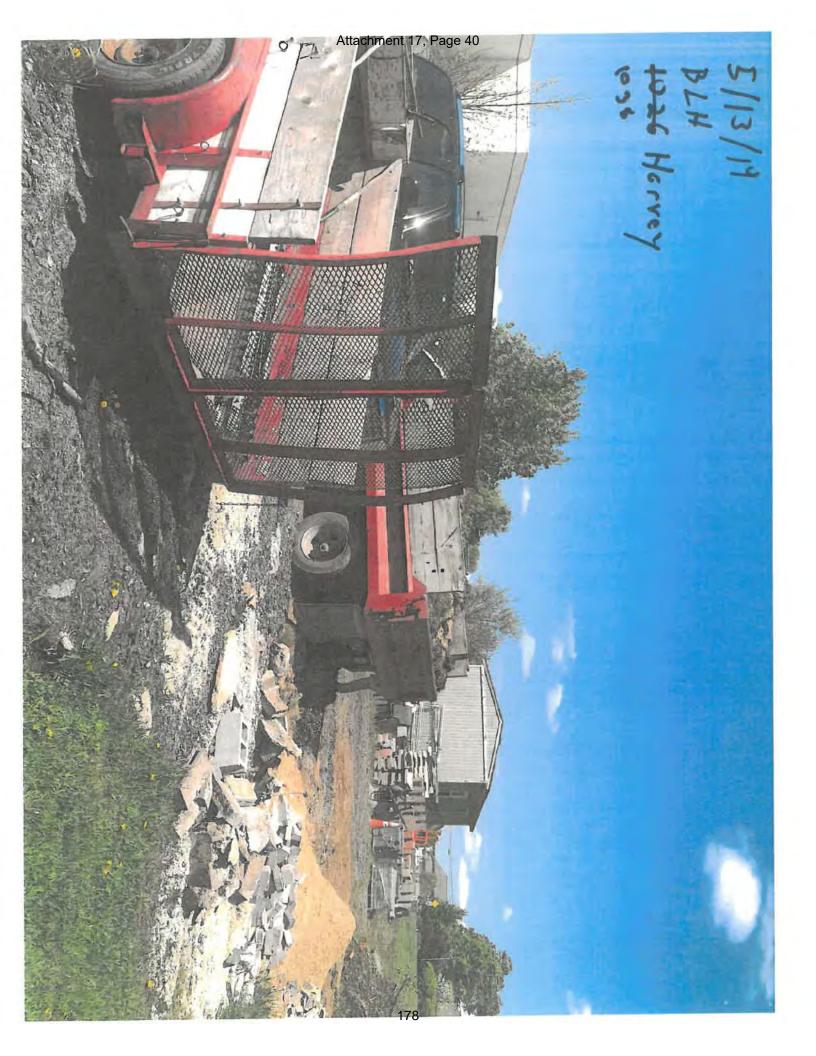


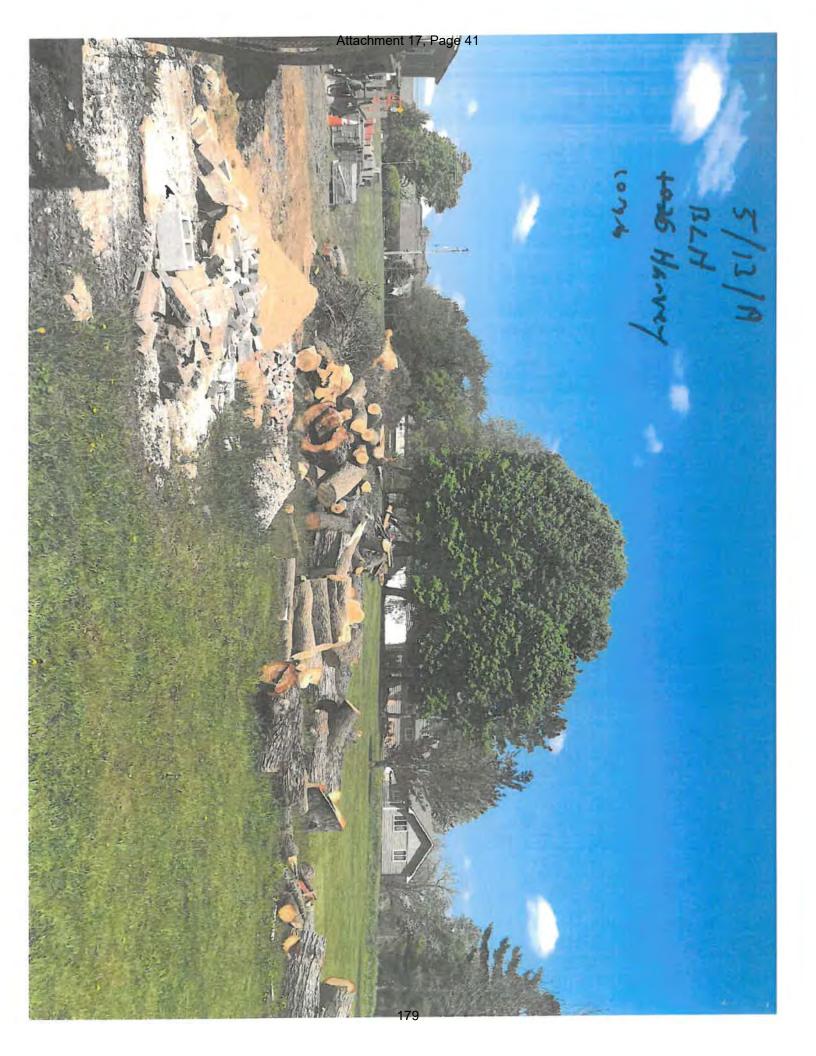






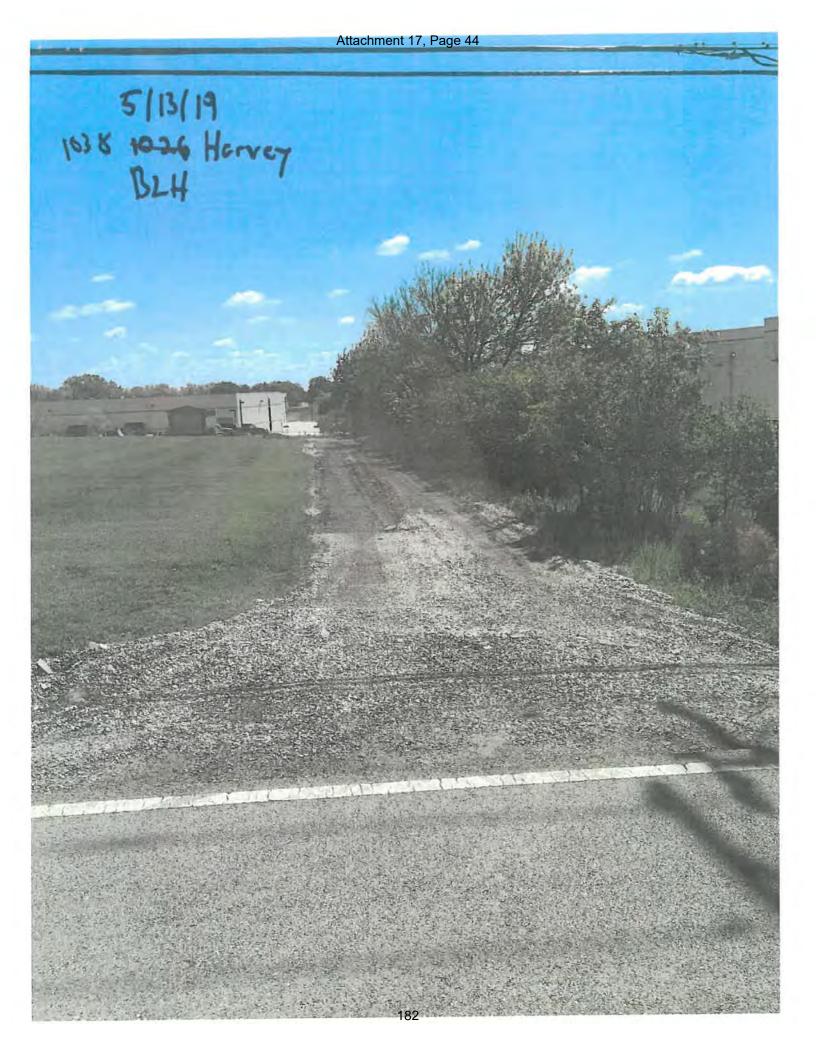












Attachment 17, Page 45 Kendall County Planning, Building and Zoning

(630) 553-4141

05/15/2019

MARTINEZ JOSE A & SILVIA 1038 HARVEY RD OSWEGO, IL 60543-

Violation # 19049

Parcel # 03-12-100-004 1038 HARVEY RD OSWEGO, IL 60543 -

It is often easy in our busy schedule to overlook the condition of our property. We sometimes do not even realize that an ordinance requiring safety procedures may be in effect.

In an effort to prevent problems, your County Board Members have passed ordinances which require certain procedures to be followed in an effort to protect the well being and health of the citizens of Kendall County. An Inspection of your property conducted as of this date revealed the following violation:

MULTIPLE ZONING VIOLATIONS:

DRIVEWAY AND PARKING AREA - NO PERMIT - ORDINANCE 2014-07 LANDSCAPE BUSINESS PROHIBITED IN A-1 ZONING - ORDINANCE 7.01 SPECIAL USE PERMIT REQUIRED

Since most residents are not aware of such code violations, the County allows the property owner a fourteen (14) day period in which to correct this situation. Please contact our office by Wednesday, May 29, 2019.

Kendall County can only continue to prosper through its citizen's positive attitude towards home, neighborhood, and community. Your prompt attention and cooperation in this matter would be appreciated. Should you have any questions, please contact this office at the above number.

If said violation is not corrected, this matter will be forwarded to the Kendall County States Attorney's Office for prosecution and the possible imposition of fines.

Sincerely,



Kendall County Planning, Building & Zoning

Attachment 17, Page 46 Kendall County Planning, Building and Zoning

(630) 553-4141

06/04/2019

MARTINEZ JOSE A & SILVIA 1038 HARVEY RD OSWEGO, IL 60543-

Violation # 19049

Parcel # 03-12-100-004 1038 HARVEY RD OSWEGO, IL 60543 -

The attached letter was sent to you recently. As of today's date, the following violation still exists:

MULTIPLE ZONING VIOLATIONS:
DRIVEWAY AND PARKING AREA - NO PERMIT - ORDINANCE #2014-07
LANDSCAPE BUSINESS PROHIBITED IN A-1 ZONING - ORDINANCE #7.01
SPECIAL USE PERMIT REQUIRED
JUNK & DEBRIS VIOLATION - ORDINANCE #19-12

Failure to correct this violation will require us to refer this violation to the Kendall County States Attorney's Office for the appropriate legal action. Please contact our office on or before Friday, June 14, 2019.

Sincerely,



Kendall County Planning, Building & Zoning



PLANNING, BUILDING & ZONING DEPARTMENT

111 WEST FOX STREET -ROXM(20) YORKVILLE JLLINOIS 0,500-1498 032-558-4141 • FAX 64: 551-4159

June 18, 2019

Jose A and Silvia Martinez

1038 Harvey Road

Oswego IL 60543

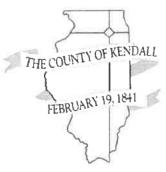
RE: Final Notice of Violations #19-049 and #18-077

Please call (630)553-4134 to schedule an inspection or a request for prosecution will be sent to the Kendall County Planning, Building and Zoning Committee.

Respectfully,

Brian Holdiman

Kendall County Code Official



PLANNING, BUILDING & ZONING DEPARTMENT

111 WEST FOX STREET - ROOM 203 YORKVILLE, ILLINOIS 60560-1498 630-553-4141 • FAX 630-553-4179

October 23, 2019

Jose and Silvia Martinez 1038 Harvey Road Oswego, IL. 60543

Re: Violation #: V19-049 Parcel #: 03-12-100-004

You were notified on 5/15/2019, 6/4/2019 and 6/18/2019 of the following violations on your property:

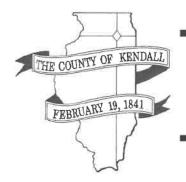
- Driveway and Parking pad installed without required permit
- Above ground swimming pool installed without required permit
- Storage of Junk & Debris
- Landscape Business operating on site without a Special Use Permit

This matter has been referred to the Kendall County Planning, Building and Zoning Committee with request to the Kendall County States' Attorney for prosecution and collection of fines and/or penalties. We will notify you of the date of the meeting that this issue will be discussed. If you want to achieve compliance voluntarily, please contact our office and apply for required permits.

Respectfully,

Ruan Holdiman

Kendall County Code Official



DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 204 Yorkville, IL • 60560

(630) 553-4141

Fax (630) 553-4179

VIOLATION

January 8, 2020

Jose and Silvia Martinez 1038 Harvey Road Oswego, IL 60543

Dear Property Owners,

The Kendall County Planning, Building and Zoning Committee will be discussing an alleged violation to the County's Zoning Ordinance on your property at 1038 Harvey Road at their meeting on January 13, 2020, at 6:30 p.m., in the County Board Room at 111 W. Fox Street in Yorkville. The Committee could refer this matter to the Kendall County State's Attorney's Office for further legal action.

You can avoid additional action on this case by resolving the violations stated in the October 23, 2019, June 18, 2019, June 4, 2019, and May 5, 2019, letters to you.

Please direct any correspondence on this matter to me at 630-553-4139 or masselmeier@co.kendall.il.us. Thank you in advance for your cooperation in this matter.

Sincerely,

THE COUNTY OF KENDALL

Matthew H. Asselmeier, AICP Senior Planner Kendall County Planning, Building and Zoning Department 1/13/2Attachment 7, Page 50 nutos

Approval to Forward to the State's Attorney's Office Violations of the Building Code (Driveway and Parking Pad Installed Without a Permit and Above Ground Swimming Pool Installed Without a Permit) and Violation of the Zoning Ordinance (Operating a Landscaping Business on A-1 Zoned Property Without a Special Use Permit) at 1038 Harvey Road (PIN 03-12-100-004) in Oswego Township

Mr. Asselmeier provided information on this case.

Member Gilmour made a motion, seconded by Member Kellogg, to approve forwarding the case to the State's Attorney's Office. With a voice vote of four (4) ayes, the motion carried.

Update on 45 Cheyenne Court

The Committee reviewed updated pictures of the property and requested Staff to push the State's Attorney's Office for enforcement on this case.

REVIEW NON-VIOLATION REPORT

The Committee reviewed the non-violation report.

UPDATE FOR HISTORIC PRESERVATION COMMISSION

Mr. Asselmeier stated the Historic Preservation Commission was accepting nominations for historic preservation awards and the Commission would hold a meeting with other historic preservation groups on February 19th at Chapel on the Green. The Commission continues to review the Historic Preservation Ordinance.

REVIEW PERMIT REPORT

The Committee reviewed the permit report.

REVIEW REVENUE REPORT

The Committee reviewed the revenue report.

CORRESPONDENCE

Mr. Asselmeier reported that the United City of Yorkville was considering changing their Future Land Use Map for properties along Eldamain Road.

COMMENTS FROM THE PRESS

None

EXECUTIVE SESSION

None

ADJOURNMENT

Member Kellogg made a motion, seconded by Member Gengler, to adjourn. With a voice vote of four (4) ayes, the motion carried. Chairman Prochaska adjourned the meeting at 7:28 p.m.

Minutes prepared by Matthew H. Asselmeier, AICP, Senior Planner

Page 5 of 5

STATE OF ILLINOIS

COUNTY OF KENDALL, ILLINOIS,

UNITED STATES OF AMERICA

COUNTY OF KENDALL

IN THE CIRCUIT COURT FOR THE TWENTY-THIRD JUDICIAL CIRCUIT

		Plaintiff,			1.1	:- 17	7,	
			vs.	Gen. No	. 20			
J	OSE A. MARTINEZ an	nd SILVIA MARTINEZ,					COMPLAIN	
		Defendants					NOTICE TO) APPEAR
			VIOLATION CHA		OCUMEN	Ţ		
1.		Kendall County State	s Attorney Office					
2.	Defendant Informat		and Silvia Martin					
	Name:	Jose A. Wartinez	and Shvia Martin	52				
	Address:	Street		City		State		Zip COE 42
_		1038 Harvey Roa	d	Oswe	3go		IL	60543
3.	Time and Location	of Violation: Street		City		State		Zip
	Location:	1038 Harvey Roa	d	Oswe			IL	60543
	Property P.I.N.: (If applicable)	03-12-100-004 03-12-100-013	Date(s) of Violat	ion:	5/13/2019-	2/26/2020	0	
4.	Ordinance Violation				-		hr	
	Alleged Violation:	Constructing a c area without ob permit			rdinance Ci	tation:	Kendall Cou Building Co Ordinance 2	de
5.	("Department") condu	: 2019 and February 26 ucted an inspection of t e- identified Ordinance	the above-identific	ed propert	y. At that tir	me, the D	epartment d	liscovered a
	Defendants allowed to	the construction of a c	friveway and par	king area	on their pro	perty wit	hout obtaini	ng a permit
	from the Department.		, , , , , , , , , , , , , , , , , , ,	3	•		FEB	28 7070
6.	Prayer for Relief: W	herefore, the County o	f Kendall prays fo	r the follow	wing:		CIECUIT CLE	SAN SE GENELLES
	b. A judgment be en the violation contic. All other relief the	and Guilty of the above intered in an amount u inues beyond the initia c Court deems just and	p to \$1,000.00 fo I violation, plus a	r the initial	l violation a	and up to sts and fe	\$1,000.00 fc	
7-	Notice to Defendant		- Marris 04 0000	-4 0.20 -		troom 11	4 of the Ken	dall County
	Courthouse, 807 W. paying a jury demand A default judgment violation continues be	APPEAR IN COURT of John Street, Yorkville, fee when entering you in the amount up to \$ eyond the initial violation.	Illinois 60560. Your appearance, ple 1,000.00 for the 1,000 be entered	u may der a, answer initial viola d in the ev	mand a jury to the char ation and u ent you fail	y trial by fi ge, or oth p to \$1,0 to appea	iling a jury di ler responsiv 00.00 for ea r in court or:	emand and we pleading. ach day the answer the
	charge made on the d	ate set for your court a	ppearance or any	uate to wil	ion the case	a io contin	aca. Allaire	J. Walla

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to

Brian Holdiman

Code Official

Kendall County Planning, Building, and Zoning Department

may issue if you fail to appear at any hearing.

Date: 2/27/20

Page 1 of 1

STATE OF ILLINOIS

UNITED STATES OF AMERICA

COUNTY OF KENDALL

60543

COLUMN CLERK KENDAN CO.

IL

IN THE CIRCUIT COURT FOR THE TWENTY-THIRD JUDICIAL CIRCUIT

C	OUNTY OF KEND	Plaintiff,	Can No	20	CV 4	!
		V\$.	Gen. No.			
1	OSE A. MARTINEZ	Z and SILVIA MARTINEZ,			CON	IPLAINT &
		Defendants.			NOT	ICE TO APPEAR
		ORDINANCE VIOLATION	CHARGING DO	CUMENT		
1. 2.	Prosecuting Ent	ity: Kendall County State's Attorney C	Office.			
	Name:	Jose A. Martinez and Silvia N	fartinez			
	Address:	Street	City		State	Zip

	(if applicable)				
4.	Ordinance Violation:				

Time and Location of Violation:

Location:	Street	reet City		Zip	
Loodion.	1038 Harvey Ro	ad Oswego) IL	60543	
Property P.I.N.:	03-12-100-004	Date(s) of Violation:	5/13/2019-2/26/2020		
(If applicable)	03-12-100-013				
Ordinance Violation	n:				

Oswego

Alleged Violation:	Operating a landscaping business in	Ordinance Citation:	Kendall County, III.
	Agricultural zoned property without a		Zoning Ordinance
	special use permit in violation of the		Section 7.01D
	Kendall County Zoning Ordinance		

5. Factual Allegations:

On or about May 13, 2019 and February 26, 2020, the Kendall County Planning, Building, and Zoning Department ("Department") conducted an inspection of the above-identified property. At that time, the Department discovered a violation of the above-identified Ordinance ("Violation"). Specifically, the Department observed the following: At all relevant times, Defendants' property has been located in a district zoned Agricultural. Defendants allowed the operation of a landscaping business and the storage of related equipment on the property without obtaining a special use permit. FEB 28 2020

6. Prayer for Relief: Wherefore, the County of Kendall prays for the following:

1038 Harvey Road

- a. Defendant be found Guilty of the above-identified ordinance violation;
- A judgment be entered in an amount up to \$500.00 for the initial violation and up to \$500.00 for each week the violation continues beyond the initial violation, plus all applicable court costs and fees; and
- All other relief the Court deems just and proper.

Notice to Defendant:

You are required to APPEAR IN COURT on March 24, 2020, at 8:30 a.m. in courtroom 114 of the Kendall County Courthouse, 807 W. John Street, Yorkville, Illinois 60560. You may demand a jury trial by filing a jury demand and paying a jury demand fee when entering your appearance, plea, answer to the charge, or other responsive pleading. A default ludgment in the amount up to \$500.00 for the initial violation and up to \$500.00 for each week the violation continues beyond the initial violation may be entered in the event you fail to appear in court or answer the charge made on the date set for your court appearance or any date to which the case is continued. An arrest warrant may issue if you fail to appear at any hearing.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to

Brian Holdiman Code Official

Kendall County Planning, Building, and Zoning Department

Page 1 of 1

Brian Holdiman

From: James Webb

Sent: Wednesday, February 24, 2021 8:35 AM

To: Brian Holdiman

Cc: Scott Koeppel; Matt Asselmeier

Subject: RE: OV19-049 Martinez

The fines imposed were \$32,800 (\$9,350 for the driveway, \$9,350 for junk and debris, \$14,000 for the special use violation, and \$100 court costs). Because the sentence was imposed by default (i.e., Mr. Martinez failed to appear in court), he has 30 days to ask the court to vacate the fines and conduct a new sentencing hearing. Therefore, our office won't consider further collection action until that 30-day window has lapsed.

James A. Webb Assistant State's Attorney Kendall County, Illinois 807 W. John Street Yorkville, Illinois 60560 630-553-4157

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From: Brian Holdiman

Sent: Wednesday, February 24, 2021 7:33 AM To: James Webb <jwebb@co.kendall.il.us>

Cc: Scott Koeppel <skoeppel@co.kendall.il.us>; Matt Asselmeier <masselmeier@co.kendall.il.us>

Subject: OV19-049 Martinez

Jim,

I plan to close this ordinance violation case and then reinvestigate in 30 days if the owner has not applied for the driveway permit, special use permit or removed the junk and debris. Will you please send me the amount of the fines that were levied yesterday?

Respectfully,

Brian Holdiman

Code Official - The County of Kendall - Pianning, Building & Zoning -111 West Fox Street room 203 Yorkville IL 60560 Office: (630) 553-4134 Cell: (630) 774-1161 Fax: (630) 553-4179

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

March 28, 2022 - 7:00 p.m.

CALL TO ORDER

Chairman Randy Mohr called the Zoning Board of Appeals meeting to order at 7:01 p.m.

ROLL CALL:

Members Present: Cliff Fox, Tom LeCuyer, Randy Mohr, Dick Thompson, Anne Vickery, and Dick

Whitfield

Members Absent: Scott Cherry

<u>Staff Present:</u> Matthew Asselmeier, AICP, CFM, Senior Planner <u>Others Present:</u> Andrew R. Smith, Jeremy Dippold, and Mark Fecht

PETITIONS

The Zoning Board of Appeals started their review of Petition 22-01 at 7:10 p.m.

Petition 22 – 01 – Jose and Silvia Martinez

Request: Special Use Permit for a Landscaping Business, Variance to Section 7:01.D.30.b to Allow

a Landscaping Business a Non-State, County, or Collector Highway as Defined by the Kendall County Land Resource Management Plan, and Variance to Section 11:02.F.7.b of the Kendall County Zoning Ordinance to Allow a Driveway Zero Feet from the Southern

Property Line

PINs: 03-12-100-004 and 03-12-100-013 Location: 1038 Harvey Road, Oswego Township

Purpose: Petitioner Wants to Operate a Landscaping Business at the Subject Property; Property is

Zoned A-1

Mr. Asselmeier provided a history of the Petition. The Kendall County Regional Planning requested a revised site plan showing the location of the southern driveway and documentation from the Village of Oswego approving the access point on Harvey Road. Neither the Petitioners nor their Attorney attended the March 23, 2022, Kendall County Regional Planning Commission meeting and the Kendall County Regional Planning Commission voted to continue the tabling of the Petition. Mr. Asselmeier discussed the impact of an involuntary annexation of the subject property. The next court date for this case is April 12, 2022.

Discussion occurred regarding the impact of annexation or the issuance of the special use permit on the fines.

Member Vickery made a motion, seconded by Member Whitfield, to table the Petition.

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

If the Petitioners submit the revised site plan and access approval from the Village of Oswego, the proposal will go back to the Kendall County Regional Planning Commission on April 27, 2022, and will return to the Zoning Board of Appeals on May 2, 2022.

The Zoning Board of Appeals completed their review of Petition 22-01 at 7:14 p.m.

PUBLIC COMMENTS

Mr. Asselmeier reported that, for the May hearing, there will be a Petition regarding changing the Future Land Use Map for the properties near 12565 Fox Road and a requested map amendment rezoning property along Brisbin Road in Seward Township from A-1 to R-1. The Seward Township moratorium and special use permit request for 1038 Harvey could also be on the agenda.

Mr. Asselmeier also reported that the County Board will recognize Karen Clementi at their meeting on April 5, 2022, at 6:00 p.m.

Mr. Asselmeier said the Village of Oswego Planning and Zoning Commission will hold a public hearing on April 7, 2022, at 7:00 p.m., to consider annexing the Hide-A-Way Lakes Campground.

ADJOURNMENT OF THE ZONING BOARD OF APPEALS

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

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

The Zoning Board of Appeals meeting adjourned at 7:46 p.m.

The next hearing/meeting will be on May 2, 2022.

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

Exhibits

- 1. Memo on Petition 22-01 Dated March 24, 2022
- 2. Certificate of Publication and Certified Mail Receipts for Petition 22-01 (Not Included with Report but on file in Planning, Building and Zoning Office)



KENDALL COUNTY ZONING BOARD OF APPEALS MARCH 28, 2022

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.

but the truth.	1555	GLONI A PRINCE
NAME	ADDRESS	SIGNATURE
Archew & Smith		
Andrew & Smith BEST BUDGET Trees JEVERNY Dippold Mark Fecher		
Mark Fecht		



DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 204
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: March 24, 2022

Re: Petition 22-01 Request for a Special Use Permit and Variances for a Landscaping Business

at 1038 Harvey Road in Oswego Township

At their meeting on February 23, 2022, the Kendall County Regional Planning Commission, by a vote of eight (8) in favor and zero (0) in opposition with one (1) member absent, voted to table Petition 22-01 until the Petitioner secured an access permit from the Village of Oswego for the southern driveway at the property or amended their site plan to remove the driveway, if the access permit was denied.

To date, the Petitioners have not provided proof that the Village of Oswego would approve the access permit and the Petitioners have not provided a site plan showing the location of the driveway in relation to the southern property line.

Neither the Petitioners nor their Attorney attended the March 23, 2022, Kendall County Regional Planning Commission and the Kendall County Regional Planning Commission voted to continue keeping the item on the table by a vote of seven (7) in favor and zero (0) in opposition with two (2) members absent.

The Petitioners' Attorney claimed that they were unaware of the March 23rd Kendall County Regional Planning Commission. Staff informed the Petitioners' Attorney on March 17th of the Kendall County Regional Planning Commission meeting. The related emails are attached.

Accordingly, Staff requests that the Kendall County Zoning Board of Appeals vote to continue the public hearing on this Petition until such time as either the Petitioners submit an approved access permit from the Village of Oswego or the Petitioners submits an amended site plan showing the southern driveway removed from the property or the Petitioners submit a site plan showing the location of the southern driveway in relation to the southern property line.

If you have any questions regarding this memo, please let me know.

MHA

Encs.: Meeting Notification Emails

Matt Asselmeier

From: Matt Asselmeier

Sent: Thursday, March 24, 2022 12:09 PM

To: judd lofchie

Cc: Scott Koeppel; Scott Gengler; Ruben Rodriguez; Faith D. Hook

Subject: FW: March 23rd Kendall County Regional Planning Commission Meeting

Judd:

Please see the following email that was sent to you on March 17th.

The subject heading clearly states the meeting will be March 23rd. Also, the first page of the linked document clearly states the meeting is March 23rd at 7:00 p.m.

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: Thursday, March 17, 2022 11:40 AM
To: judd lofchie <

Subject: FW: March 23rd Kendall County Regional Planning Commission Meeting

Judd:

The following email was sent to the Kendall County Regional Planning Commission this morning.

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: Thursday, March 17, 2022 11:35 AM

To: Bill Ashton; Bob Stewart; Claire Wilson; Dave Hamman; Karin McCarthy-Lange; Larry Nelson; Ruben Rodriguez; Scott

Gengler; Scott Koeppel; Seth Wormley; Tom Casey

Subject: March 23rd Kendall County Regional Planning Commission Meeting

Attachment 18, Page 6

Members of the Kendall County Regional Planning Commission:

Here is the link to the packet for the March 23rd meeting, https://www.co.kendall.il.us/home/showpublisheddocument/23364.

For Petition 22-01, the updates since the February meeting are on page 85 and the site plan is on pages 103 and 104.

For the item of new business, the subject properties are highlighted on the map on page 204.

Please let me know if you will be in attendance for the meeting.

If you have any questions, please let me know.

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

Matt Asselmeier

From: Sent: To: Subject:	judd lofchie < Thursday, March 24, 2022 12:01 PM Matt Asselmeier Fwd: [External]Fwd: 1038 Harvey Rd.
You had a meeting last night?	We thought it was next Monday per your email below. Please advise.
Judd	
From: Matt Asselmeier < mass Date: Fri, Mar 11, 2022 at 12:1 Subject: RE: [External]Fwd: 1 To: judd lofchie < Cc: Scott Koeppel < skoeppel@	selmeier@co.kendall.il.us>
Judd:	
I have been instructed to put this agenda.	special use permit request on the March 28 th Kendall County Zoning Board of Appeals
If the issue with the Village of Os	wego has not been resolved by the 28th, the hearing will be continued again.
Thanks,	
Matthew H. Asselmeier, AICP, CF	M
Senior Planner	
Kendall County Planning, Building	g & Zoning
111 West Fox Street	
Yorkville, IL 60560-1498	
PH: 630-553-4139	

judd lofchie

Matt Asselmeier

From:

Sent:	Monday, April 11, 2022 1:45 PM
To:	Matt Asselmeier, Miguel Ángel Fernández
Cc:	Scott Koeppel; Scott Gengler [External]Re: 1038 Harvey Road Question
Subject:	[External]Re: 1038 Harvey Road Question
CAUTION - This email origin recognize the sender and know	ated from outside the organization. Do not click links or open attachments unless you the content is safe.
Yes please. How much is the	e permit and does he make the check out to? Kendall County?
from Oswego. He said that (otes and on March 2nd, I spoke to Jay Hoover, the Building & Zoning Manager Oswego does not need to approve the curb cut for the gravel road. In a called Oswego and spoke to Amy Bates in the Development Services/Building & med that the road is outside the Village limits so they have no authority property.
said that they rarely get invo	o Road District and they are supposed to call me back, but the woman I spoke to olved with these types of issues especially if the drive is in existence and has been. ad Commissioner) will call me back.
So if neither the VIllage or RPC.	Oswego Township are needed to approve the permit, we would like to proceed to
Also, we would like to spea	k tonight.
Regards,	
Judd Lofchie	
On Mon, Apr 11, 2022 at 8	:32 AM Matt Asselmeier < masselmeier@co.kendall.il.us > wrote:
Judd:	
Mr. Martinez has not picket tonight?	ed up or paid for his deck permit. Do you want me to bring the permit to the meeting
Thanks,	

Attachment 20, Page 1 KENDALL COUNTY REGIONAL PLANNING COMMISSION

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

Meeting Minutes of March 23, 2022 - 7:00 p.m.

Vice Chairman Rodriguez called the meeting to order at 7:03 p.m.

ROLL CALL

Members Present: Tom Casey, Dave Hamman (Arrived at 7:06 p.m.), Karin McCarthy-Lange, Larry Nelson,

Ruben Rodriguez, Claire Wilson, and Seth Wormley Members Absent: Bill Ashton and Bob Stewart

Staff Present: Matthew H. Asselmeier, Senior Planner

Others Present: Scott Gengler, Tim O'Brien, Jillian Prodehl, Pete Fleming, and Suzanne Casey

PETITIONS

Petition 22-01 Jose and Silvia Martinez

Mr. Asselmeier provided an update from activities since the February meeting.

Since the February 23, 2022, Kendall County Regional Planning Commission meeting, the Petitioner moved the chicken coop and other outbuilding on the north side of the property out of the side yard setback. The Petitioners also applied for a deck permit; the Petitioners had not paid for the deck permit.

The Village of Oswego submitted an email requesting the driveway be moved at least five feet (5') from the property. Staff exchanged emails with the Petitioners' Attorney outlining the next steps. The Petitioners' Attorney believed that the driveway was located greater than five feet (5') from the southern property line. Staff requested the measurement of the driveway to the southern property line be added to the plat of survey. As of the date of this memo, this information has not been added to the plat. The above referenced emails were provided.

An inspection of the property occurred on March 16, 2022, and new gravel appeared to have been added to the driveway per the provided picture.

To Staff's knowledge, the Petitioners had not applied for an access permit from the Village of Oswego or a driveway permit from Kendall County.

The minutes of January 26, 2022, Kendall County Regional Planning Commission meeting and the February 28, 2022, Kendall County Zoning Board of Appeals hearing were provided.

Mr. Asselmeier noted that Staff's recommendation and proposed conditions remained unchanged.

Neither the Petitioner nor his Attorney were in attendance.

Member Hamman arrived at this time (7:06 p.m.).

Member Nelson felt that the Petitioners had not provided the Commission with the requested site plan showing the correct location of the southern driveway.

Member Nelson made a motion, seconded by Member Wilson, to continue to table until the Petitioners submitted a site plan showing the access point for the southern driveway on Harvey Road.

The votes were as follows:

Ayes (7): Casey, Hamman, McCarthy-Lange, Nelson, Rodriguez, Wilson, and Wormley

Nays (0): None

Absent (2): Ashton and Stewart

Abstain (0): None

The motion carried.

This proposal will be tabled until the requested site plan is submitted. The Kendall County Zoning Board of Appeals will be notified of the tabling.

CITIZENS TO BE HEARD/PUBLIC COMMENT

None

ADJOURNMENT

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

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

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

Enc.



KENDALL COUNTY REGIONAL PLANNING COMMISSION MARCH 23, 2022

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)
Tem OBrien		
Peter lengy		
Jillian Prodehl		



Matt Asselmeier

Judd:

Watt Assemiler	
From: Sent: To: Cc: Subject: Attachments:	Matt Asselmeier Friday, March 18, 2022 1:54 PM Rod Zenner; judd lofchie Scott Koeppel; Scott Gengler; Ruben Rodriguez; Faith D. Hook RE: [External]Fwd: 1038 Harvey Rd. Attachment 3 Landscaping Plan.pdf
	rill still be 20 feet in width, but will be no closer than 5 feet to the southern property rent than the attached, submitted landscaping plan.
Matthew H. Asselmeier, AICP, CFP Senior Planner Kendall County Planning, Building 111 West Fox Street Yorkville, IL 60560-1498 PH: 630-553-4139 Fax: 630-553-4179	
	BPM ; Matt Asselmeier <masselmeier@co.kendall.il.us> kendall.il.us>; Scott Gengler <sgengler@co.kendall.il.us>; Ruben Rodriguez ith D. Hook <fhook@co.kendall.il.us></fhook@co.kendall.il.us></sgengler@co.kendall.il.us></masselmeier@co.kendall.il.us>
That sounds correct.	
Rod	
Cc: Scott Koeppel < skoeppel@co.	er@co.kendall.il.us>; Rod Zenner < <u>RZenner@oswegoil.org</u> > kendall.il.us>; Scott Gengler < <u>sgengler@co.kendall.il.us</u> >; Ruben Rodriguez ith D. Hook < <u>fhook@co.kendall.il.us</u> >
Hi Rod:	
The driveway is 5 to 7 feet from the Oswego. Am I right Rod?	he property line. It's not a straight line. So I don't think we will need a variance from
On Wed, Mar 16, 2022 at 11:39 A	M Matt Asselmeier < masselmeier@co.kendall.il.us > wrote:



Attachment 21, Page 1 KENDALL COUNTY REGIONAL PLANNING COMMISSION

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

Unapproved - Meeting Minutes of April 27, 2022 - 7:00 p.m.

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

ROLL CALL

Members Present: Bill Ashton, Tom Casey, Dave Hamman, Karin McCarthy-Lange, Larry Nelson, Ruben

Rodriguez, Claire Wilson (Arrived at 7:06 p.m.), and Seth Wormley

Members Absent: Bob Stewart

Staff Present: Matthew H. Asselmeier, Senior Planner

Others Present: Dan Kramer, Judd Lofchie, Jose Martinez, Tim O'Brien, Michael Eurkaitis, Irma Quezada,

Donald Larkin, and Jo Beth Larkin

Petition 22-01 Jose and Silvia Martinez

Mr. Asselmeier provided an update from activities since the February meeting.

Since the February 23, 2022, Kendall County Regional Planning Commission meeting, the Petitioner moved the chicken coop and other outbuilding on the north side of the property out of the side yard setback. The Petitioners also applied for and received a deck permit.

The Village of Oswego submitted an email requesting the driveway be moved at least five feet (5') from the property. Staff exchanged emails with the Petitioners' Attorney outlining the next steps. The Petitioners' Attorney believed that the driveway was located greater than five feet (5') from the southern property line. Staff requested the measurement of the driveway to the southern property line be added to the plat of survey. As of the date of this memo, this information has not been added to the plat. The above referenced emails were provided.

An inspection of the property occurred on March 16, 2022, and new gravel appeared to have been added to the driveway per the provided picture.

The Petitioners have not applied for an access permit from the Village of Oswego or a driveway permit from Kendall County. The Petitioners' Attorney submitted an email stating the that Village of Oswego did not need to approve the access permit. This email was provided. Staff provided additional emails related to the access permit. An access permit from the Village of Oswego will be required.

On April 11, 2022, the Kendall County Planning, Building and Zoning Committee met to discuss issuing new, additional citations at the property. The consensus of the Committee was to not have the Department issue new citations related to the operation of the landscaping business or the placement of the driveway. The Petitioners were given ten (10) days to clean up and organize the property. Updated photos were provided.

The minutes of January 26, 2022, Kendall County Regional Planning Commission meeting and the February 28, 2022, Kendall County Zoning Board of Appeals hearing were provided. The minutes of the February 23, 2022

Attachment 21, Page 2

Kendall County Regional Planning Commission meeting and March 28, 2022 Kendall County Zoning Board of Appeals hearing were also provided.

Updated photos of the property were provided.

Mr. Asselmeier noted that the Petitioners would need to amend the site plan if they desired to construct a building in the future and that the Petitioners were not pursuing stormwater management permit because their piles of materials would be less than three feet (3').

The Petitioners requested that the hours of operation be changed to 6:00 a.m. until 8:00 p.m. seven (7) days per week and that they be allowed to operate year-round.

Judd Lofchie, Attorney for the Petitioners, provided a history of the case and the uses in the area, including another landscaping business. He noted that the Petitioners had cleaned up their property, moved their chicken coop, and secured a deck permit. No neighbors have complained about the property. Discussion occurred regarding the timing of the installation of the gravel along the south property line.

Member Nelson discussed the Petitioners' language barrier.

Member Rodriguez defended the County's pro-business activities and the Planning, Building and Zoning Department's efforts to help the Petitioners gain compliance.

Discussion occurred about the ownership of Harvey Road and the requirement for an access permit from the Village of Oswego. Member Wormley explained the drainage reasons for the necessity of the access permit.

Member McCarthy-Lange expressed frustration that the Petitioners had not done everything required of them.

Member Nelson said the Petitioners could have obtained an updated site plan and access permit from the Village of Oswego within the last two (2) months, if they had completed the Planning Commission's request.

The email from the Village of Oswego requiring an access was re-read. Mr. Lofchie had not challenged the Village of Oswego's previous responses on the subject.

Mr. Lofchie requested that the Petition be moved forward with the condition that the Petitioners secure an access permit from the Village of Oswego. The Planning Commission declined the request on the grounds that a site plan is necessary to approve a special use permit and the submitted site plan would no longer be valid if the south driveway was moved.

Member Wilson did not care about the driveway, but she was not happy that the Petitioners ignored previous requests for compliance.

The Petitioners must submit an access permit and revised site plan by May 18, 2022, in order to be on the May 25, 2022, Planning Commission agenda. The driveway does not have to be installed.

The Petition will remain tabled until an access permit and revised site plan are submitted.

Member Rodriguez encouraged the Petitioners to learn from this experience and to follow the rules.

CITIZENS TO BE HEARD/PUBLIC COMMENT

Jo Beth Larkin asked if Seward Township was going to create their own Township Plan. Chairman Ashton

Attachment 21, Page 3

responded that Seward Township already had a Plan and they were trying to update their Plan. She asked if she should attend Township meetings. She was advised to attend Township meetings. A public hearing will occur on the Land Resource Management Plan. Member Nelson invited Ms. Larkin to the February Annual Meeting.

ADJOURNMENT

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

The Kendall County Regional Planning Commission meeting adjourned at 9:03 p.m.

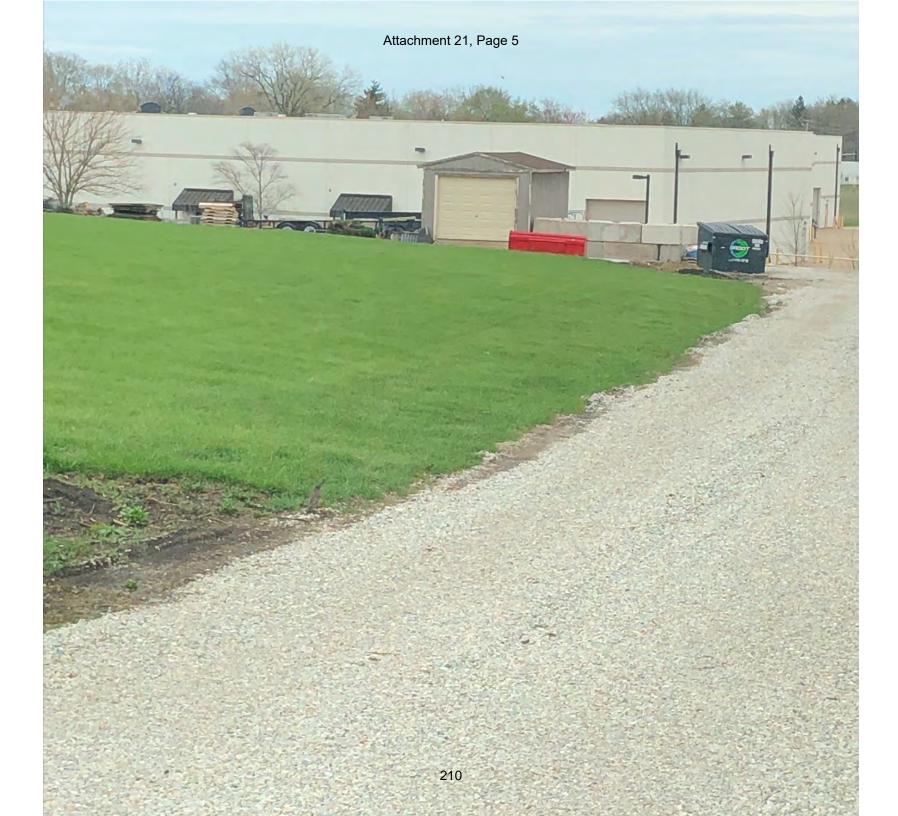
Respectfully submitted by, Matthew H. Asselmeier, AICP, CFM Senior Planner



KENDALL COUNTY REGIONAL PLANNING COMMISSION APRIL 27, 2022

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)	
Don Krimer			
Tim Brien			
ah.			
M. EURKAME	-		
Juld Lofchie			
JO BETH LARKIN			











Matt Asselmeier

From: Fran Klaas

Sent: Tuesday, November 30, 2021 9:17 AM

To: Matt Asselmeier; Jennifer Hughes; Rod Zenner

Cc: Scott Gengler; Scott Koeppel

Subject: RE: [External]RE: Harvey Road Question

Haven't seen any responses to this yet, so thought I'd respond in regard to jurisdiction question. Although the parcel at 1038 Harvey Road is unincorporated, Harvey Road itself at this location would be under the jurisdiction of Village of Oswego. This is because Oswego has annexed the west side of Harvey Road at this location, and so, by law, that annexation would go to the far side (east side) of the right-of-way.

Francis C. Klaas, P.E. Kendall County Engineer 6780 Route 47, Yorkville, IL 60560 (630) 553-7616 fklaas@co.kendall.il.us

From: Matt Asselmeier

Sent: Wednesday, November 24, 2021 9:22 AM

To: Jennifer Hughes < JHughes@oswegoil.org>; Rod Zenner < RZenner@oswegoil.org>

Cc: Fran Klaas < FKlaas@co.kendall.il.us >; Scott Gengler < sgengler@co.kendall.il.us >; Scott Koeppel

<skoeppel@co.kendall.il.us>

Subject: RE: [External]RE: Harvey Road Question

Jennifer and Rod:

I know that I wrote this before (apparently on June 24, 2020 to be exact), but the County is likely to receive a special use permit for a landscaping business at 1038 Harvey Road.

Does the Village of Oswego control Harvey Road at this address? If yes, would Oswego require an access permit for the southern driveway at this property?

The property owner installed the southern driveway without proper permits from the County.

Does Oswego have any other concerns that they would like the property owner to address as part of the special use permit application?

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: Jennifer Hughes [mailto:JHughes@oswegoil.org]

Sent: Wednesday, June 24, 2020 1:19 PM

To: Matt Asselmeier < masselmeier@co.kendall.il.us >; Rod Zenner < RZenner@oswegoil.org >

Cc: Fran Klaas < FKlaas@co.kendall.il.us >; Matthew G. Prochaska < mprochaska@co.kendall.il.us >; Scott Koeppel

Matt Asselmeier

judd lofchie From: Tuesday, April 26, 2022 12:55 PM Sent: Matt Asselmeier; Miguel Ángel Fernández; Natural world landscaping To: Scott Koeppel; Scott Gengler; Faith D. Hook Cc: Re: FW: [External]Re: 1038 Harvey Road Question Subject: Dear Faith, Matt, Scott K. and Scott G. I am sending this email concerning Matt's last email of April 21, stating that the Regional Planning Commission will not issue a recommendation for our case until we settle our issue with Oswego. Jennifer from Oswego says in her email to Matt that my client's access road must line up with Meadows Court across the street. In my opinion, Oswego can not force my client to apply for a driveway permit. First, I don't believe the road is under the control of the VIllage of Oswego. Just because they annexed Brighton Ridge across the street, they would only annex to the middle of Harvey Road and not my client's side of the street.. And because my client's property is not in the Village of Oswego, how could they require him to do anything. I was told by Oswego Highway Supervisor Claude's assistant Jennifer, on March 3nd at 12:33pm that the section of Harvey Road in front of my client's house is in the Township, not the Village of Oswego. We understand that if we annex into Oswego, we may have issues with the driveway, but we are willing to risk that currently, so we can get approved and not have to start over and move the drive. We will discuss next fall annexing into Oswego and moving the drive after we discuss this with them and my clients. We hope to be able to move this forward Wednesday night. Thank you. Judd Lofchie On Thu, Apr 21, 2022 at 3:06 PM Matt Asselmeier < masselmeier@co.kendall.il.us > wrote: Judd: Please see the following message from the Village of Oswego. As has been stated previously, the Regional Planning Commission probably will not issue a recommendation unless the access issues with the Village of Oswego are addressed. Addressing these issues (i.e. having the driveway align with Meadows Court) will require changing the site plan and landscaping plan.

However, it appears the Village is offering annexation as an opportunity to avoid changing the alignment.

Attachment 21, Page 12

Please advise as to how you would like to proceed.
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: Jennifer Hughes [mailto: JHughes@oswegoil.org] Sent: Thursday, April 21, 2022 2:51 PM To: Matt Asselmeier < masselmeier@co.kendall.il.us>; Rod Zenner < RZenner@oswegoil.org> Cc: Jay Hoover < JHoover@oswegoil.org>; Scott Koeppel < skoeppel@co.kendall.il.us>; Scott Gengler < sgengler@co.kendall.il.us>; Brian Schiber < BSchiber@oswegoil.org> Subject: RE: [External]Re: 1038 Harvey Road Question
Matt,
They will need to apply for driveway permit on the <u>Commercial Building permit</u> application. Our commercial driveway detail is attached. The centerline of the drive should align with the centerline of Meadows Court. The driveway should be located off the property line to allow for drainage and any easements that may be along that property line. The

d ditch line needs to be surveyed to determine if a driveway culvert is required. Culverts will need to be constructed in accordance with Section 8.404B of the Subdivision Regulations.

The Village is not proposing to force annex the property at this time. If they annex, their current operation may violate our ordinances, so they could possibly be grandfathered in to what they have now, but could not expand.

Jennifer Hughes, P.E., CFM

Public Works Director/Village Engineer



PH: 630.551.2366

Email: jhughes@oswegoil.org

From: Matt Asselmeier < masselmeier@co.kendall.il.us >

Sent: Monday, April 18, 2022 5:30 PM

To: Jennifer Hughes < JHughes@oswegoil.org >; Rod Zenner < RZenner@oswegoil.org >

Cc: Jay Hoover < JHoover@oswegoil.org >; Scott Koeppel < skoeppel@co.kendall.il.us >; Scott Gengler

<sgengler@co.kendall.il.us>

Subject: RE: [External]Re: 1038 Harvey Road Question

Correct, but does the Village require an access permit for any driveways installed at the subject property?

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: Jennifer Hughes [mailto:JHughes@oswegoil.org]

Sent: Monday, April 18, 2022 4:41 PM

To: Matt Asselmeier < masselmeier@co.kendall.il.us >; Rod Zenner < RZenner@oswegoil.org >

Cc: Jay Hoover < JHoover@oswegoil.org >; Scott Koeppel < skoeppel@co.kendall.il.us >; Scott Gengler

<sgengler@co.kendall.il.us>

Subject: RE: [External]Re: 1038 Harvey Road Question

The road itself is located within the Village limits by virtue of annexation of property on the far (west) side (Brighton Meadows). The subject property, however, is not located within the municipal corporate limits.

Sincerely,

Jennifer Hughes, P.E., CFM

Public Works Director/Village Engineer



PH: 630.551.2366

Email: jhughes@oswegoil.org

From: Matt Asselmeier < masselmeier@co.kendall.il.us >

Sent: Monday, April 18, 2022 8:08 AM

To: Rod Zenner < RZenner@oswegoil.org >; Jennifer Hughes < JHughes@oswegoil.org >

Cc: Jay Hoover < JHoover@oswegoil.org >; Scott Koeppel < skoeppel@co.kendall.il.us >; Scott Gengler

<sgengler@co.kendall.il.us>

Subject: RE: [External]Re: 1038 Harvey Road Question

From: Matt Asselmeier

Sent: Wednesday, April 27, 2022 8:48 AM

To: judd lofchie

Cc: Scott Koeppel; Scott Gengler; Faith D. Hook
Subject: RE: FW: [External]RE: Harvey Road Question

Judd:

Source: https://idot.illinois.gov/Assets/uploads/files/Transportation-System/Manuals-Guides-&-Handbooks/T2/P034 JTGuide.pdf

4-5 ANNEXATIONS BY MUNICIPALITIES Pursuant to 65 ILCS 5/7-1-1, whenever a municipality annexes property: "The new boundary shall extend to the far side of any adjacent highway and shall include all of every highway within the area annexed. These highways shall be considered to be annexed even though not included in the legal description set forth in the petition for annexation." When roads under township jurisdiction are annexed by municipalities, these roads automatically become municipal streets under municipal jurisdiction (see the section below entitled 'Townships Cannot Have Jurisdiction in Municipalities' for further discussion). When roads under state or county jurisdiction are annexed by municipalities, these roads remain under state and county jurisdiction; unless a formal agreement is executed that transfers jurisdiction to another highway authority.

4-6 TOWNSHIPS CANNOT HAVE JURISDICTION IN MUNICIPALITIES Pursuant to 605 ILCS 5/6-203, a township highway commissioner has no power or jurisdiction over streets and alleys in municipalities. Therefore, when a municipality annexes property that includes a township road, the annexing municipality automatically assumes jurisdiction of that road. Pursuant to 65 ILCS 5/7-1-1, the municipality is required to notify the affected township when a proposed annexation includes a highway under that township's jurisdiction. Failure to notify the involved township can result in the municipality having to reimburse the township for any losses or liability incurred by the township for the annexed highway when that highway was already the responsibility of the municipality.

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: judd lofchie [mailto

Sent: Tuesday, April 26, 2022 2:43 PM

To: Matt Asselmeier < masselmeier@co.kendall.il.us>

Cc: Scott Koeppel <skoeppel@kendallcountyil.gov>; Scott Gengler <sgengler@co.kendall.il.us>; Faith D. Hook

<fhook@co.kendall.il.us>

Subject: Re: FW: [External]RE: Harvey Road Question

Thank you for responding Francis. Can you tell me what law that is? I just have never heard of that before.

On Tue, Apr 26, 2022 at 2:36 PM Matt Asselmeier < masselmeier@co.kendall.il.us > wrote:

From: Matt Asselmeier

Sent: Wednesday, April 27, 2022 2:39 PM

To: judd lofchie

Cc: Miguel Ángel Fernández; Natural world landscaping; Scott Koeppel; Scott Gengler; Faith

D. Hook

Subject: RE: FW: [External]Re: 1038 Harvey Road Question
Attachments: Sept 2009 Google Map.jpg; July 2017 Google Map.jpg

Judd:

The plat for Brighton Ridge Subdivision was recorded at 12:14 p.m. on February 1st 2005.

Other than memory, does your client have any proof the driveway was in that location in 2002. The aerials do not show a driveway on the property until 2020. The attached images from 2009 and 2017 from Google Maps clearly show no driveway at either of those points in time.

I will bring up the request to change the hours of and season of operation at tonight's meeting.

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: judd lofchie [mailto

Sent: Wednesday, April 27, 2022 2:06 PM

To: Matt Asselmeier < masselmeier@co.kendall.il.us>

Cc: Miguel Ángel Fernández <

<naturalworldlandscaping@gmail.com>; Scott Koeppel <skoeppel@kendallcountyil.gov>; Scott Gengler

<sgengler@co.kendall.il.us>; Faith D. Hook <fhook@co.kendall.il.us>

Subject: Re: FW: [External]Re: 1038 Harvey Road Question

Matt: Please change the conditions to year around and that he can be open from 6 am to 8pm 7 days a week (just so he can do snowplowing)

I have done some more research on this matter. Brighton Ridge Subdivision was built in 2007. I am attaching the property tax record for one of the homes. I assume they were all built at the same time.

The gravel driveway at my client's house has been there since 2002. My client used to work for a company in 2000 to 2002 and he saw the gravel driveway there in 2002 (he thinks possibly 2001, but he is sure 2002). So since my client had his driveway first, Oswego can not compel us to get a driveway permit, because to think otherwise, would mean that whenever a property is annexed into Oswego, the owner across the street would have to go apply for a driveway permit. That is not legal. And that is why the Township said they will not get involved, because the gravel driveway has been there for a long time.

So we would like to proceed tonight. I think it's only fair.

We will explore annexing into Oswego, but I don't want to stop this process and start over.

Regards,

Judd Lofchie

On Tue, Apr 26, 2022 at 2:15 PM Matt Asselmeier < masselmeier@co.kendall.il.us > wrote:

Judd:

What would be the earliest that the business would start operations? What would be the latest the business would like to stay open? Please include any necessary time preparing for leaving and putting things away in the hours of operation.

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: judd lofchie [mailto:judd1299@gmail.com]

Sent: Tuesday, April 26, 2022 2:11 PM

To: Matt Asselmeier < masselmeier@co.kendall.il.us >

Cc: Miguel Ángel Fernández < mafernandezesq@gmail.com >; Natural world landscaping

<naturalworldlandscaping@gmail.com>; Scott Koeppel <skoeppel@kendallcountyil.gov>; Scott Gengler

<sgengler@co.kendall.il.us>; Faith D. Hook <fnook@co.kendall.il.us>

Subject: Re: FW: [External]Re: 1038 Harvey Road Question





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

May 2, 2022 – 7:00 p.m.

CALL TO ORDER

Vice-Chairman Tom LeCuyer called the Zoning Board of Appeals meeting to order at 7:05 p.m.

ROLL CALL:

Members Present: Scott Cherry, Cliff Fox, Tom LeCuyer, Dick Thompson, Anne Vickery, and Dick

Whitfield

Members Absent: Randy Mohr

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

Others Present: Dan Kramer and Dustin Walzer

The Zoning Board of Appeals started their review of Petition 22-01 at 7:31 p.m.

Petition 22 - 01 - Jose and Silvia Martinez

Request: Special Use Permit for a Landscaping Business, Variance to Section 7:01.D.30.b to Allow

a Landscaping Business a Non-State, County, or Collector Highway as Defined by the Kendall County Land Resource Management Plan, and Variance to Section 11:02.F.7.b of the Kendall County Zoning Ordinance to Allow a Driveway Zero Feet from the Southern

Property Line

PINs: 03-12-100-004 and 03-12-100-013 Location: 1038 Harvey Road, Oswego Township

Purpose: Petitioner Wants to Operate a Landscaping Business at the Subject Property; Property is

Zoned A-1

Mr. Asselmeier reported that, at their meeting on April 27, 2022, the Kendall County Regional Planning Commission asked that the Petitioner submit an access permit to the Village of Oswego and related site plan. If the Petitioner submitted an access permit application and related site plan by May 18, 2022, the proposal would be on the Planning Commission's May 25, 2022 agenda. Staff requested the proposal to be continued until May 31, 2022.

Member Thompson made a motion, seconded by Member Fox, to continue the public hearing on this Petition. Without objection, the proposal was continued.

The proposal will be on the May 31, 2022, Zoning Board of Appeals agenda.

The Zoning Board of Appeals completed their review of Petition 22-01 at 7:33 p.m.

PUBLIC COMMENTS

Mr. Asselmeier reported that, for the May 31st hearing, there will be a Petition requesting a special use permit for a landscaping business on the north side of Route 52 west of Arbeiter Road in Seward Township.

Mr. Asselmeier also reported that he was recently elected President of the Illinois Association of County Zoning Officials.

Mr. Asselmeier also reported that Hide-A-Way Lakes was annexed in the Village of Oswego.

The County received a price quote from Teska Associates to update the Land Resource Management Plan. This will quote will be reviewed by the Regional Planning Commission at their May meeting.

ADJOURNMENT OF THE ZONING BOARD OF APPEALS

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

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

The Zoning Board of Appeals meeting adjourned at 8:12 p.m.

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

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

Exhibits

- 1. Memo on Petition 22-01 Dated April 28, 2022
- 2. Certificate of Publication and Certified Mail Receipts for Petition 22-01 (Not Included with Report but on file in Planning, Building and Zoning Office)



KENDALL COUNTY ZONING BOARD OF APPEALS MAY 2, 2022

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	ADDDECC	SIGNATURE
Dav Krow 21-49	,	
	/-	



DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 204
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: April 28, 2022

Re: Petition 22-01 Request for a Special Use Permit and Variances for a Landscaping Business

at 1038 Harvey Road in Oswego Township

This Petition remained tabled at the April 27, 2022, Kendall County Regional Planning Commission meeting. The Petitioner was advised to submit an access permit application to the Village of Oswego including an updated site plan. If the Petitioner submitted an access permit and an updated site plan reflecting the new driveway location by May 18, 2022, the Petition would be placed on the May Kendall County Regional Planning Commission agenda.

Accordingly, Staff requests that the Kendall County Zoning Board of Appeals vote to continue the public hearing on this Petition.

If you have any questions regarding this memo, please let me know.

MHA

Attachment 23, Page 1 KENDALL COUNTY REGIONAL PLANNING COMMISSION

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

Unapproved - Meeting Minutes of May 25, 2022 - 7:00 p.m.

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

ROLL CALL

Members Present: Bill Ashton, Tom Casey, Dave Hamman (arrived at 7:02 p.m.), Karin McCarthy-Lange,

Larry Nelson, Ruben Rodriguez, Claire Wilson, and Seth Wormley

Members Absent: Bob Stewart

Staff Present: Matthew H. Asselmeier, Senior Planner

Others Present: Suzanne Casey, Samantha Dippold, Jeremy Dippold, Joe Frescura, Tim O'Brien, Anne Vickery, Robert Delaney, Pat Frescura, Jim Martin, Dave Shively, Tony Guzman, Kim Larkin, and Steve

Papaeliou

APPROVAL OF AGENDA

Member Rodriguez made a motion, seconded by Member McCarthy-Lange, to approve the agenda. With a voice vote of seven (7) ayes, the motion carried.

APPROVAL OF MINUTES

Member Nelson made a motion, seconded by Member Rodriguez, to approve the minutes of the April 27, 2022, meeting.

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

Member Hamman arrived at this time 7:02 p.m.

Mr. Asselmeier noted that Member Casey had asked about a property on the south side of Route 52 east of Arbeiter Road at the April Planning Commission meeting. Mr. Asselmeier said that four (4) agricultural accessory building permits and a driveway permit have been issued at that property. The owner comes out to the property on weekends to work on the property.

Petition 22-01 Jose and Silvia Martinez

Mr. Asselmeier provided several emails related to this Petition. The Petitioners' Attorney requested the proposal be continued to June. Without objection, the proposal was continued as requested.

CITIZENS TO BE HEARD/PUBLIC COMMENT

None

ADJOURNMENT

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

The Kendall County Regional Planning Commission meeting adjourned at 9:08 p.m.

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

Enc.

KENDALL COUNTY REGIONAL PLANNING COMMISSION

STENED PAPAELIO MAY 25, 2022

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)	
Their Brien			
Joe FRESCURA			
Jeremy Dippold			
any Very			
Robert St			
Pat Bescur			
Sam marte			
DAVE SHIVELY		(°	
DAVE SHIVERY BONY Grown			
Kim Carkin	231		

From: Sent: To:	judd lofchie Wednesday, May 25, 2022 11:20 AM Matt Asselmeier
Cc:	Scott Koeppel; Scott Gengler; Faith D. Hook
Subject:	Re: FW: [External]Re: Curb cut
Great. Thanks Matt. Please leabout paving or installing conanswers from Oswego!	et them know the only reason we did not resubmit, as I could not get that answer crete for the entire gravel driveway. As you could see, it takes a lot of time to get
Judd	
On Wed, May 25, 2022 at 11:	10 AM Matt Asselmeier < masselmeier@kendallcountyil.gov > wrote:
Judd:	
I will notify the Regional Planni	ng Commission that you would like the matter continued to next month.
The Regional Planning Commiss	sion meeting would be June 22 nd and the Zoning Board hearing wou ld be June 27 th . Both
start at 7:00 p.m.	
Yes, the Petition can be amend	ed to incorporate the new site plan.
Thanks,	
Matthew H. Asselmeier, AICP, C	CFM
Senior Planner	
Kendall County Planning, Buildi	ng & Zoning
111 West Fox Street	
Yorkville, IL 60560-1498	
PH: 630-553-4139	

From:

judd lofchie

Sent:

Wednesday, May 25, 2022 11:06 AM

To:

Matt Asselmeier

Subject:

Re: FW: [External]Re: Curb cut

Thanks. I did see that and have been on the phone with Mr. Martinez and working on a new drawing to relocate the driveway. We will resubmit this hopefully by Friday. So can you continue our hearing tonight as hopefully next month we will have the approval from Oswego. Also, since we are changing the drawing, can we just amend our petition?

On Wed, May 25, 2022 at 9:03 AM Matt Asselmeier < masselmeier@kendallcountyil.gov > wrote:

FYI

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: Jennifer Hughes < JHughes@oswegoil.org>

Sent: Wednesday, May 25, 2022 9:01 AM

To: Matt Asselmeier < masselmeier@kendallcountyil.gov >; Jay Hoover@oswegoil.org >

Cc: Scott Koeppel < skoeppel@kendallcountyil.gov >; Scott Gengler < sgengler@kendallcountyil.gov >; Rod Zenner

<RZenner@oswegoil.org>

Subject: RE: [External]Re: Curb cut

Good morning,

That portion of the driveway within the right-of-way needs to be concrete per our commercial drive standard as the right-of-way at this property is within Oswego even though the property is not.

From: Jennifer Hughes < JHughes@oswegoil.org>

Sent: Wednesday, May 25, 2022 9:03 AM

To: judd lofchie; Matt Asselmeier; Scott Gengler; Scott Koeppel; Faith D. Hook; Miguel Ángel

Fernández

Subject: [External]RE: Martinez

CAUTION - This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

The right-of-way at Twin Oaks is not under the jurisdiction of Oswego so it is irrelevant to this situation.

That portion of the driveway within the right-of-way needs to be concrete per our commercial drive standard as the right-of-way at this property is within Oswego even though the property is not.

Sincerely,

Jennifer Hughes, P.E., CFM

Public Works Director/Village Engineer

PH: 630.551.2366

Email: jhughes@oswegoil.org

From: judd lofchie

Sent: Monday, May 23, 2022 1:46 PM

To: Matt Asselmeier <masselmeier@co.kendall.il.us>; Scott Gengler <sgengler@co.kendall.il.us>; Scott Koeppel

<skoeppel@kendallcountyil.gov>; Faith D. Hook <fhook@co.kendall.il.us>; Miguel Ángel Fernández

; Jennifer Hughes < JHughes@oswegoil.org>

Subject: Re: Martinez

Here is Twin Oaks driveway by the way.

Hey Matt

Once again I have not been able to get an answer from Oswego which is why we have not finished the driveway curb cut application. I am worried that their driveway permit calls for an asphalt or concrete driveway. That would make our issue cost prohibitive for Mr. Martinez.

Do you know or can you help us get an answer from Oswego if just the "curb cut" has to be asphalt or concrete or does

From: judd lofchie

Sent: Monday, May 23, 2022 1:46 PM

To: Matt Asselmeier; Scott Gengler; Scott Koeppel; Faith D. Hook; Miguel Ángel Fernández;

Jennifer Hughes

Subject: [External]Re: Martinez

Attachments: Twin Oaks Curb Cut 5.19.22.jpg

CAUTION - This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Here is Twin Oaks driveway by the way.

On Mon, May 23, 2022 at 1:43 PM judd lofchie < Wrote: Hey Matt

Once again I have not been able to get an answer from Oswego which is why we have not finished the driveway curb cut application. I am worried that their driveway permit calls for an asphalt or concrete driveway. That would make our issue cost prohibitive for Mr. Martinez.

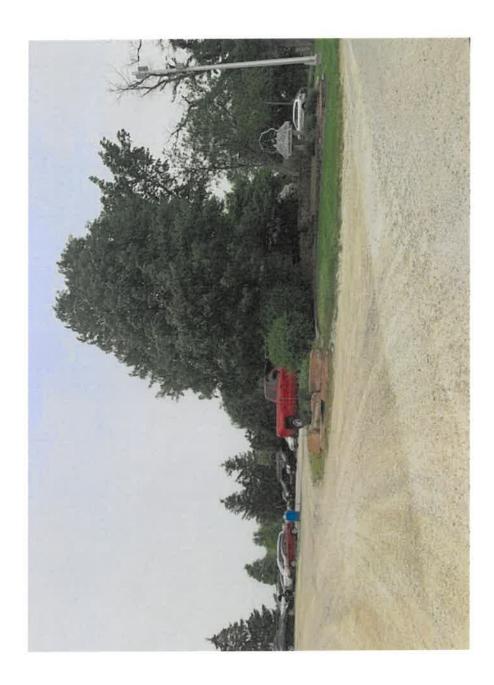
Do you know or can you help us get an answer from Oswego if just the "curb cut" has to be asphalt or concrete or does the entire gravel drive have to be asphalt or concrete. I know Twin Oaks down the street just has gravel. I have left several messages.

Thanks in advance.

Judd

Judd Lofchie, LLM, P.C. Attorneys at Law 1999 W. Galena Blvd. Aurora, IL 60506 fax 630-236-3525 630-236-3600 www.AuroraPropertyLaw.com

Judd Lofchie is a Rotarian and the founder of StreetWise Magazine in Chicago; please buy it, take it, read it, share it, and leave it on your work coffee table. Thank you!



From: Matt Asselmeier

Sent: Monday, May 23, 2022 2:39 PM

To: judd Iofchie; Scott Gengler; Scott Koeppel; Faith D. Hook; Miguel Ángel Fernández

Subject: FW: [External]MARTINEZ - BUILDING PERMIT APPLICATION - DRIVEWAY

Attachments: MARTINEZ - BUILDIG PERMIT APPLICATION DRIVEWAY - 4.29.22.pdf; Commercial

Driveway Detail.pdf

Importance: High

Judd:

The Village of Oswego sent me the following email this morning.

With regards to Twin Oaks Landscaping, the Village of Oswego has not annexed this property or the property across the street. Therefore, the access permitting authority is the Township of Oswego and not the Village of Oswego.

If you cannot reach Jennifer Hughes, I suggest you try to reach Jay Hoover.

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: Jay Hoover < JHoover@oswegoil.org > Sent: Monday, May 23, 2022 11:34 AM

To: Matt Asselmeier < masselmeier@kendallcountyil.gov>

Cc: Rod Zenner <RZenner@oswegoil.org>; Jennifer Hughes <JHughes@oswegoil.org>; BZinfo <BZinfo@oswegoil.org>

Subject: FW: [External]MARTINEZ - BUILDING PERMIT APPLICATION - DRIVEWAY

Importance: High

Matt.

The applicant also called and left a message saying they will not be installing the commercial driveway detail provided by the village engineer. Therefore we cannot issue or even review the application as it does not have drawings accurately showing the improvements to be installed in conformance with the codes/ standards. The applicants voicemail indicated they would not be locating the curb cut, or driveway in a conforming matter. Therefore there is no reason to move a permit forward.

Jay Hoover

Building and Zoning Manager



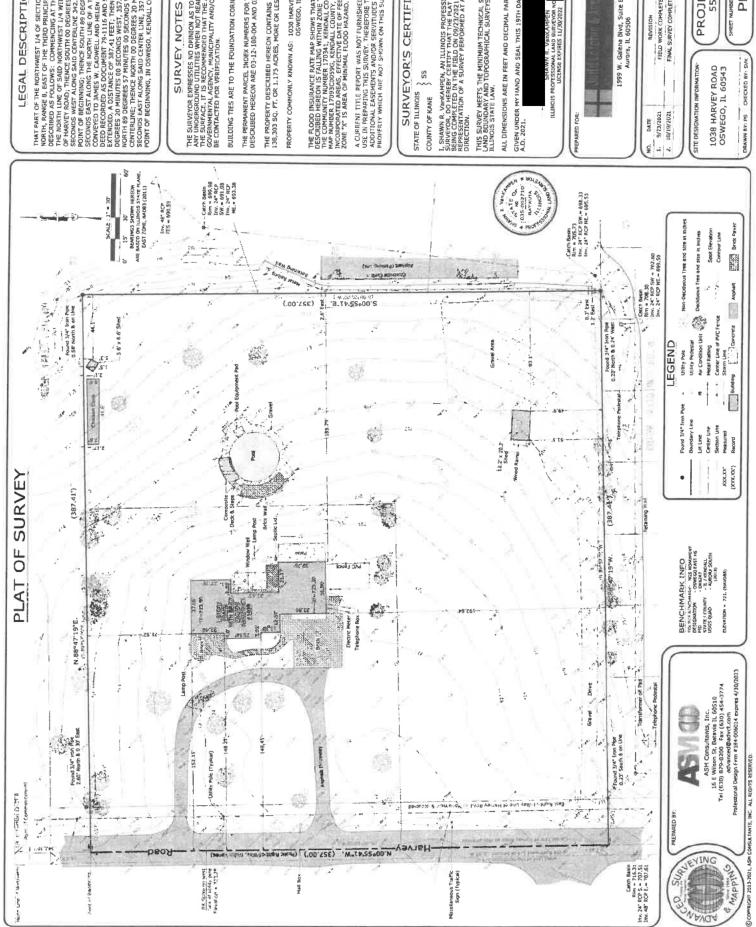


100 Parkers Mill • Oswego, IL. 60543 • (630) 554-2310 • Fax: (630) 554-7545 Website: http://www.oswegoil.org

RECEIVED FINTERED APPPOVED CONTRACTOR REG COMPLETE

Bui	Building & Zoning Email: BZinfo		No		
CUSTOMER/OWNER INFORMATION					
CONTRACTOR INFORMATION	Addre City Phone No	Email_:			
	Approximate Construction Cost (Inclu ***All permit applications requ	uding Labor) \$ _5,000.00 lire supplementary documents for each permit requi	est***		
EXISTING & NEW STRUCTURE REQUESTS	Re-roof	ve • Location bund □ Lawn Irrigation porary □ Garage			
COMMERCIAL & NEW HOME REQUESTS	Senior Housing Two Family Residence (Duplex) Senior Housing Multi-Family Residence (No. Units Senior Housing Demolition	Commercial/Industrial Building (NEW) Commercial/Industrial Remodeling (Build outs) Fire Protection: Sprinkler Alarm Ansul Storm Water Connection Right of Way	Square Footage of All Areas 1st Floor 2nd Floor 3rd Floor Add. Floors Basement Crawlspace Garage Porch Deck/Patio		
COMMER	New Residential Only No. of Bedrooms No. of Baths	New Construction Only No. of Tenant Spaces No. & Sizes of Water Connect	Outdoor Seat. Outdoor Storage		
jurisdic accorda such ch officials	The applicant agrees to conform to all applicable Federal, State, and Local laws of this jurisdiction. They also agree that all work performed under this permit will be in accordance with the plans and specifications which accompany this application, except for such changes as may be required by the adopted Building Code and the inspection officials. Certificate: HEREBY CERTIFY THE ABOVE STATEMENTS TO BE CORRECT				

238



LEGAL DESCRIPTION

THAT PART OF THE NORTHWEST I/A OF SECTION 13, TOWNSHIP 37

OBSCRIBED AS FOLLOWS: COMPRIENCING A THE INTERSECTION OF

DESCRIBED AS FOLLOWS: COMPRIENCING AT THE INTERSECTION OF

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DECKEES ON MINUTES OO SECONDS WEST 10 SAID

CRATERLINE, THENCE MORTH OD GERGES 30 MINUTES OO

SECONDS SAST ALONG SAID CENTER LINE, 357.00 FEET OTHE

POINT OF BEGINNING, THENCE WORTH LINE

SECONDS SAST ALONG SAID CENTER LINE, 357.00 FEET OTHE

POINT OF BEGINNING, IN DO GERGES 30 MINUTES OO

SECONDS SAST ALONG SAID CENTER LINE, 357.00 FEET OTHE

POINT OF BEGINNING, IN DOSWEGO, KENDALL COUNTY, ILLINOIS.

SURVEY NOTES

THE SUBSTOCR EXPRESS NO DRINION AS TO THE ACCURACY OF ANY UNDERECROUND UTILITIES WHEN NOT READLY VISIBLE FROM THE SUBFACE. IT IS RECOMMENDED THAT THE APPOINTAIN A GENCE, WINDIGHALTY AND/OR UTILITY COMPANY BE CONTACTED FOR VERIFICATION.

BUILDING TRES ARE TO THE FOUNDATION CORNERS.

THE PERMANENT PARCEL INDEX NUMBERS FOR THE PROPERTY DESCRIBED HEREON ARE 03-12-100-003.

THE PROPERTY DESCRIBED HEREON CONTAINS 138,303 SQ, FT, OR 1,175 ACRES, MORE OR LESS.

PROPERTY COMMONLY KNOWN AS: 1038 HARVEY ROAD OSWEGO, 1L 60543

DOWNEROW, IL GUDGA,

THE ROOD INSURANCE RATE MAP SHOWS THAT THE PROPERTY

DESCRIBED HEREON IS FALLING WITHIN FOOR TY,

THE COMPUNITY NUMBER 1.70341, KERNALL COUNTY, FOUNDER

THE COMPUNITY TOURDER 1.70341, KERNALL COUNTY, FOUNDER

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INCORPORATED AREAS, EFFECTIVE DATE OF FERRILLNOIS AND

A CLIRENT TITLE REPORT MAS NOT FURNISHED TO 19 SOFT-UR

OUSE IN PREPARING THIS SURVEY. THEREDOR THERE MAY EXTENDED THE MAY EXPENDED THE MAY EX

SURVEYOR'S CERTIFICATE

I, SSAWN R. VanKAMBEN, AN ILLINDIS PROFESSIONAL JAND—
SIDNEGTOR, DO HERBER CRETIFY THAT THE BLAT SHOWN HEREON,
BEING COMMELETED IN THE FIELD ON 09/37/2021 IS CORRECT
REPRESENTATION OF A SURVEY PERFORMED AT AND LINDER MY
DIRECTION. ₽age

THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS FOR ILLINOIS STATE LAW,

ALL DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF.

GIVEN UNDER MY 11AND AND SEAL THIS 19TH DAY OF OCTOBER, A.D. 2021.

1999 W. Galena Blvd, Suite B Aurora, IL 60506

FINAL SURVEY COMPLETED FIELD WORK COMPLETED REVISION

PROJECT NO. 557022

1038 HARVEY ROAD OSWEGO, 1L 60543

PLAT

239

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
May 31, 2022 – 7:00 p.m.

CALL TO ORDER

Chairman Randy Mohr called the Zoning Board of Appeals meeting to order at 7:02 p.m.

ROLL CALL:

Members Present: Cliff Fox, Tom LeCuyer (arrived at 7:14 p.m.), Randy Mohr, Dick Thompson, and Anne Vickery (left at 8:36 p.m.)

Members Absent: Scott Cherry and Dick Whitfield

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

Others Present: Jeremy Dippold, Samantha Dippold, Boyd Ingemunson, Tim O'Brien, Tom Fleming, Sheila Trost, Paul Scholtes, Joe Frescura, Pat Frescura, Ramiro Guzman, Kim Larkin, Mark Fecht, and Seth Wormley

PETITIONS

The Zoning Board of Appeals started their review of Petition 22-01 at 7:03 p.m.

Petition 22 – 01 – Jose and Silvia Martinez

Request: Special Use Permit for a Landscaping Business, Variance to Section 7:01.D.30.b to Allow

a Landscaping Business on a Non-State, County, or Collector Highway as Defined by the Kendall County Land Resource Management Plan, and Variance to Section 11:02.F.7.b of the Kendall County Zoning Ordinance to Allow a Driveway Zero Feet from the Southern

Property Line

PINs: 03-12-100-004 and 03-12-100-013 Location: 1038 Harvey Road, Oswego Township

Purpose: Petitioner Wants to Operate a Landscaping Business at the Subject Property; Property is

Zoned A-1

Chairman Mohr announced that this Petition would be continued until the June hearing.

The proposal will be on the June 27, 2022, Zoning Board of Appeals agenda.

The Zoning Board of Appeals completed their review of Petition 22-01 at 7:03 p.m.

PUBLIC COMMENTS

Mr. Asselmeier also said that the Illinois Association of County Zoning Officials was having a training session, including a session on zoning hearing procedures, on October 21, 2022, via Zoom. He would email meeting information.

Mr. Asselmeier reported that, for the June 27th hearing, there will be a Petition requesting a special use permit for a government facility; Lisbon Township was building a new building on their property on Route 47. There will also be a text amendment regarding lighting at towers on the agenda.

ADJOURNMENT OF THE ZONING BOARD OF APPEALS

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

With a voice vote of four (4) ayes, the motion carried.

The Zoning Board of Appeals meeting adjourned at 9:00 p.m.

The next hearing/meeting will be on June 27, 2022.

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

Exhibits

- 1. Memo on Petition 22-01 Dated May 26, 2022
- 2. Certificate of Publication and Certified Mail Receipts for Petition 22-01 (Not Included with Report but on file in Planning, Building and Zoning Office)

KENDALL COUNTY ZONING BOARD OF APPEALS MAY 31, 2022

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
TIMOBRIEN Tom Fleming		
Sheila TROST Parc SCHOLTES Boyd Ingenunsa-		
Jee Frescul		
Junio Gorgo		
May 4 Perlo		



DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 204 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: May 26, 2022

Re: Petition 22-01 Request for a Special Use Permit and Variances for a Landscaping Business

at 1038 Harvey Road in Oswego Township

The Petitioners' Attorney submitted the attached email requesting the proposal be continued.

At their meeting on May 25, 2022, the Kendall County Regional Planning Commission, without objection continued the proposal.

Accordingly, Staff requests that the Kendall County Zoning Board of Appeals vote to continue the public hearing on this Petition.

If you have any questions regarding this memo, please let me know.

MHA

Enc.

judd lofchie

Matt Asselmeier

From:

Sent: To: Cc: Subject:	Wednesday, May 25, 2022 11:20 AM Matt Asselmeier Scott Koeppel; Scott Gengler; Faith D. Hook Re: FW: [External]Re: Curb cut
Great. Thanks Matt. Ple about paving or installing answers from Oswego!	ase let them know the only reason we did not resubmit, as I could not get that answer g concrete for the entire gravel driveway. As you could see, it takes a lot of time to get
Judd	
On Wed, May 25, 2022 a	at 11:10 AM Matt Asselmeier < masselmeier@kendallcountyil.gov > wrote:
Judd:	
I will notify the Regional P	Planning Commission that you would like the matter continued to next month.
The Regional Planning Constart at 7:00 p.m.	mmission meeting would be June 22 nd and the Zoning Board hearing wou ld be June 27 th . Both
,	
Yes, the Petition can be a	mended to incorporate the new site plan.
Thanks,	
Matthew H. Asselmeier, A	AICP, CFM
Senior Planner	
Kendall County Planning,	Building & Zoning
111 West Fox Street	
Yorkville, IL 60560-1498	
PH: 630-553-4139	

From:

judd lofchie

Sent:

Wednesday, May 25, 2022 11:06 AM

To:

Matt Asselmeier

Subject:

Re: FW: [External]Re: Curb cut

Thanks. I did see that and have been on the phone with Mr. Martinez and working on a new drawing to relocate the driveway. We will resubmit this hopefully by Friday. So can you continue our hearing tonight as hopefully next month we will have the approval from Oswego. Also, since we are changing the drawing, can we just amend our petition?

On Wed, May 25, 2022 at 9:03 AM Matt Asselmeier < masselmeier@kendallcountyil.gov > wrote:

FYI

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: Jennifer Hughes < JHughes@oswegoil.org>

Sent: Wednesday, May 25, 2022 9:01 AM

To: Matt Asselmeier < masselmeier@kendallcountyil.gov >; Jay Hoover@oswegoil.org >

Cc: Scott Koeppel < skoeppel@kendallcountyil.gov >; Scott Gengler < sgengler@kendallcountyil.gov >; Rod Zenner

<RZenner@oswegoil.org>

Subject: RE: [External]Re: Curb cut

Good morning,

That portion of the driveway within the right-of-way needs to be concrete per our commercial drive standard as the right-of-way at this property is within Oswego even though the property is not.

From: <u>Jay Hoover</u>
To: <u>Matt Asselmeier</u>

Cc: Jennifer Hughes; Judo ; BZinfo
Subject: [External]RE: Document - May 25, 2022
Date: Monday, June 13, 2022 9:40:10 AM

Attachments: <u>image002.png</u>

image003.png

CAUTION - This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Judd,

Please see the response from engineering below. The drawing still does not meet minimum engineering standards.

Regards.

Jay Hoover

Building and Zoning Manager



100 Parkers Mill Oswego, Il. 60543 PH: 630.551.2320

Email: jhoover@oswegoil.org

From: Jennifer Hughes < JHughes@oswegoil.org>

Sent: Wednesday, June 8, 2022 3:46 PM **To:** Jose Zavala <JZavala@oswegoil.org>

Cc: Brian Evans

bevans@oswegoil.org>; Rod Zenner <RZenner@oswegoil.org>; Susan Quasney

<SQuasney@oswegoil.org>; Jay Hoover <JHoover@oswegoil.org>; Jay Hoover

<JHoover@oswegoil.org>

Subject: FW: Document - May 25, 2022

Jose,

Here is the updated drawing for the proposed driveway.

Element	Industrial/Commercial	Proposed	Notes
	Driveway Detail		
Base	6" CA-6 (Code 8.612C)	None	Needs base course
Pavement	8" Concrete (Code 8.612C)	6" Concrete	
Width at road	Street radius or straight	16' Max	Flare does not meet

Attachment 25, Page 2

	flare of 5' on each side. (Code 8.612B2)		minimum dimension
Width at right-of- way	Maximum width of 20' at the property line for one- way; 35' for two-way (Code 8.612B2)	10'	Two-way drive
Alignment		Aligned with center of opposing roadway	OK

Sincerely,

Jennifer Hughes, P.E., CFM

Public Works Director/Village Engineer

PH: 630.551.2366

Email: jhughes@oswegoil.org

From: judd lofchie >

Sent: Wednesday, June 8, 2022 3:12 PM

To: Jennifer Hughes < <u>JHughes@oswegoil.org</u>>; Matt Asselmeier < <u>masselmeier@co.kendall.il.us</u>>;

Scott Koeppel <<u>skoeppel@co.kendall.il.us</u>>; Scott Gengler <<u>sgengler@co.kendall.il.us</u>>

Subject: Fwd: Document - May 25, 2022

Hey Jennifer

Attached is the new drawing for the curb cut for 1038 Harvey Road, Oswego. Please confirm that you received the application.

Please let me know what the next steps are or can you just issue the permit if applicable.

Thanks

JUDD LOFCHIE

----- Forwarded message -----

From: **Steve Hansen** <

Date: Tue, Jun 7, 2022 at 8:23 AM Subject: Re: Document - May 25, 2022 To: judd lofchie < <u>iudd1299@gmail.com</u>> Disregard the previous drawing I sent you and replace it this pdf.

I forgot to adjust the size of the Gate at the fenced in area.

Steve

On Mon, Jun 6, 2022 at 9:22 AM Steve Hansen <<u>shansenarchitect@gmail.com</u>> wrote:

Disclaimer

The information contained in this communication from jhoover@oswegoil.org sent at 2022-06-13 10:40:02 may contain confidential information and may be legally privileged and is intended only for masselmeier@co.kendall.il.us. If you are not masselmeier@co.kendall.il.us you are hereby notified to not disseminate, distribute or copy this e-mail. Please notify Jay Hoover immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. Jay Hoover therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission. If verification is required, please request a hard-copy version. Village of Oswego, 100 Parkers Mill, Oswego IL, 60543, www.oswegoil.org

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Attachment 26, Page 1 KENDALL COUNTY REGIONAL PLANNING COMMISSION

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

Unapproved - Meeting Minutes of June 22, 2022 - 7:00 p.m.

Chairman Ashton called the meeting to order at 7:03 p.m.

ROLL CALL

Members Present: Bill Ashton, Tom Casey, Karin McCarthy-Lange, Larry Nelson, Ruben Rodriguez, Claire

Wilson, and Seth Wormley

<u>Members Absent</u>: Dave Hamman and Bob Stewart Staff Present: Matthew H. Asselmeier, Senior Planner

Others Present: Judd Lofchie, Joe Antoniolli, and Kevin Kunkel

PETITIONS

Petition 22-01 Jose and Silvia Martinez

Mr. Asselmeier provided the updated landscaping plan. He noted the following changes:

- 1. The Petitioner moved the southern driveway to align with the road across the street.
- 2. The southern driveway is shown as five feet (5') from the southern property line.
- 3. The southern driveway is shown as ten feet (10') in width instead of the original twenty feet (20') in width. There is a question whether on the width meets the requirements of the Village of Oswego.
- 4. The base course of the access meets the requirements of the Village of Oswego.
- 5. The flare meets the requirements of the Village of Oswego.
- 6. The Petitioner installed twenty-two (22) arborvitaes. Four (4) of these arborvitaes will be relocated and six (6) additional arborvitaes will be installed.
- 7. A mulch storage area measuring twelve feet by twenty feet (12'X20') was added between the metal building and dumpster area. The mulch storage area shall be a maximum three (3') feet in height.
- 8. The Petitioner was agreeable to adding a ninety (90) day deadline from the date of the approval of the special use permit for the installation of the fence, driveway, and arborvitae. The deadline may be extended by the Planning, Building and Zoning Committee.

Mr. Asselmeier said that the Village of Oswego had not submitted comments regarding the revised site plan. He also noted that, if this proposal was moved to the July meeting, the proposal would be the only agenda item for the meeting.

Member Nelson asked why the updates were submitted so close to the Regional Planning Commission's meeting date and time. Judd Lofchie, Attorney for the Petitioner, said the Petitioner has been working with the parties involved.

Member Nelson asked if the Village of Oswego would have comments by the June 27, 2022, Zoning Board of Appeals hearing. Mr. Asselmeier was unsure if the Village of Oswego would submit comments by the hearing. Member Nelson was fine with advancing the proposal pending approval by the Village of Oswego. The hearing would be delayed if the Village of Oswego did not submit comments prior to the hearing.

Commissioners reviewed the proposed conditions. Mr. Asselmeier noted that several conditions will be amended to incorporate the changes listed previously.

Member Nelson made a motion, seconded by Member Rodriguez, to recommend approval of the special use permit subject to sign-off by the Village of Oswego of the revised landscaping/site plan of the items under the Village's jurisdiction.

The votes on were as follows:

Ayes (7): Ashton, Casey, McCarthy-Lange, Nelson, Rodriguez, Wilson, and Wormley

Nays (0): None

Absent (2): Hamman and Stewart

Abstain (0): None

The motion carried.

The proposal will go to the Kendall County Zoning Board of Appeals on June 27, 2022.

CITIZENS TO BE HEARD/PUBLIC COMMENT

Member Wormley asked about the Yogi Bear Campground amending their special use permit. Mr. Asselmeier reported that the Yogi Bear Campground was still working on their application. Discussion occurred about potential improvements at the Yogi Bear Campground.

Chairman Ashton requested that the County explore using the water pumped out of the quarries as a source of drinking water. When the County is updating the Land Resource Management Plan, this topic, and land uses that could facilitate using the water, should be explored. No objections were voiced regarding this suggestion.

Discussion occurred regarding the materials extracted from the quarries.

Discussion about the TransCanada Pipeline in Little Rock Township. They were trying to equalize pressure in the pipes and created a loud noise when they bled the pipes. Petroleum based film has caked on some things (chairs, furniture, etc.) at the property and they plan to burn these items which will produce black smoke. The Commission favors hauling these items away instead of burning. The burning would occur the first part of July.

Discussion also occurred about solar farm companies looking for land in the County.

OTHER BUSINESS/ANNOUNCEMENTS

Mr. Asselmeier said that he received a request to add definitions of tree farm and forestry to the Zoning Ordinance. Member Wormley was against making more rules. Chairman Ashton expressed concerns that more "forestry" type businesses were looking to start in the County; he favored adding definitions to the Zoning Ordinance. Member Nelson favored making definitions. Member Casey did not favor having a junky appearing property on Route 52. Discussion occurred about the criteria used to evaluate zoning applications.

Discussion also occurred about solar farm companies looking for land in the County.

Discussion also occurred regarding notice requirements for zoning petitions.

Attachment 26, Page 3

Discussion also occurred about allowing gravel to be classified as something other than impervious surface in the Stormwater Management Ordinance.

ADJOURNMENT

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

The Kendall County Regional Planning Commission meeting adjourned at 8:33 p.m.

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

Enc.



KENDALL COUNTY REGIONAL PLANNING COMMISSION JUNE 22, 2022

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)	
July Lof	chie		
Jee Antonio Ili			
Kaus Kumpet			

MINUTES – UNOFFICIAL UNTIL APPROVED KENDALL COUNTY ZONING BOARD OF APPEALS MEETING

111 WEST FOX STREET, COUNTY BOARD ROOM (ROOMS 209 and 210)
YORKVILLE, IL 60560

June 27, 2022 - 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, Tom LeCuyer, Randy Mohr, Dick Thompson, and Dick Whitfield

Members Absent: Cliff Fox

<u>Staff Present:</u> Matthew Asselmeier, AICP, CFM, Senior Planner <u>Others Present:</u> Judd Lofchie, Joe Antoniolli, and Kevin Kunkel

PETITIONS

Chairman Mohr swore in Judd Lofchie, Joe Antoniolli, and Kevin Kunkel

The Zoning Board of Appeals started their review of Petition 22-01 at 7:01 p.m.

Petition 22 – 01 – Jose and Silvia Martinez

Request: Special Use Permit for a Landscaping Business, Variance to Section 7:01.D.30.b to Allow

a Landscaping Business on a Non-State, County, or Collector Highway as Defined by the Kendall County Land Resource Management Plan, and Variance to Section 11:02.F.7.b of the Kendall County Zoning Ordinance to Allow a Driveway Zero Feet from the Southern

Property Line

PINs: 03-12-100-004 and 03-12-100-013 Location: 1038 Harvey Road, Oswego Township

Purpose: Petitioner Wants to Operate a Landscaping Business at the Subject Property; Property is

Zoned A-1

Mr. Asselmeier summarized the request.

In 2018, the Planning, Building and Zoning Department started investigating a landscaping business operating at the subject property without a special use permit. On February 23, 2021, the court imposed a fine of Thirty-Two Thousand, Eight Hundred Dollars (\$32,800) against the Petitioners for operating a landscaping business without a special use permit, installing the southern driveway without a permit, Junk and Debris Ordinance violations, and related court costs. The discovery of assets portion of the case has been continued with the hope that the Petitioners will apply for the applicable special use permit and variance.

The Petitioners purchased the property in 2018.

On December 9, 2021, the Petitioner submitted the necessary application for a special use permit for a landscaping business, a variance to allow a landscaping business on a non-State, County or Collector roadway as defined by the Kendall County Land Resource Management Plan, and a variance to allow the southern driveway to be within five feet (5') of the side yard property line.

The application materials, survey of the property, original landscaping plan, NRI Report, and aerial of the property were provided.

Since the original application was submitted, the Petitioners worked with the Village of Oswego and the Kendall County Regional Planning Commission to address access issues. Documents related to these matters were provided. The Petitioners submitted a revised landscaping plan on June 8, 2022. Based on comments from the Village of Oswego, the Petitioners again revised their landscaping plan on June 22, 2022. The Village of Oswego verbally supported the layout of the access point, pending payment of fees and deposits.

The property is located at 1038 Harvey Road.

The property is approximately three (3) acres.

The existing land use is Single-Family Residential.

The Future Land Use Map calls for the area to be Suburban Residential (Max 1.0 DU/Acre). Oswego's Future Land Use Map calls for the area to be Industrial.

Harvey Road is classified as a Collector by the Village of Oswego in this area and is not classified as such in the Land Resource Management Plan.

There are no trails planned in the area.

There are no floodplains or wetlands on the property.

The adjacent land uses are Comed Right-of-Way, Industrial, Stormwater Pond, and Single-Family Residential.

The adjacent properties are zoned R-2, M-1, and M-2 by the Village of Oswego.

Oswego's Future Land Use Map calls for the area to be Agricultural, Single-Family Residential, and Light Industrial.

The zoning districts within one half (1/2) mile are A-1, A-1 SU, R-1, R-3, B-3, B-3 SU, and M-1 in the County and R-1, R-2, R-4, B-3, M-1, and M-2 inside the Village of Oswego.

Oswego East High School is located within one half (1/2) mile of the property.

The A-1 special use permits to the north are for a landscaping business and a cemetery. The B-3 special use permit to the east is for a watchman's quarters.

EcoCAT Report was submitted on December 9, 2021, and consultation was terminated.

The LESA Score was 124 indicating a low level of protection. The NRI Report was provided.

Petition information was sent to Oswego Township on December 22, 2021. To date, no comments have been received.

Petition information was sent to the Village of Oswego on December 22, 2021. The Village of Oswego submitted an email requesting the southern driveway be moved at least five feet (5') north of the southern property line. The email was provided. As noted previously, the Petitioners worked with the Village of Oswego to address access issues.

On June 8, 2022, the Petitioners' Attorney submitted a revised landscaping plan to the Village of Oswego. The differences between the new landscaping plan and the previously submitted landscaping plan were as follows:

- 1. The southern gravel driveway is shown to line up with the road across the street.
- 2. The southern gravel driveway is shown as five feet (5') from the southern property line.
- 3. The southern gravel driveway is shown as ten feet (10') in width instead of twenty feet (20') in width.
- 4. The six foot by five foot (6'X5') dumpster is not shown next to the frame shed.
- 5. The landscaping around the southern driveway entrance has been altered to reflect the new driveway location. Also, the number of mission arborvitae has increased from eleven (11) to (12).

On June 13, 2022, the Village of Oswego sent an email to the Petitioner outlining the defects of the plan. The defects are as follows:

- 1. A base course is needed.
- 2. Flare does not meet minimum dimensions.
- 3. Driveway should be twenty feet (20') wide.

This email was provided.

Petition information was sent to the Oswego Fire Protection District on December 22, 2021. To date, no comments were received.

ZPAC reviewed the proposal on January 4, 2022. The Petitioners' Attorney requested the start date for the business to be changed from April 1st to March 1st of each year. Discussion occurred regarding annexing the property into the Village of Oswego; the Petitioners' Attorney did not know why the Petitioners had not pursued annexation. The Petitioners' Attorney reiterated that no members of the public would be invited onto the property and no retail sales of landscaping materials would occur. Discussion occurred regarding the reasons why the Petitioner had not applied for proper zoning despite citation and court action. The Petitioners' Attorney indicated the Petitioners were agreeable to the

proposed conditions provided the start date was moved to March 1st. ZPAC recommended approval of the special use permit with the conditions proposed by Staff with an amendment to move the start of the operating season to March 1st by a vote of five (5) in favor and two (2) in opposition with three (3) members absent. The minutes of the meeting were provided.

The Kendall County Regional Planning Commission did not have quorum for their meeting on January 26, 2022. The minutes of this meeting were provided.

At their meeting on February 23, 2022, the Commission voted to layover this proposal until issues related to the access permit for the southern driveway were resolved with the Village of Oswego by a vote of eight (8) in favor and zero (0) in opposition with one (1) member absent. The minutes of this meeting were provided.

The Petitioners did not attend the March 23, 2022, Kendall County Regional Planning Commission meeting and the proposal remained tabled. The minutes of the March 23, 2022 meeting were provided.

At the April Kendall County Regional Planning Commission meeting, the Petitioners requested that the hours of operation be changed to daily from 6:00 a.m. until 8:00 p.m. and that the business be allowed to operate year-round. Condition 18 has been amended to reflect this change. The Commission also told the Petitioners to submit an access permit application with a revised site plan to the Village of Oswego by May 18, 2022, in order for this topic to be placed on the May 25, 2022, Commission agenda. The minutes this meeting were provided.

Prior to the May Kendall County Regional Planning Commission meeting, the Petitioners' Attorney submitted an email requesting the proposal be continued as the Petitioners continued to work with the Village of Oswego regarding the access permit. The minutes of the May Regional Planning Commission were provided.

At their meeting on June 22, 2022, Commissioners reviewed the updated landscaping plan. The Kendall County Regional Planning Commission recommended approval of the special use permit with the condition that the Village of Oswego sign-off on the landscaping/site plan by a vote of seven (7) in favor and zero (0) in opposition with two (2) members absent. The minutes of this meeting were provided.

The Kendall County Zoning Board of Appeals started a public hearing on this proposal on January 31, 2022. The hearing was continued to February 28, 2022. The hearing was continued again until the driveway access permit issues were resolved. The minutes of the January 31, 2022, meeting were provided and the minutes of the February 28, 2022, meeting were provided. Due to the Petitioners' lack of attendance at the March 23, 2022, Kendall County Regional Planning Commission meeting, the hearing was continued at the March 28, 2022, Kendall County Zoning Board of Appeals hearing. The minutes of this hearing were provided. The Kendall County Zoning Board of Appeals continued this Petition at their hearing on May 2, 2022. The minutes of this hearing were provided. The hearing was continued again at the May 31, 2022, Kendall County Zoning Board of Appeal hearing. The minutes of the May 31, 2022, Zoning Board of Appeals hearing were provided.

On April 11, 2022, the Kendall County Planning, Building and Zoning Committee met to discuss issuing new, additional citations at the property. The consensus of the Committee was to not have the Department issue new citations related to the operation of the landscaping business or the placement of the driveway. The Petitioners were given ten (10) days to clean up and organize the property. Updated photos were provided at the April 27, 2022, meeting.

The Kendall County Planning, Building and Zoning Committee met on May 9, 2022, and voted to issue citations for the installation of the driveway without a permit. The Committee voted not to issue a citation for operating a landscaping business without a special use permit. The Petitioners' court date for the illegal driveway installation is July 6, 2022.

Per Section 7:01.D.30 of the Kendall County Zoning Ordinance, landscaping businesses can be special uses on A-1 zoned property subject to the following conditions:

- 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 and the variance to the requirement to be located on a State, County or Collector Highway, the above conditions have been met.

The Petitioners would like the business to be open from 6:00 a.m. until 8:00 p.m. everyday throughout the year. According to the business plan, the business has four (4) employees. Employees arrive at the property at approximately 6:30 a.m., go to work sites, and return to the property and leave to go home by around 7:00 p.m. Business equipment presently consists of three (3) trucks.

The landscaping business area on the southeast corner of the site will be of gravel and will be approximately thirteen thousand, two hundred fifty (13,250) square feet in size. If there is a motor vehicle or equipment related leak, the area impacted gravel will be removed and replaced with clean gravel.

One (1) one (1) story, approximately two thousand nine hundred (2,900) square foot house, constructed in 1955 with a two (2) story garage is located on the property. There is also one (1) approximately two hundred forty-five (245) square foot shed frame structure on the property near the landscaping storage area. There is also one (1) chicken coop and one (1) additional shed on the northeast corner of the property not associated with the landscaping business. The picture of the house was provided.

After the February 23, 2022, Kendall County Regional Planning Commission meeting, the Petitioners moved the chicken coop and other outbuilding on the north side of the property out of the side yard setback. The Petitioners also applied for and received a deck permit.

According to the most recent landscaping plan, the Petitioners plan to install open storage areas, one (1) for grass and brush clippings at twenty feet wide by approximately one hundred twenty feet in depth (20' X 120'), one (1) for mulch, and one (1) for sand. There would also be storage areas for brick pallets. No information was provided on the dimensions for the storage areas for mulch, sand, and brick pallets north of the existing frame shed. There would also be four (4) truck storage areas measured at fifteen feet wide by twenty-eight feet in depth (15' X 28'). There would also be one (1) mulch storage area south of the frame shed. This area would be twelve feet by twenty feet (12'X20') and would be a maximum three feet (3') in height. According to the business plan, no piles of materials would exceed three feet (3') in height.

Any structures related to the landscaping business would be required to obtain applicable building permits.

Per the site survey, the property is served by a septic system. No information was provided regarding a well.

No employees or customers would use restroom or water facilities on the property.

One six foot by five foot (6' X 5') dumpster was shown on the updated landscaping plan in the landscaping business area.

The property drains to the southeast and northeast.

Per the survey, the house is served by an existing driveway with two (2) access points off of Harvey Road. Per the updated landscaping plan, one (1) ten foot (10') wide gravel driveway provides access from the landscaping storage area to Harvey Road; this access was installed without proper permits and will need to secure applicable permits. The southern driveway is five feet (5') north of the southern property line. A picture of the southern driveway was provided.

The Village of Oswego provided information regarding driveway standards; this information is included as part of an email provided.

Earlier in the review process, the Village of Oswego submitted an email requesting the driveway be moved at least five feet (5') from the property. Staff exchanged emails with the Petitioners' Attorney outlining the next steps. The Petitioners' Attorney believed that the driveway was located greater than five feet (5') from the southern property line. Staff requested the measurement of the driveway to the southern property line be added to the plat of survey. The above referenced emails were provided. The distance was added to the updated landscaping plan.

An inspection of the property occurred on March 16, 2022, and new gravel appeared to have been added to the driveway per the picture provided.

The Petitioners' Attorney submitted an email stating the that Village of Oswego did not need to approve the access permit. This email was provided. This issue was ultimately addressed.

A variance will still be needed to address the gravel parking located inside the fenced area, unless the fenced area is moved five feet (5') from the property line.

According to the plat of survey, the Petitioners plan to have two (2) parking spaces and one (1) handicapped accessible parking space to the west of the garage. The parking spaces will be of brick pavers.

The plat of survey shows two existing light poles. Existing lighting is used for residential purposes only. The Petitioners were not proposing any additional lighting.

The Petitioners were not proposing any business related signage.

The updated landscaping plan shows one (1) solid fence eight feet (8') in height along the landscaping business area. One (1) security gate is also shown on the landscaping plan.

The updated landscaping plan shows twenty-eight (28) eight foot (8') tall mission arborvitaes, four (4) nine foot (9') tall blue spruces, and one (1) fifteen foot (15') mulch bed along the southwest corner of the property. No information was provided regarding the vegetation along the southern property line. The Petitioner has already installed twenty-two (22') mission arborvitaes and three (3) blue spruces. A picture of the existing landscaping was provided. The vegetation along the southern property line can be seen in the provided picture of the southern driveway. The Village of Oswego also requested landscaping in their provided email, but did not provide details on type or nature of landscaping. The Petitioners requested ninety (90) days to install the vegetation after the special use permit is approved.

No information was provided regarding noise control.

No new odors are foreseen by the proposed use.

If approved, this would be the nineteenth (19th) special use permit for a landscaping business in unincorporated Kendall County.

The proposed Findings of Fact for the special use permit were as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided the site is developed in accordance with the submitted site plan and provided a variance is granted regarding the location of the parking area and driveway inside the fenced area, the operation of the special use will not be detrimental to the public health, safety, morals, comfort, or general welfare. Conditions may be placed in the special use permit ordinance to address hours and seasons of operation.

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

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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. Appropriate restrictions may be placed in the special use permit to regulate the number of employees, hours of operation, site landscaping, and noise. Therefore, the neighboring property owners should not suffer loss in property values and the use will not negatively impact the adjacent land uses.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. If the Village of Oswego approves the new access point for the southern driveway and if a variance is granted for the location of the southern driveway inside the fenced area, then adequate points of ingress and egress will be provided. The owners of the business allowed by the special use permit have agreed not pile materials in excess of three feet (3') in height.

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. Provided a variance is granted for the location of the driveway inside the fenced area and a variance is granted allowing the use on a non-state, county, or collector highway, the special use shall conform to the applicable regulations of the district.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed use is consistent with an objective found on Page 6-34 of the Kendall County Land Resource Management Plan which calls for "a strong base of agricultural, commercial and industrial uses that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents".

The proposed Findings of Fact for the variances were as follows:

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. There are no topographic conditions or other outstanding conditions not caused by the Petitioners that created a particular hardship or difficulty upon the owner.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. It is unknown the exact number of A-1 zoned properties that could ask for similar variances. The Village of Oswego defines Harvey Road as a Collector while the Kendall County Land Resource Management Plan does not define Harvey Road as a Collector; it is unique to have this difference in classification.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The owners created the hardship by installing the driveway without proper permits and operating the business at the subject property. While the owners were not responsible for the differences in classification for Harvey Road, the owners voluntarily chose to operate a landscaping business at the subject property and, thus, created the hardship.

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. The requested variance should not negatively impact any of the neighbors and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood, provided the Village of Oswego grants access to Harvey Road at the location shown on the landscaping plan.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. Allowing the driveway to be on the property line and allowing the business to operate on a non-State, County, or Collector Highway will not impair any of the above items.

Staff believed that a landscaping business could operate at the subject property with reasonable restrictions. However, Staff had concerns, given the Petitioners' previous behavior, that reasonable restrictions will be followed. Staff believes the following conditions and restrictions were necessary for the operation of a special use permit at the subject property:

- 1. The site shall be developed substantially in accordance with the plat of survey and landscaping plan. The dumpster shall be a minimum six feet by five feet (6'X5'). Within ninety days (90) of the approval of this special use permit, the owners of the business allowed by the special use permit shall install fence shown on the landscaping plan. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to install the fence.
- 2. The existing house, garage, chicken coop, deck, swimming pool, and shed located on the northwest corner of the property shall be used for residential purposes only and shall be exempt from the site development conditions of the special use permit. The locations of these structures may change without requiring an amendment to the special use permit.
- 3. A variance to Section 11:02.F.7.b of the Kendall County Zoning Ordinance shall be granted allowing off-street parking and southern driveway to be no closer than zero feet (0') from the southern property line as shown on the landscaping plan. The driveway shall be a maximum of twenty feet (20') in width and shall be gravel.
- 4. A variance to Section 7:01.D.30.b of the Kendall County Zoning Ordinance shall be granted allowing the operation of a landscaping business at a property not located on and not having direct access to a State, County, or Collector highway as designed in the County's Land Resource Management Plan.
- 5. The owners of the business allowed by the special use permit shall maintain the parking area shown on the site plan and in substantially the same location as depicted on the plat of survey. The parking area shall be brick pavers. Within ninety days (90) of the approval of this special use permit, the owners of the business allowed by the special use permit shall install the brick pavers and handicapped parking space with applicable signage shown on the plat of survey. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to install the brick pavers and handicapped parking space.
- 6. The owners of the business allowed by the special use permit shall maintain the landscaping business area on the southeast corner of the site as depicted on the landscaping plan. This area shall be gravel. The mulch area south of the frame shed shall be approximately twelve feet by

twenty feet (12'X20') in size and shall be a maximum three feet (3') in height.

- 7. The owners of the businesses allowed by this special use permit shall diligently monitor the property for leaks from equipment and vehicles parked and stored and items stored on the subject property and shall promptly clean up the site if leaks occur.
- 8. Any new structures constructed or installed related to the business allowed by this special use permit on the property shall not be considered for agricultural purposes and must secure applicable building permits.
- 9. Equipment and vehicles related to the business allowed by the special use permit may be stored outdoors.
- 10. 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.
- 11. 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.
- 12. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated storage areas shown on the landscaping plan. The maximum height of the piles of landscaping related material shall be less than three feet (3') in height.
- 13. No signage advertising or promoting the business shall be installed on the subject property. The owner of the business allowed by this special use permit may install appropriate handicapped parking signs and other directional signs within the fenced landscaping business area as shown on the landscaping plan.
- 14. Twenty-eight (28) eight foot (8') tall mission arborvitaes, four (4) nine foot (9') tall blue spruces, and one (1) fifteen foot (15') mulch bed along the southwest corner of the property shall be installed and maintained on the property in substantially the locations shown on the landscaping plan. Damaged or dead arborvitaes shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department. Within ninety days (90) of the approval of this special use permit, the owners of the business allowed by the special use permit shall install the previously described vegetation. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to install the vegetation.
- 15. No landscape waste generated off the property can be burned on the subject property.
- 16. A maximum of four (4) 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.
- 17. No 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.
- 18. The hours of operation of the business allowed by this special use permit shall be daily from

6:00 a.m. until 8:00 p.m. The owners of the business allowed by this special use permit may reduce these hours of operation.

19. 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.

- 20. 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.
- 21. The owners of the business allowed by this special use shall reside at the subject property as their primary place of residence.
- 22. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
- 23. 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.
- 24. 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.
- 25. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
- 26. 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 Cherry asked where the property was located in relation to Wolf Road. Mr. Asselmeier responded the property is north of Wolf Road. The subject property is on the east side of Harvey Road, the opposite side of the road from the high school. Discussion occurred about the previous owners of the property.

Attachment 27, Page 12

A complaint was filed against the Petitioners in 2018 for operating a landscaping business without a special use permit.

Chairman Mohr asked about the uses directly to the south of the property. Mr. Asselmeier responded, the uses are industrial uses.

Chairman Mohr expressed concerns about having large amounts of grass clippings generating odors. It was noted that the Petitioners have to live on the property and the adjacent use to the east are business related. Chairman Mohr said the residential neighbors to the west will smell the grass clippings. He requested a condition stating the frequency of removing grass clippings. Member Cherry expressed concerns about burning of grass clippings.

Chairman Mohr opened the public hearing at 7:23 p.m.

Judd Lofchie, Attorney for the Petitioners, said the Petitioners will not be collecting grass clippings; the Petitioners were agreeable to a condition to that effect. The Petitioners requested that the conditions be clarified that employee parking be gravel in Condition 5. No objections were expressed to this condition.

Mr. Lofchie explained the access point negotiations with Oswego. He was attempting to save his clients money on the cost of installing concrete and relocating the driveway.

Mr. Lofchie explained that the Petitioners did not pursue annexation to the Village of Oswego because of the time and money expended, to this point, to obtain the special use permit.

Chairman Mohr asked why the Petitioners have been operating so long without proper zoning. Mr. Lofchie said that his clients' previous attorney dropped the ball on the case. He noted that the Petitioners have been working to get into compliance with the various regulations of the County.

Chairman Mohr asked about the current legal proceedings. Mr. Asselmeier explained the Petitioners were previously found guilty, assessed a fine, but have not been required to pay the fine. The Planning, Building and Zoning Committee requested new citations be issued related to the driveway and the court date for that citation is July 6, 2022.

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

Member LeCuyer made a motion, seconded by Member Whitfield, to approve the Findings of Fact for the special use permit.

The votes were as follows:

Ayes (4): LeCuyer, Mohr, Thompson, and Whitfield

Nays (1): Cherry Abstain (0): None Absent (1): Fox

The motion passed.

Member LeCuyer made a motion, seconded by Member Whitfield, to approve the Findings of Fact for the variance.

The votes were as follows:

Ayes (4): LeCuyer, Mohr, Thompson, and Whitfield

Nays (1): Cherry Abstain (0): None Absent (1): Fox

The motion passed.

Member LeCuyer made a motion, seconded by Member Thompson, to recommend approval of the special use permit and variances with the conditions proposed by Staff with an amendment to condition 1 to reflect no grass clippings in the landscaping business area and an amendment to condition 5 to allow the employee parking in the landscaping business area to be gravel.

Chairman Mohr asked about the fines. Mr. Asselmeier said, if the special use permit is approved, the Petitioners could operate a business under the terms of the special use permit. The fines were related to activities that occurred in the past.

Mr. Asselmeier explained the process for asking for extensions as outlined in the various conditions.

The votes were as follows:

Ayes (5): Cherry, LeCuyer, Mohr, Thompson, and Whitfield

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

The motion passed.

Oswego Township will be notified of the results of the hearing.

The proposal will go to the Planning, Building and Zoning Committee on July 11, 2022.

Chairman Mohr encouraged the Petitioners to meet the requirements within the timelines outlined in the special use permit.

The Zoning Board of Appeals completed their review of Petition 22-01 at 7:40 p.m.

PUBLIC COMMENTS

Mr. Asselmeier reported that no applications for text amendments, map amendments, or special use permit have been submitted for the August 1, 2022, hearing/meeting. The application deadline for variances is July 1, 2022.

ADJOURNMENT OF THE ZONING BOARD OF APPEALS

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

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

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The Zoning Board of Appeals meeting adjourned at 8:04 p.m.

The next regularly scheduled hearing/meeting will be on August 1, 2022.

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

Exhibits

- 1. Memo on Petition 22-01 Dated June 24, 2022
- 2. Certificate of Publication and Certified Mail Receipts for Petition 22-01 (Not Included with Report but on file in Planning, Building and Zoning Office)



KENDALL COUNTY ZONING BOARD OF APPEALS JUNE 27, 2022

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
Juld Lafalie Joe Antoniolli Kan Kun		

State of Illinois County of Kendall Zoning Petition #22-01

ORDINANCE NUMBER 2022-____

GRANTING A SPECIAL USE PERMIT FOR A LANDSCAPING BUSINESS AND VARIANCES
TO SECTION 7:01.D.30 AND 11:02.F.7.b OF THE KENDALL COUNTY ZONING ORDINANCE
TO ALLOW A LANDSCAPING BUSINESS ON A NON-STATE, COUNTY, OR COLLECTOR
HIGHWAY AS DEFINED BY THE KENDALL COUNTY LAND RESOURCE MANAGEMENT
PLAN AND TO ALLOW A DRIVEWAY AT ZERO FEET FROM THE SOUTHERN PROPERTY
LINE AT 1038 HARVEY ROAD AND IDENTIFIED BY PARCEL IDENTIFICATION
NUMBERS 03-12-100-004 AND 03-12-100-013 IN OSWEGO TOWNSHIP

<u>WHEREAS</u>, Section 13:08 of the Kendall County Zoning Ordinance permits the Kendall County Board to issue special use permits and place conditions on special use permits and provides the procedure through which special use permits are granted; and

<u>WHEREAS</u>, Section 13:04 of the Kendall County Zoning Ordinance permits the Kendall County Board to grant variances and place conditions on variances and provide the procedure through which variances are granted; and

<u>WHEREAS</u>, Section 7:01.D.30 of the Kendall County Zoning Ordinance permits the operation landscaping businesses as a special use in the A-1 Agricultural Zoning District; and

<u>WHEREAS</u>, Section 7:01.D.30.b of the Kendall County Zoning Ordinance requires landscaping businesses to be located on or have direct access to a State, County, or Collector Highway as identified in the County's Land Resource Management Plan; and

<u>WHEREAS</u>, Section 11:02.F.7.b of the Kendall County Zoning Ordinance established a setback of 5 feet off of side yard property lines for driveways; and

<u>WHEREAS</u>, the property which is the subject of this Ordinance has been, at all relevant times, and remains currently located within the A-1 Agricultural Zoning District and consists of approximately 3.0 +/- acres located at 1038 Harvey Road (PINs: 03-12-100-004 and 03-12-100-013), in Oswego Township. The legal description for the subject property is set forth in Exhibit A attached hereto and incorporated by reference, and this property shall hereinafter be referred to as "the subject property"; and

<u>WHEREAS</u>, the subject property is owned by Jose and Silvia Martinez and shall hereinafter be referred to as "Petitioner"; and

<u>WHEREAS</u>, on or about December 9, 2021, Petitioner's Attorney filed a petition for a special use permit for the operation of a landscaping business and related variances at the subject property; and

<u>WHEREAS</u>, following due and proper notice by publication in the Voice on January 13, 2022, the Kendall County Zoning Board of Appeals initiated a public hearing on January 31, 2022, at 7:00 p.m., in the County Board Room of the Kendall County Office Building at 111 W. Fox Street in Yorkville, and continued the public hearing to February 28, 2022, at 7:00 p.m., continued the public hearing to March 28, 2022, at 7:00 p.m., continued the public to May 31, 2022, at 7:00 p.m., and concluded the public hearing on June 27, 2022, at the same location, at which the Petitioner and their representative presented evidence, testimony, and exhibits in support of the requested special use permit and variances and zero members of the public testified in favor or in opposition to the request; and

State of Illinois Zoning Petition
County of Kendall #22-01

<u>WHEREAS</u>, based on the evidence, testimony, and exhibits, the Kendall County Zoning Board of Appeals has made their findings of fact and recommended approval of the special use permit and variances with conditions as set forth in the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, dated May 2, 2022, a true and correct copy of which is attached hereto as Exhibit B; and

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

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

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

<u>NOW, THEREFORE, BE IT ORDAINED, BY THE COUNTY BOARD OF KENDALL COUNTY, ILLINOIS,</u> as follows:

- 1. The Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals attached hereto as Exhibit B is hereby accepted and the Findings of Fact set forth therein are hereby adopted as the Findings of Fact and Conclusions of this Kendall County Board.
- 2. The Kendall County Board hereby grants approval of Petitioner's petition for a special use permit for the operation of a landscaping business on the subject property subject to the following conditions:
 - A. The site shall be developed substantially in accordance with the plat of survey attached hereto as Exhibit C and landscaping plan attached hereto as Exhibit D. The dumpster shall be a minimum six feet by five feet (6'X5'). No grass clippings related to the business allowed by the special use permit may be stored on the subject property. Within ninety days (90) of the approval of this special use permit, the owners of the business allowed by the special use permit shall install the fence shown on the landscaping plan. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to install the fence.
 - B. The existing house, garage, chicken coop, deck, swimming pool, and shed located on the northwest corner of the property shall be used for residential purposes only and shall be exempt from the site development conditions of the special use permit. The locations of these structures may change without requiring an amendment to the special use permit.
 - C. A variance to Section 11:02.F.7.b of the Kendall County Zoning Ordinance shall be granted allowing off-street parking and southern driveway to be no closer than zero feet (0') from the southern property line as shown on the landscaping plan attached hereto as Exhibit D. The driveway shall be a maximum of twenty feet (20') in width and shall be gravel.
 - D. A variance to Section 7:01.D.30.b of the Kendall County Zoning Ordinance shall be granted allowing the operation of a landscaping business at a property not located on and not having direct access to a State, County, or Collector highway as designed in the County's Land

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Resource Management Plan.

- E. The owners of the business allowed by the special use permit shall maintain the parking area shown on the site plan and in substantially the same location as depicted on the plat of survey attached hereto as Exhibit C. The parking area shall be brick pavers. Within ninety days (90) of the approval of this special use permit, the owners of the business allowed by the special use permit shall install the brick pavers and handicapped parking space with applicable signage shown on the plat of survey. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to install the brick pavers and handicapped parking space. Employees may park on the existing gravel area inside the fence as shown on the landscaping plan attached hereto as Exhibit D; this parking area may remain gravel.
- F. The owners of the business allowed by the special use permit shall maintain the landscaping business area on the southeast corner of the site as depicted on the landscaping plan attached hereto as Exhibit D. This area shall be gravel. The mulch area south of the frame shed shall be approximately twelve feet by twenty feet (12'X20') in size and shall be a maximum three feet (3') in height.
- G. The owners of the businesses allowed by this special use permit shall diligently monitor the property for leaks from equipment and vehicles parked and stored and items stored on the subject property and shall promptly clean up the site if leaks occur.
- H. Any new structures constructed or installed related to the business allowed by this special use permit on the property shall not be considered for agricultural purposes and must secure applicable building permits.
- I. Equipment and vehicles related to the business allowed by the special use permit may be stored outdoors.
- J. 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.
- K. 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.
- L. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated storage areas shown on the landscaping plan attached hereto as Exhibit D. The maximum height of the piles of landscaping related material shall be less than three feet (3') in height.
- M. No signage advertising or promoting the business shall be installed on the subject property. The owner of the business allowed by this special use permit may install appropriate handicapped parking signs and other directional signs within the fenced landscaping business area as shown on the landscaping plan attached hereto as Exhibit D.
- N. Twenty-eight (28) eight foot (8') tall mission arborvitaes, four (4) nine foot (9') tall blue spruces, and one (1) fifteen foot (15') mulch bed along the southwest corner of the property shall be installed and maintained on the property in substantially the locations shown on the

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landscaping plan attached hereto as Exhibit D. Damaged or dead arborvitaes shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department. Within ninety days (90) of the approval of this special use permit, the owners of the business allowed by the special use permit shall install the previously described vegetation. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to install the vegetation.

- O. No landscape waste generated off the property can be burned on the subject property.
- P. A maximum of four (4) 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.
- Q. No 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.
- R. The hours of operation of the business allowed by this special use permit shall be daily from 6:00 a.m. until 8:00 p.m. The owners of the business allowed by this special use permit may reduce these hours of operation.
- S. 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.

- T. 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.
- U. The owners of the business allowed by this special use shall reside at the subject property as their primary place of residence.
- V. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
- W. 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.
- X. Failure to comply with one or more of the above conditions or restrictions could result in the

Attachment 28, Page 5

State of Illinois Zoning Petition
County of Kendall #22-01

amendment or revocation of the special use permit.

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

<u>IN WITNESS OF</u>, this ordinance has been enacted by a majority vote of the Kendall County Board and is effective this 19th day of July, 2022.

Attest:	
Kendall County Clerk	Kendall County Board Chairman
Debbie Gillette	Scott R. Gryder

LEGAL DESCRIPTION:

THAT PART OF THE NORTHWEST ¼ OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF SAID NORTHWEST ¼ WITH THE CENTERLINE OF HARVEY ROAD, THENCE SOUTH 00 DEGREES, 20 MINUTES, 00 SECONDS WEST ALONG SAID CENTERLINE 342.36 FEET FOR A POINT OF BEGINNING, THENCE SOUTH 89 DEGREES, 57 MINUTES, 00 SECONDS EAST ALONG THE NORTH LINE OF A TRACT OF LAND CONVEYED TO JAMES W. CADWELL AND HELEN G. CADWELL BY DEED RECORDED AS DOCUMENT 76-1116, AND SAID NORTH LINE EXTENDED, A DISTANCE OF 387.41 FEET, THENCE SOUTH 00 DEGREES, 20 MINUTES, 00 SECONDS WEST, 357.0 FEET, THENCE NORTH 89 DEGREES, 57 MINUTES, 00 SECONDS WEST TO SAID CENTERLINE, THENCE NORTH 00 DEGREES, 20 MINUTES 00 SECONDS, EAST ALONG SAID CENTER LINE, 357.00 FEET TO THE POINT OF BEGINNING, IN OSWEGO, KENDALL COUNTY, ILLINOIS.

Exhibit B

The Kendall County Zoning Board of Appeals approved the following Findings of Fact at their meeting on June 27, 2022. Member Cherry dissented to all Findings. Member Fox was absent.

FINDINGS OF FACT-SPECIAL USE PERMIT

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided the site is developed in accordance with the submitted site plan and provided a variance is granted regarding the location of the parking area and driveway inside the fenced area, the operation of the special use will not be detrimental to the public health, safety, morals, comfort, or general welfare. Conditions may be placed in the special use permit ordinance to address hours and seasons of operation.

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. Appropriate restrictions may be placed in the special use permit to regulate the number of employees, hours of operation, site landscaping, and noise. Therefore, the neighboring property owners should not suffer loss in property values and the use will not negatively impact the adjacent land uses.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. If the Village of Oswego approves the new access point for the southern driveway and if a variance is granted for the location of the southern driveway inside the fenced area, then adequate points of ingress and egress will be provided. The owners of the business allowed by the special use permit have agreed not pile materials in excess of three feet (3') in height.

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. Provided a variance is granted for the location of the driveway inside the fenced area and a variance is granted allowing the use on a non-state, county, or collector highway, the special use shall conform to the applicable regulations of the district.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed use is consistent with an objective found on Page 6-34 of the Kendall County Land Resource Management Plan which calls for "a strong base of agricultural, commercial and industrial uses that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents".

FINDINGS OF FACT-VARIANCES

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. There are no topographic conditions or other outstanding conditions not caused by the Petitioners that created a particular hardship or difficulty upon the owner.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. It is unknown the exact number of A-1 zoned properties that could ask for similar variances. The Village of Oswego defines Harvey Road as a Collector while the Kendall County Land Resource Management Plan does not define Harvey Road as a Collector; it is unique to have this difference in classification.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The owners created the hardship by installing the driveway without proper permits and operating the business at the subject property. While the owners were not responsible for the differences in classification for Harvey Road, the owners voluntarily chose to operate a landscaping business at the subject property and, thus, created the hardship.

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. The requested variance should not negatively impact any of the neighbors and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood, provided the Village of Oswego grants access to Harvey Road at the location shown on the landscaping plan.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. Allowing the driveway to be on the property line and allowing the business to operate on a non-State, County, or Collector Highway will not impair any of the above items.

RECOMMENDATION

The Kendall County Zoning Board of Appeals approved the following Recommendation at their meeting on June 27, 2022, by a vote of five (5) in favor and (0) in opposition; Member Fox was absent:

Approval subject to the following conditions and restrictions:

- 1. The site shall be developed substantially in accordance with the plat of survey and landscaping plan. The dumpster shall be a minimum six feet by five feet (6'X5'). No grass clippings related to the business allowed by the special use permit may be stored on the subject property. Within ninety days (90) of the approval of this special use permit, the owners of the business allowed by the special use permit shall install fence shown on the landscaping plan. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to install the fence.
- 2. The existing house, garage, chicken coop, deck, swimming pool, and shed located on the northwest corner of the property shall be used for residential purposes only and shall be exempt from the site development conditions of the special use permit. The locations of these structures may change without requiring an amendment to the special use permit.
- 3. A variance to Section 11:02.F.7.b of the Kendall County Zoning Ordinance shall be granted allowing off-street parking and southern driveway to be no closer than zero feet (0') from the southern property line as shown on the landscaping plan. The driveway shall be a maximum of twenty feet (20') in width and shall be gravel.
- 4. A variance to Section 7:01.D.30.b of the Kendall County Zoning Ordinance shall be granted allowing the operation of a landscaping business at a property not located on and not having direct access to a State, County, or Collector highway as designed in the County's Land Resource Management Plan.
- 5. The owners of the business allowed by the special use permit shall maintain the parking area shown on the site plan and in substantially the same location as depicted on the plat of survey. The parking area shall be brick pavers. Within ninety days (90) of the approval of this special use permit, the owners of the business allowed by the special use permit shall install the brick pavers and handicapped parking space with applicable signage shown on the plat of survey. The Kendall

County Planning, Building and Zoning Committee may grant an extension to the deadline to install the brick pavers and handicapped parking space. Employees may park on the existing gravel area inside the fence as shown on the landscaping plan; this parking area may remain gravel.

- 6. The owners of the business allowed by the special use permit shall maintain the landscaping business area on the southeast corner of the site as depicted on the landscaping plan. This area shall be gravel. The mulch area south of the frame shed shall be approximately twelve feet by twenty feet (12'X20') in size and shall be a maximum three feet (3') in height.
- 7. The owners of the businesses allowed by this special use permit shall diligently monitor the property for leaks from equipment and vehicles parked and stored and items stored on the subject property and shall promptly clean up the site if leaks occur.
- 8. Any new structures constructed or installed related to the business allowed by this special use permit on the property shall not be considered for agricultural purposes and must secure applicable building permits.
- 9. Equipment and vehicles related to the business allowed by the special use permit may be stored outdoors.
- 10. 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.
- 11. 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.
- 12. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated storage areas shown on the landscaping plan. The maximum height of the piles of landscaping related material shall be less than three feet (3') in height.
- 13. No signage advertising or promoting the business shall be installed on the subject property. The owner of the business allowed by this special use permit may install appropriate handicapped parking signs and other directional signs within the fenced landscaping business area as shown on the landscaping plan.
- 14. Twenty-eight (28) eight foot (8') tall mission arborvitaes, four (4) nine foot (9') tall blue spruces, and one (1) fifteen foot (15') mulch bed along the southwest corner of the property shall be installed and maintained on the property in substantially the locations shown on the landscaping plan. Damaged or dead arborvitaes shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department. Within ninety days (90) of the approval of this special use permit, the owners of the business allowed by the special use permit shall install the previously described vegetation. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to install the vegetation.
- 15. No landscape waste generated off the property can be burned on the subject property.
- 16. A maximum of four (4) 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.
- 17. No 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.
- 18. The hours of operation of the business allowed by this special use permit shall be daily from 6:00 a.m. until 8:00 p.m. The owners of the business allowed by this special use permit may reduce

these hours of operation.

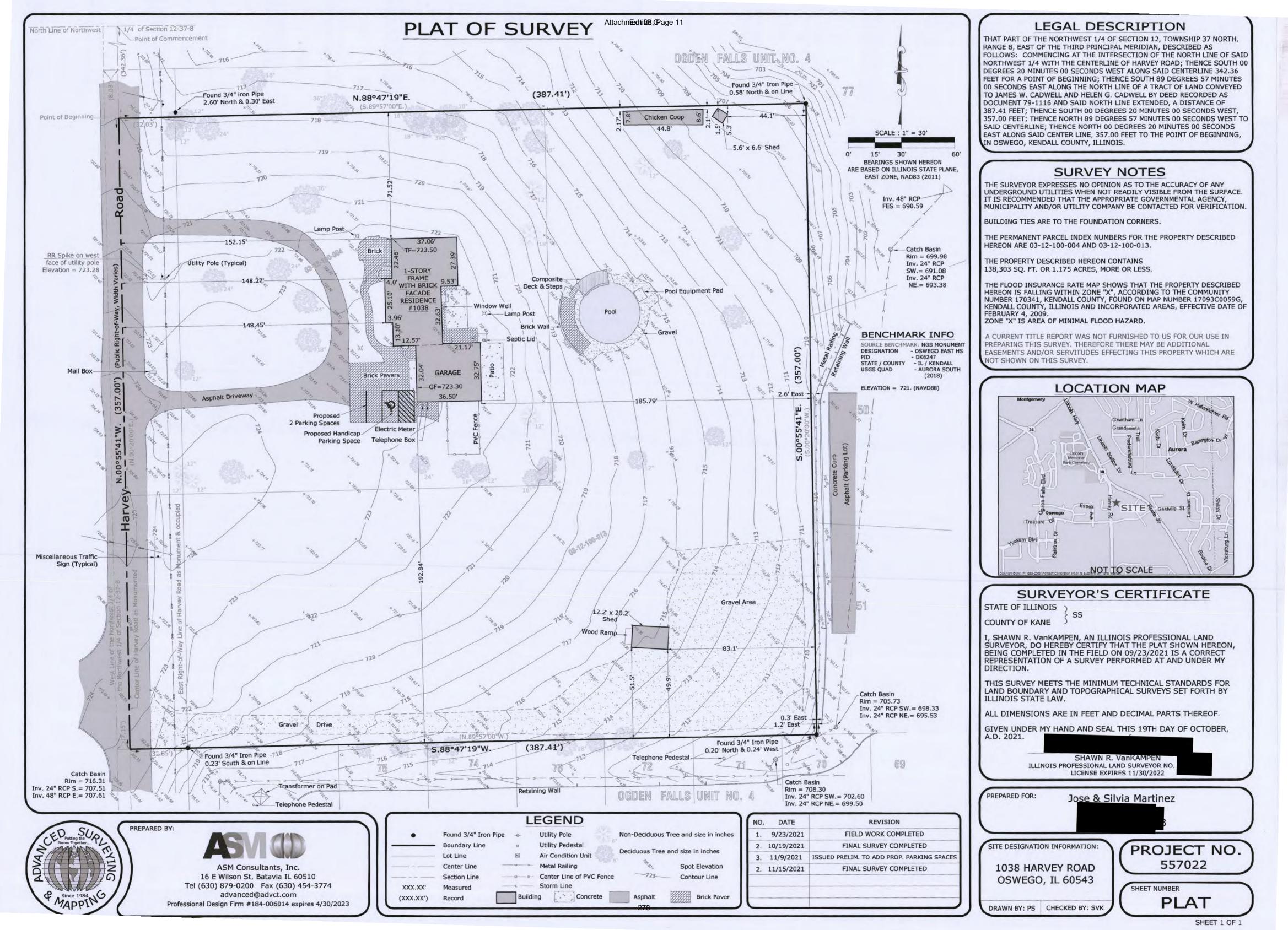
19. The noise regulations are as follows:

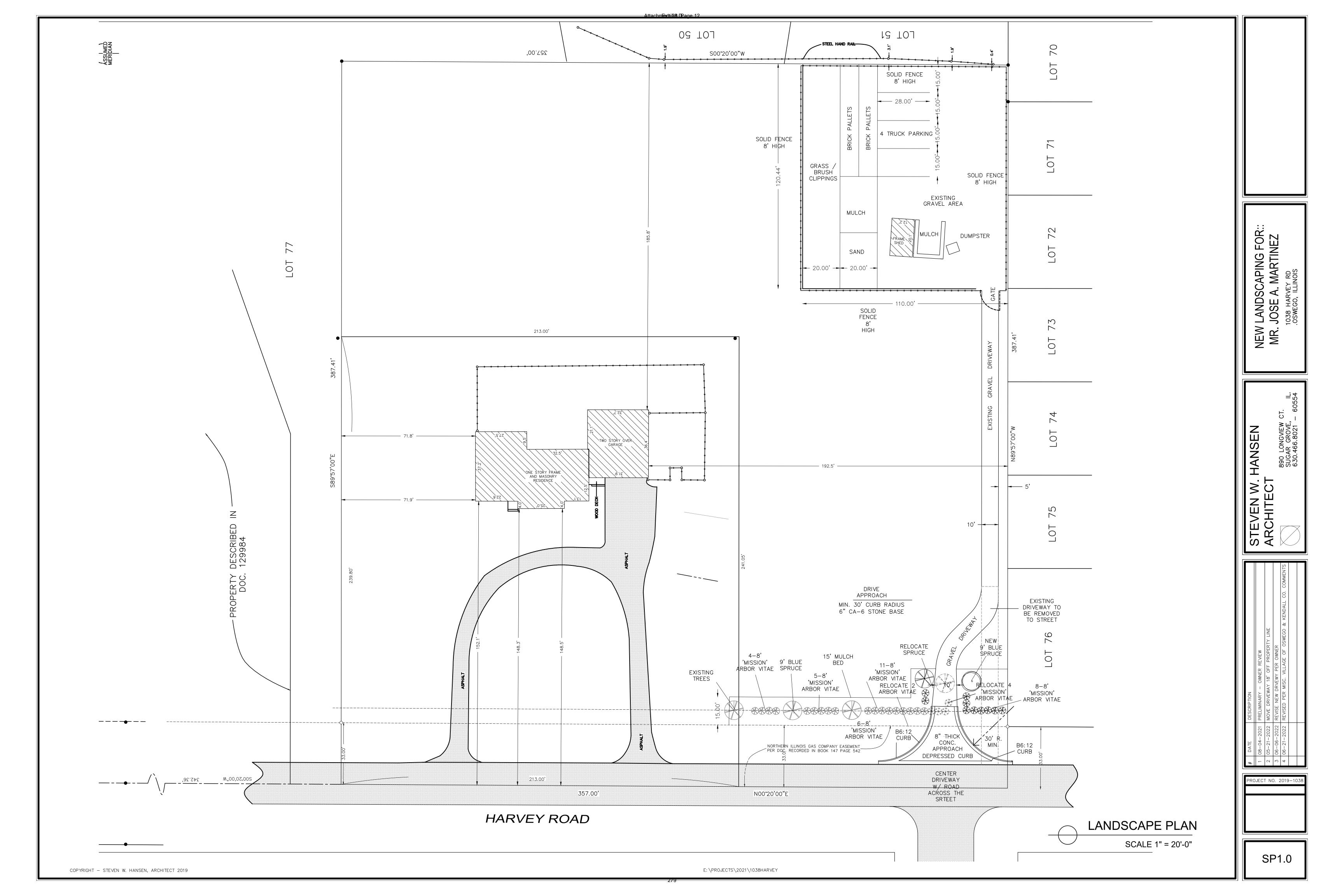
Day Hours: No person shall cause or allow the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential land which exceeds sixty-five (65) dBA when measured at any point within such receiving residential land, provided; however, that point of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

- 20. 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.
- 21. The owners of the business allowed by this special use shall reside at the subject property as their primary place of residence.
- 22. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
- 23. 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.
- 24. 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.
- 25. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
- 26. 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.





LENDALL & COUNTY

DEPARTMENT OF PLANNING, BUILDING & ZONING

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

(630) 553-4141

Fax (630) 553-4179

Petition 22-13

Joe Slivka and Kevin Kunkel on Behalf of Lisbon Township A-1 Special Use Permit for Government Building or Facility

INTRODUCTION

Lisbon Township would like to construct a seven thousand four hundred eighty-eight (7,488) square foot garage on the subject property.

The application materials are included as Attachment 1. The plat of survey of the property is included as Attachment 2. The existing conditions survey is included as Attachment 3. The site plan is included as Attachment 4. The landscaping plan is included as Attachment 5. The building elevations are included Attachment 6.

SITE INFORMATION

PETITIONER: Joe Slivka and Kevin Kunkel on Behalf of Lisbon Township

ADDRESS: 15759 Route 47, Newark

LOCATION: Approximately 0.7 Miles North of East Joliet Road on the West Side of Route 47



TOWNSHIP: Lisbon

PARCEL #s: 08-21-300-002 and 08-21-300-004

LOT SIZE: 2.04 +/- Acres (Total for Both Parcels)
PBZ Memo – Prepared by Matt Asselmeier – July 1, 2022

EXISTING LAND Institutional-Township Building, Transportation, and Agricultural

USE:

ZONING: A-1

LRMP:

Future Land Use Roads	Agricultural (County) Commercial (Lisbon) Route 47 is a State maintained Arterial. IDOT had no concerns regarding this proposal, see Attachment 7.
Trails	The County has a trail planned along Route 47.
Floodplain/ Wetlands	There are no floodplains or wetlands on the property.

REQUESTED

ACTIONS: Special Use Permit for Governmental Building and Facilities

APPLICABLE Section 7:01.D.22 – A-1 Special Uses 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 (County)	Agricultural (County)	A-1 (County)				
			Commercial (Lisbon)					
South	Agricultural	Mining (Lisbon)	Commercial (Lisbon)	Mining (Lisbon)				
East	Comed ROW/ Agricultural/Farmstead	A-1 (County)	Agricultural and Comed ROW (County)	A-1 (County)				
			Agricultural and Commercial (Lisbon)					
West	Agricultural	A-1 (County)	Agricultural and Mining (County)	A-1 (County)				
		Mining (Lisbon)	Mixed Use Business and Mining (Lisbon)	Mining (Lisbon)				

The property to the southwest is owned by Vulcan Lands, Inc.

PHYSICAL DATA

ENDANGERED SPECIES REPORT

EcoCAT Report was submitted on May 12, 2022, and consultation was terminated, see Attachment 1, Page 11.

NATURAL RESOURCES INVENTORY

The NRI application was submitted on May 4, 2022, see Attachment 1, Page 10. LESA Score was 178 indicating a low level of protection. The NRI Report is included as Attachment 9.

ACTION SUMMARY

LISBON TOWNSHIP

Petition information was sent to Lisbon Township on May 26, 2022.

VILLAGE OF LISBON

Petition information was sent to the Village of Lisbon on May 26, 2022.

LISBON-SEWARD FIRE PROTECTION DISTRICT

Petition information was sent to the Lisbon-Seward Fire Protection District on May 26, 2022.

ZPAC

ZPAC reviewed this proposal at their meeting on June 7, 2022. Discussion occurred regarding screening. The only screening would be the vegetation shown in the landscaping plan. Mr. Rybski requested confirmation that no sinks or bathroom facilities would be located in the facility. Mr. Asselmeier said that it was his understanding that no sinks or bathroom facilities would be located in the facility. The facility would be for storage purposes only. Mr. Holdiman said that offices might go in the facility in the future and the Petitioners were aware that a septic facility would be required at that time. The Petitioners might need to purchase additional property to have room for a septic system. Mr. Gengler asked about the handling of oil waste. Mr. Holdiman said no discussion has occurred regarding maintenance of vehicles and related requirements including oil interceptor and septic system requirements. ZPAC recommended approval of the request with a correction to a typo in condition 9 by a vote of seven (7) in favor and zero (0) in opposition with three (3) members absent. The minutes of the meeting are included as Attachment 8.

RPC

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on June 22, 2022. Member Nelson questioned the need for a bathroom on the site. No restrooms are located on the property. Member Nelson also asked if borings had occurred on the property. Joe Antoniolli and Kevin Kunkel responded no. Member Nelson expressed concerns that leaked oils would not get absorbed into the ground. His concerns regarding leaks was connected to concerns about installing a septic system on the property. Restrooms and offices would occur as part of a Phase II. The existing tanks owned by Lisbon Township were double walled tanks. Chairman Ashton said Lisbon Township did not have the funds to install restroom facilities. Kevin Kunkel said townships can only borrow money for a maximum ten (10) years. The Kendall County Regional Planning Commission recommended approval of the proposal by a vote of seven (7) in favor and zero (0) in opposition with two (2) members absent. The minutes of the meeting are included as Attachment 10.

ZBA

The Kendall County Zoning Board of Appeals held a public hearing on this proposal on June 27, 2022. Other than the Petitioner and their representative, no members of the public testified at the public hearing. The Petitioner was agreeable to the proposed conditions. The proposed trees would not be impacted if a trail was installed at the property at a later date. Discussion occurred regarding the lack of restroom facilities in relation to ADA; it would be up to Lisbon Township and their employees to establish reasonable accommodations. The Kendall County Zoning Board of Appeals recommended approval of the proposal by a vote of five (5) in favor and zero (0) in opposition with one (1) member absent. The minutes of the hearing are included as Attachment 11.

OPERATIONS

According to the information found on Attachment 1, Page 2, Lisbon Township plans to construct a garage facility to store township vehicles and equipment. The building will not have an office. The maximum number of employees at the property will be three (3).

BUILDINGS AND BUILDING CODES

According to the site plan (Attachment 4), Lisbon Township plans to construct one (1) seven thousand four hundred eighty-eight (7,488) square foot building on the property.

According to the building elevations (Attachment 6), the building will be twenty-six feet (26') in height at its highest point. Four (4) doors to drive in vehicles and equipment would be located on the east side of the building and these doors would be sixteen feet, four inches (16' 4") in height. The elevations also show one (1) man door on the east side of the building and one (1) man door on the west side of the building. It should be noted that on the building elevations South Elevation = East, West Elevation = South, North Elevation = West, and East Elevation = North.

The site plan shows an existing metal building and salt storage shelter. The metal building would be demolished in the future; no date has been provided for demolition

ENVIRONMENTAL HEALTH

The property is served by a well, but does not have a septic system.

One (1) trash enclosure area is shown on the site plan (Attachment 4) at the location of the existing metal building. This trash enclosure will be installed after the metal building is demolished. Until the metal building is demolished, there will not be a refuse area on the property.

STORMWATER

Per the site plan (Attachment 4), most of the property drains to the south.

The project does not meet the disturbance or lot coverage requirements needed for a stormwater permit.

ACCESS

Per the site plan (Attachment 4), the property will utilize one (1) approximately twenty-five foot (25') wide driveway to access Route 47. The existing conditions survey (Attachment 3) shows three (3) access points onto Route 47.

PARKING AND INTERNAL TRAFFIC CIRCULATION

According to the site plan (Attachment 4), there are six (6) proposed parking stalls, including one (1) handicapped accessible parking stall, located north of the proposed building.

Per Section 11:04 of the Kendall County Zoning Ordinance, one (1) parking space per each employee is required for public service uses.

LIGHTING

According to the site plan (Attachment 4), the building will have wall pak lighting. No information was provided regarding the location or number of lights.

SIGNAGE

According to the site plan (Attachment 4), one monument sign shall be placed on the subject property. The sign will not be illuminated.

SECURITY

According to the site plan (Attachment 4), no fencing will be installed on the property. No other security information was provided.

LANDSCAPING

According to the landscaping plan (Attachment 5), one (1) Autumn Blaze Maple, two (2) Northern Catalpa, and three (3) Redwood American Linden will be planted on the property. The trees will be three inch (3") BB. One (1) Sargent Crabapple will also be planted and will be six foot (6') BB. No information was provided regarding the timing of planting.

The existing turf would remain.

NOISE CONTROL

No information was provided regarding noise control.

ODORS

No odor causing activities are foreseen at the property.

RELATION TO OTHER SPECIAL USES

If approved, this would be the sixth (6th) special use permit for a government facility in the unincorporated area.

FINDINGS OF FACT

The Findings of Fact were as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided the site is developed in accordance with the submitted site plan and landscaping plan, the proposed use should not be detrimental or endanger the public health, safety, morals, comfort, or general welfare.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. The subject property is located along a four (4) lane highway with agricultural uses on all sides. Few residential uses are located in the vicinity. Provided the site is developed in accordance with the submitted site plan and landscaping plan, the proposed use will not be substantially injurious to neighboring properties and or adversely impact adjacent uses.

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, points of ingress/egress, drainage, and other necessary facilities have been or will be 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. This is true; no variances are needed.

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 proposal is consistent with a goal found on page 9-20 of the Kendall County Land Resource Management Plan call for "Mutually supportive, non-adversarial team of municipal, township, school, park, county, and other governments working toward the benefit of everyone in Kendall County." Also, land next to an arterial highway is a logical location for a township highway facility.

RECOMMENDATION

Staff recommends approval of the request special use permit subject to the following conditions and restrictions:

- 1. The site shall be developed substantially in accordance with the attached site plan (Attachment 4) and landscaping plan (Attachment 5). Lisbon Township may demolish the one (1) story metal building shown on the site plan without seeking an amendment to this special use permit.
- 2. The botanicals shown on the landscaping plan (Attachment 5) shall be installed by June 30, 2024. This deadline may be extended upon approval by the Kendall County Planning, Building and Zoning Committee. Damaged or dead botanicals shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.
- 3. The seven thousand four hundred eighty-eight (7,488) square foot building shall be developed substantially in accordance with the attached elevations (Attachment 6) with a maximum building height of twenty-six feet (26'). On the elevations, South Elevation = East, West Elevation = South, North

- Elevation = West, and East Elevation = North.
- 4. Any structures constructed, installed, or demolished related to the use allowed by this special use permit on the property shall not be considered for agricultural purposes and must secure applicable building permits.
- 5. One (1) free standing monument sign may be installed in substantially the location shown on the site plan (Attachment 4). The sign shall not be illuminated.
- 6. The trash enclosure shall be placed in substantially the location shown on the site plan (Attachment 4), upon demolition of the one (1) story metal building. The enclosure shall be screened per the requirements of the Kendall County Zoning Ordinance. The property owners shall ensure that the site is kept free of litter and debris.
- 7. The owners of the uses allowed by this special use permit shall diligently monitor the property for leaks from equipment, vehicles, and materials parked and stored on the subject property and shall promptly clean up the site if leaks occur.
- 8. None of the vehicles or equipment parked or stored on the subject property related to the use allowed by the special use permit shall be considered agricultural vehicles or agricultural equipment.
- 9. The operators of the use allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause (**typo corrected at ZPAC**).
- 10. The property owner and operator of the use allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of use.
- 11. 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.
- 12. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
- 13. 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 draft ordinance is included as Attachment 12.

ATTACHMENTS

- 1. Application Materials (Including Petitioner's Findings of Fact, NRI Application, and EcoCat)
- 2. Plat of Survey
- 3. Existing Conditions Survey
- 4. Site Plan
- 5. Landscaping Plan
- 6. Elevations
- 7. May 25, 2022 IDOT Email
- 8. June 7, 2022 ZPAC Minutes (This Petition Only)
- 9. NRI Report
- 10. June 22, 2022 Kendall County Regional Planning Commission Minutes (This Petition Only)
- 11. June 27, 2022 Kendall County Zoning Board of Appeals Minutes (This Petition Only)
- 12. Draft Ordinance

PBZ Memo – Prepared by Matt Asselmeier – July 1, 2022



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	AND THE REPORT OF THE PROPERTY									
Joe Slivka / Kevin Kun	ikel									
CURRENT LANDOWNER/NAM	IE(s)		CONTRACTOR OF THE CONTRACTOR O							
Lisbon Township			(0000)							
SITE INFORMATION ACRES	SITE ADDRESS OR LOCATION	A. A	SSESSOR'S ID NUMBER (PIN)							
	Route 47, Newark, IL 60541	**	00-002 /08-21-360-004							
EXISTING LAND USE	CURRENT ZONING	LAND CLASSIFICATION	CLASSIFICATION ON LRMP							
Agricultural	A1	Agricultural								
REQUESTED ACTION (Check	All That Apply):	- Interest of the	time-co							
X SPECIAL USE	MAP AMENDMENT (Rezone to)VARI	ANCE							
ADMINISTRATIVE VARIA	NCEA-1 CONDITIONAL USE for:	sırı	E PLAN REVIEW							
TEXT AMENDMENT	RPD (Concept;Prelimin	nary; Final) ADMI	NISTRATIVE APPEAL							
PRELIMINARY PLAT	FINAL PLAT	отн	ERPLAT (Vacation, Dedication, etc.)							
AMENDMENT TO A SPECI										
¹PRIMARY CONTACT	PRIMARY CONTACT MAILING	ADDRESS	PRIMARY CONTACT EMAIL							
Joe Slivka										
PRIMARY CONTACT PHONE	PRIMARY CONTACT FAX #		TARY CONTACT OTHER #(Cell, etc.)							
			5-482-4859							
² ENGINEER CONTACT	ENGINEER MAILING ADDRESS		ENGINEER EMAIL							
Jason Wiesbrock										
ENGINEER PHONE #	ENGINEER FAX#		ENGINEER OTHER # (Cell, etc.)							
LIANDEDOTAND THAT D	WOODING THE FORM THAT TH	- DDODEDTY NI OUE	OTION MAY BE MOITED BY							
	SY SIGNING THIS FORM, THAT THI RD/ COMMISSION MEMBERS THR									
	T LISTED ABOVE WILL BE SUBJE									
COUNTY.										
BEST OF MY KNOWLED	IFORMATION AND EXHIBITS SUBN DGE AND THAT I AM TO FILE THIS									
ABOVE SIGNATURES.										
SIGNATURE OF APPLIC	:ANT		DATE							
			5-4-22							
	FEE PAID:\$ 57	7.50	CHANGE WINE							
日初	CHECK #:									

¹Primary Contact will receive all correspondence from County

Last Revised: 12.15.20 Special Use

²Engineering Contact will receive all correspondence from the County's Engineering Consultants

Special Use Description of Property:

The proposed use of the property will be to install a garage facility for the Lisbon Township Road Commission to store vehicles and equipment. The garage facility shall be 7,488 SF and will not contain an office and thus will not currently propose a sanitary service for the building. A future location has been identified on the plans where a septic system shall enter the building. The building shall maintain business hours currently held by the Lisbon Township Road Commission at that location with exception for emergency cases. The maximum number of employees for the Lisbon Township Road Commission shall be 3, during their peak hours in the winter seasons for snow removal.

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1		13			_	1.3			ᆫ	ᆫ	u	_	 $\boldsymbol{\mathcal{L}}$	L	у,	◡	13	1			•	,		١.

PARCEL 1:

A PART OF THE SOUTHWEST QUARTER OF SECTION NUMBER TWENTY ONE (21) OF TOWNSHIP THIRTY FIVE NORTH RANGE SEVEN (7) EAST OF THE THIRD PRINCIPAL MERIDIAN AND DESCRIBED AS FOLLOWS: COMMENCING AT THE QUARTER CORNER ON THE SOUTH LINE OF SECTION TWENTY ONE AND RUNNING THENCE NORTH 1357.3 FEET; THENCE WEST 83 FEET TO THE WEST LINE OF RIGHT OF WAY OF THE FOX AND ILLINOIS UNION RAILWAY AS PLACE OF BEGINNING; THENCE SOUTH ALONG SAID RIGHT OF WAY 264 FEET; THENCE WEST 165 FEET; THENCE NORTH 264 FEET; THENCE EAST 165 FEET TO PLACE OF BEGINNING, CONTAINING ONE ACRE OF LAND, MORE OR LESS.

AND ALSO

A PART OF THE SOUTHWEST QUARTER OF SECTION NUMBER TWENTY ONE (21) OF TOWNSHIP THIRTY FIVE NORTH RANGE SEVEN (7) EAST OF THE THIRD PRINCIPAL MERIDIAN AND DESCRIBED AS FOLLOWS: COMMENCING AT THE QUARTER CORNER ON THE SOUTH LINE OF SECTION TWENTY ONE AND RUNNING THENCE NORTH 1357.3 FEET; THENCE WEST 83 FEET TO THE WEST LINE OF RIGHT OF WAY OF THE FOX AND ILLINOIS UNION RAILWAY; THENCE WEST 165 FEET AS PLACE OF BEGINNING; THENCE SOUTH 264 FEET; THENCE WEST 6 FEET; THENCE NORTH 264 FEET; THENCE EAST 6 FEET TO THE PLACE OF BEGINNING.

PARCEL 2:

A PART OF THE SOUTHWEST QUARTER OF SECTION TWENTY-ONE (21), OF TOWNSHIP THIRTY-FIVE (35) NORTH, RANGE SEVEN (7), EAST OF THE THIRD PRINCIPAL MERIDIAN, AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER ON THE SOUTH LINE OF SECTION TWENTY-ONE (21), AND RUNNING THENCE NORTH ALONG THE CENTERLINE OF STATE HIGHWAY 47, 1327.3 FEET; THENCE WEST 83 FEET TO THE WEST LINE OF RIGHT OF WAY OF FOX AND ILLINOIS UNION RAILWAY AS PLACE OF BEGINNING; THENCE NORTH ALONG SAID RIGHT OF WAY 264 FEET; THENCE WEST 165 FEET; THENCE SOUTH 264 FEET; THENCE EAST 165 FEET TO THE PLACE OF BEGINNING AND CONTAINING ONE ACRE MORE OR LESS, SITUATED IN LISBON TOWNSHIP, KENDALL COUNTY, ILLINOIS.

Attachment 1, Page 4

WARRANTY DEED Illinois Statutory

MAIL TO:

Lisbon Twp. Hwy. Dept. % Kevin Kunkel 14492 Lisbon Road Newark, Illinois 60541

MAIL TO: Lisbon Twp. Hwy. Dept. % Kevin Kunkel 14492 Lisbon Road Newark, Illinois 60541

202100007144

DEBBIE GILLETTE RECORDER - KENDALL COUNTY, IL. RECORDED: 3/19/2021 02:31 PM WD: 57.00

PAGES: 3

HE GRANTOR, SCOTT D. PAPENDICK, a single person, of the for and in consideration of the sum of and Ten and no/100 (\$10.00) Dollars and other good and valuable consideration in hand paid, CONVEYS AND WARRANTS to Lisbon Township Highway Department (GRANTEE'S ADDRESS: 14492 Lisbon Road, Newark, Illinois 60541), the following described real estate situated in the County of Kendall, in the State of Illinois, to-wit:

Legal: A part of the Southwest Quarter of Section Twenty-One (21), of Township Thirty-Five (35) North, Range Seven (7), East of the Third Principal Meridian, and described as follows: Commencing at the Southeast corner of said Southwest Quarter on the South line of Section Twenty-one (21), and running thence North along the center line of State Highway 47, 1327.3 feet; thence West 83 feet to the West line of right of way of Fox and Illinois Union Railway as place of beginning; thence North along said right of way 264 feet; thence West 165 feet; thence South 264 feet; thence East 165 feet to the place of beginning and containing one acre more or less, situated in Lisbon Township, Kendall County, Illinois.

Permanent Index No.:

08-21-300-004

Property located at 1 acre immediately north and adjacent to 15759 Route 47, Newark, IL 60541

SUBJECT TO: The general real estate taxes for the year 2020 and thereafter.

Dated this 19th day of March, A.D. 2021

(SEAL) Scott D. Papendick

STATE OF ILLINOIS)
COUNTY OF DUPAGE) SS

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Scott D. Papendick is 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, sealed and delivered the said instrument as his 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 19th day of March, A.D. 2021.

Notaty Public

INSTRUMENT PREPARED BY: Scott Papendick

Scott aponator

OFFICIAL SEAL
RAMON REYNA
Notary Public, State of Minole
My Commission Expires 07/01/2022

This Deed is exempt under the provisions of Paragraph B, Section 4, of the Real Estate Transfer Act

Datedyhis 19th dayof March

Signature of Buyer, Seller, or Representative



PLAT ACT AFFIDAVIT OF METES AND BOUNDS	
STATE OF ILLINOIS	
) SS	
COUNTY OF KENDALL	
Scott D. Papendick heing duly men	
that: (please check the appropriate box)	S
A. [] That the attached deed is not in violation of 765 ILCS 205/1(a), in that the sale or	
I had the attached deed is not in violation of 765 If CC 305/14.	
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	
not involve any new streets or essentiate of according to any recorded subdivision which does	
3. The sale or exchange of parcels of land between average of the	
The state of the s	
5. The conveyance of land owned by a railroad or other public utility which does not involve any	
6. The conveyance of land for highway or other public purposes or grants or conveyances	
impressed with a public use	
7. Conveyances made to correct descriptions in prior conveyances;	
o. The sale of exchange of parcels or tracts of land following the district	
(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 Lane Surveyor, provided that this ground that this ground is made by an	
any subsequent lots from the same larger tract of lead and 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. The conveyance is of land described in the same manner as title was taken by grantor(s).	
was taken by grantor(s).	
AFFIANT further states that he makes this affidavit for the purpose of inducing the Recorder of Deeds f Kendall County, Illinois, to accept the attached deed for recording.	
f Kendall County, Illinois, to accept the attached deed for recording.	
UBSCRIBED AND SWORN TO BEFORE ME	
- NA 11	
his 19 day of MAAAA 20 21	
DEFICIAL SEAL	
KATHLEEN M MILLER NOTARY PUBLIC, STATE OF ILLINOIS	
Signature of Notary Public 291 MY COMMISSION EXPIRES: 01/15/2025	

111 W For Chase . Valanti - 17 care



Kendall County, Illinois

Information for Parcel 08-21-300-002, Tax Year 2016 Generated 08/01/17 at 15:38:43

Property Information

Tax Year 2016	Tax Code LI013 - W/FDLS/LYCP
Township Lisbon Township	Neighborhood
Property Class 0090-TAX EXEMPT	Land Use
Tax Status Exempt	Lot Size 171 X 264
Net Taxable Value	Tax Rate
Site Address 15759 ROUTE 47 NEWARK, IL 60541	Total Tax \$0.00
Owner Name and Address LISBON TOWNSHIP HIGHWAY DEPT % HORTON JAMES J 6336 CHICAGO RD YORKVILLE, IL 60560 Legal Description	Mailing Name and Address LISBON TOWNSHIP HIGHWAY DEPT % HORTON JAMES J 6336 CHICAGO RD YORKVILLE, IL 60560

SEC 21-35-7 1.00 ACS - COMM AT SE COR SW1/4 SEC 21 THENCE N1327.30' W88 PT TO COM ED ROW W LINE POB S264', W171; N264', E171 TO POB

Assessments

		ASSESSINE	1163			
Level	Homesite	Dwelling	Farm Land	Farm Building	Mineral	Total
DOR Equalized	0	0	0	0	0	
Department of Revenue	0	0	0	0	0	0
Board of Review Equalized	0	0	0	0	0	0
Board of Review	0	0	0	0	0	0
S of A Equalized	0	0	0	0	0	0
Supervisor of Assessments	0	0	0	0	0	- 0
Township Assessor	0	0	0	0	0	0
Prior Year Equalized	0	0	0	0	0	0

Payments

Installment	Date Due	Tax Billed	Penalty Billed	Cost Billed	Drainage Billed	Total Billed	Amount Paid To	tal Unnaid
First	06/13/2017	\$0.00						\$0.00
Second	09/13/2017	\$0.00	\$0.00	\$0.00			7.0.00	\$0.00
Total		\$0.00	\$0.00	\$0.00			1	\$0.00

Exemptions

Exemption Type Requested Date Granted Date Renewal Date Prorate Date Requested Amount Granted Amount Exempt Parcel 03/30/2010 03/30/2010 02/16/2016	Exemption Type	e Requested D	ate Granted Date	Renewal Date	Prorate Date	Requested Amount	Granted Amount
	Exempt Parcel	03/30/2010				0	0

No Farm Land Information

Parcel Genealogy

			Parent Parcels	
Child Of	Action	Tax Year	Change Effective Year	Completed?
			Child Parcels	

Attachment 1 Page 8

Level Brand Market	
SEC 21-35-7 1.00 ACS - COMM AT SE COR SW1/4 SEC 21 THENCE N1327.30	Section/Township/Range Documen
W88 PT TO COM ED ROW W LINE POB S264', W171: N264', E171 TO POB	

Relate	ed Names	
Name	Relationship	Status
LISBON TOWNSHIP HIGHWAY DEPT	Parcel Owner	Current

No Sales Information

_			lax	Sale Summary		
Year	Certificate	Type	Date Sold	Sale Status	Status Date	
	act rillence	INDC	Date Sulu	Sale Status	STATUE DATA	Donaldy Bato

	Site Addresse	es		
House Number 15759	House Number Suffix	Street Name ROUTE 47		
City NEWARK	State IL	Zip Code 60541	Location	T

Тах	ding Bodies	
District	Tax Rate	Extension
COUNTY	0.7477	\$0.00
LISBON-SEWARD FPD	0.2519	\$0.00
FOREST PRESERVE	0.1755	\$0.00
SCHOOL DIST #90	2.9815	\$0.00
SCHOOL DIST #18	2.6212	\$0.00
JR COLLEGE #525	0.3094	\$0.00
C B PHILLIPS LIBRARY	0.2225	\$0.00
MULTI-TWP ASSMT DIST	0.0252	\$0.00
LISBON TOWNSHIP	0.2098	\$0.00
LISBON ROAD DISTRICT	0.5060	\$0.00
Total	8.0506	\$0.00





7775A Route 47, Yorkville, Illinois 60560 • (630)553-5821 extension 3



NATURAL RESOURCE INFORMATIO	N (NRI) REPORT APPLICATION	
Petitioner: Lisbon Township Contact	Person: Kevin Kunkel	
Address: 15759 Route 47 15759 Route 47		
City, State, Zip: Newark, IL 60541 Newark, IL 60541		
Phone Number:		
Email: Please select: How would you like to receive a copy of the	NDI Panart2 M Email El Mail	
	NKI KEPOTE: MEMBII LI MAII	
Site Location & Proposed Use	in SEN Al Bours ZE F Continues Cd	
•	ip <u>35N</u> N, Range <u>7E</u> E, Section(s) <u>21</u>	
Parcel Index Number(s) Parcel 1: 08-21-300-002; Parcel 2: 08-2		
Project or Subdivision Name <u>Lisbon Township Expansion</u>	Number of Acres 2.036 Acres	
	d Use 1 Building: 7488 SF	
, , , , , , , , , , , , , , , , , , , ,	d Number of Structures 1 Building: 7488 SF	
Proposed Water Supply <u>Existing on site well</u> Propose Proposed type of Storm Water Management <u>N/A</u>	d type of Wastewater Treatment <u>N/A - no proposed was</u> te wate	
Type of Request		
☐ Change in Zoning from A1 to A1 Special	l Use	
□ 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: K	endall County	
 Plat of Survey/Site Plan - showing location, legal description at Concept Plan - showing the locations of proposed lots, building If available: topography map, field tile map, copy of soil boring 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 Executive Summary Report: \$300.00 (KCSWCD staff will deter 	s, roads, stormwater detention, open areas, etc. and/or wetland studies acre for each additional acre or any fraction thereof over five.	
Fee for first five acres and under	\$ 375.00	
Additional Acres at \$18.00) each \$	
Total NRI Fee	\$ <u>375.00</u>	
NOTE: Applications are due by the 1^{st} of each month to be on that rapplication is submitted, please allow 30 days for inspection, evaluate	· · · · · · · · · · · · · · · · ·	
I (We) understand the filing of this application allows the authorize Conservation District (SWCD) to visit and conduct an evaluation of expiration date will be 3 years after the date reported. Petitioner or Authorized Agent	the site described above. The completed NRI report	
Petitioner or Authorized Agent	Date	
This report will be issued on a nondiscriminatory basis without regard to race,	color, religion, national origin, age, sex, handicap or marital status.	
FOR OFFICE USE ONLY NRI# Date initially rec'd Date all rec'd For Duc \$\hat{\subset}\$ Check # Only	Board Meeting	





Applicant: Contact:

Jason Wiesbrock

Address:

Jason Wiesbrock

IDNR Project Number: 2213056

Date:

05/12/2022

Alternate Number:

12032

Project:

Lisbon Township Building Expansion

Address:

15759 Rt 47, Newark

Description: Construction of a new garage storage building with parking included.

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:

35N, 7E, 21

IL Department of Natural Resources Contact

Adam Rawe 217-785-5500 Division of Ecosystems & Environment



Government Jurisdiction

IL Environmental Protection Agency Adam Rawe 1021 North Grand Ave. East Springfield, Illinois 62794

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.

Attachment 1, Page 12

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

That the establishment, maintenance, and operation of the special use will not be detrimental to, or endanger, the public health, safety, morals, comfort, or general welfare. The establishment, maintenance, and operation of the special use will not be detrimental to, or endanger, the public health, safety, morals, comfort, or general welfare. The use will be to install a garage facility for the township road commission to store and maintain municipal vehicles.

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

The special use will not be 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 proposed us does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided.

Access roads and points of ingress and egress and drainage have already been provided. Applicable utility improvements shall be provided. No office or bathroom facilities shall be constructed as part of the improvements thus not requiring sanitary utilities. If improvements are to include a bathroom to be requested and permitted at a later date, a septic system shall be implemented.

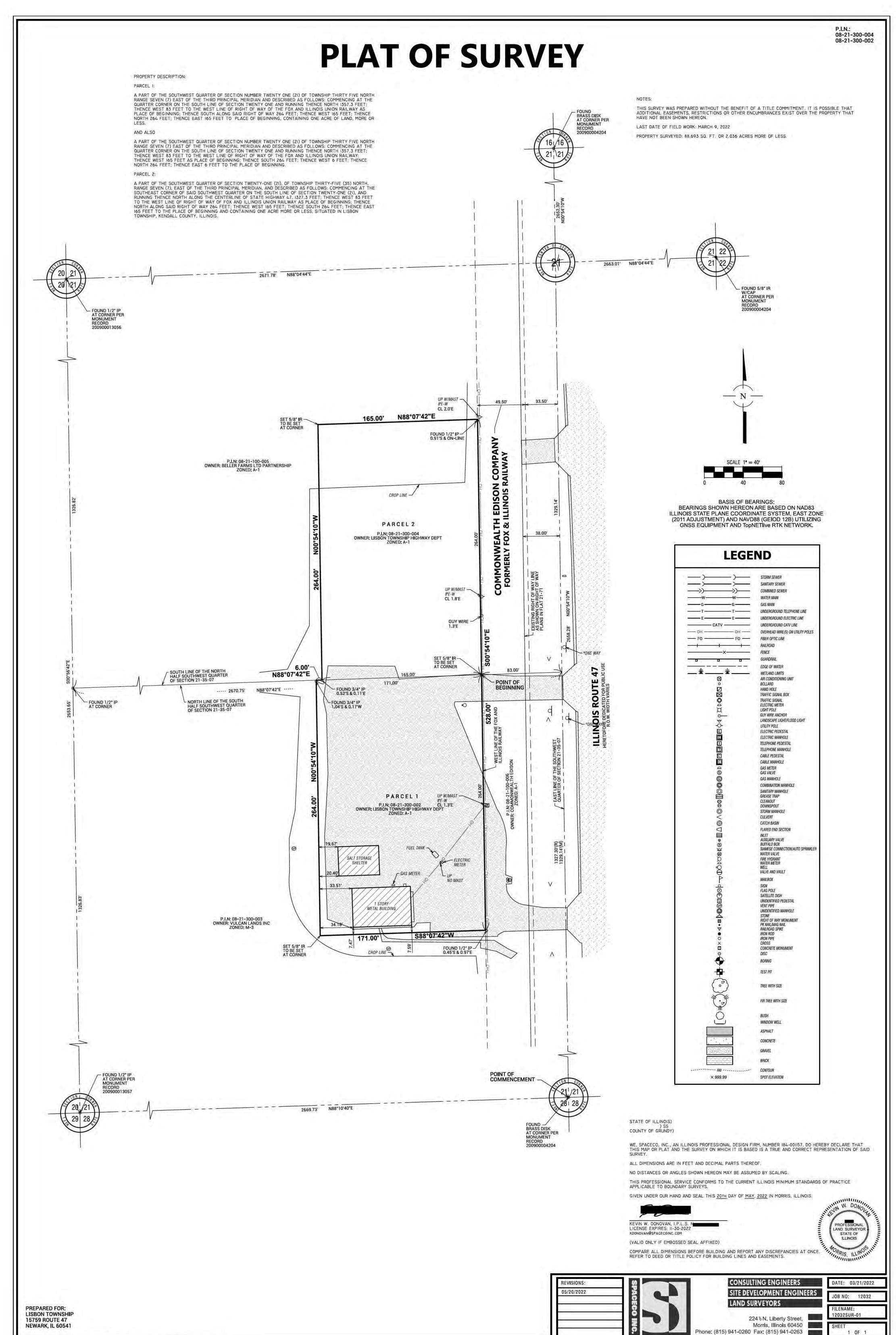
That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. The special use conforms to the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

The use will be to install a garage facility for the township road commission to store and maintain municipal vehicles.

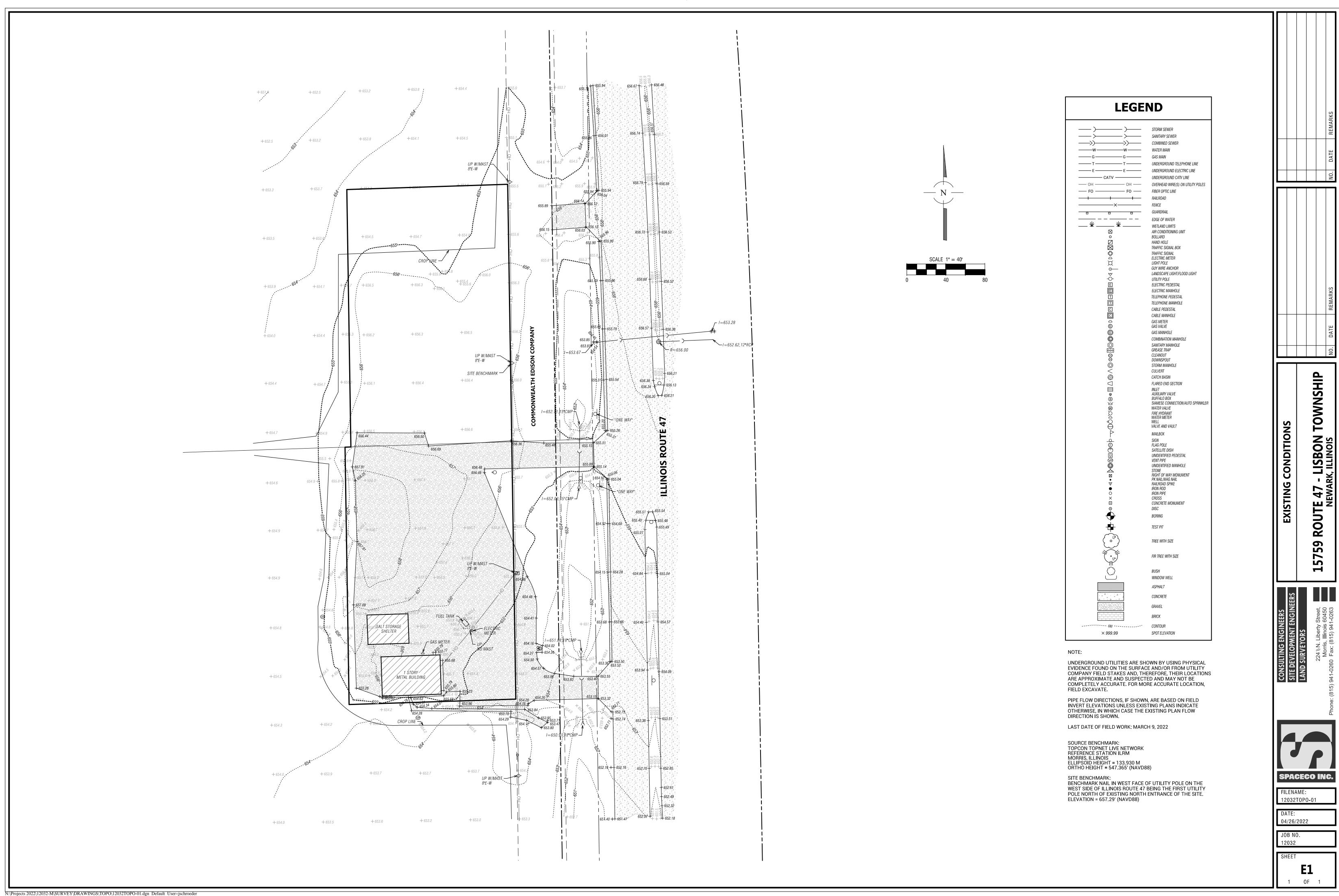
That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies.

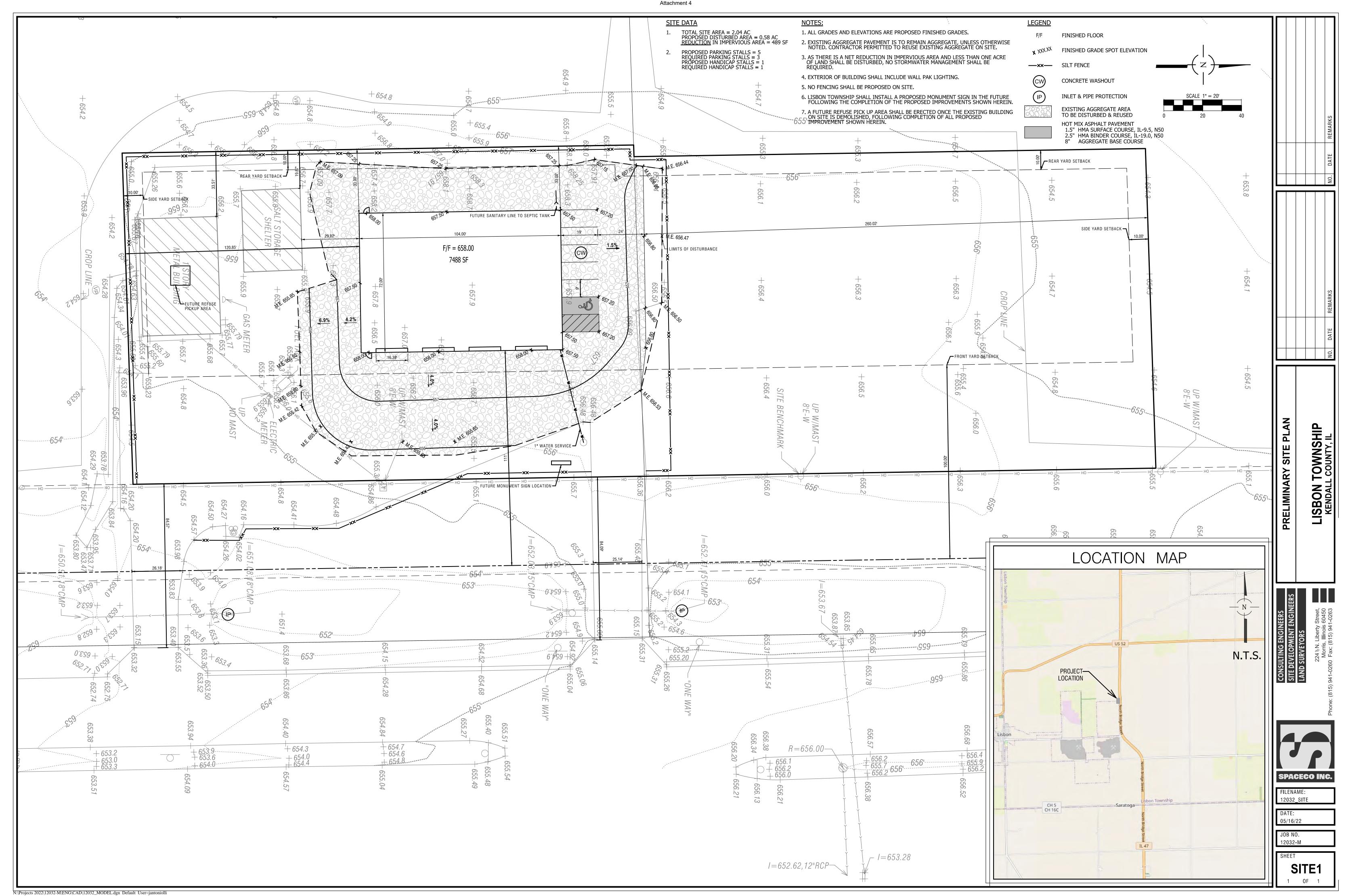
The special use is consistent with the purpose and objectives of the Land Resource Management Plan of future agricultural use. The use will be to install a garage facility for the township road commission

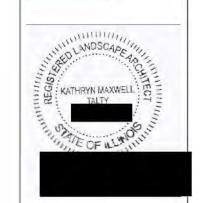
to store and maintain municipal vehicles.



N:\Projects 2022\12032-M\SURVEY\DRAWINGS\PLAT OF SURVEY\12032SUR-01 dgn Default User=jschroeder







LISBON TOWNSHIP KENDALL COUNTY, IL

22240

sheet no.

3 GROUNDCOVER DETAIL

PLANT KEY SHADE TREE ORNAMENTAL TREE **EVERGREEN TREE**



REPAIR TURF AS NEEDED

PRELIMINARY LANDSCAPE PLAN

SCALE: 1" = 30'-0"

GENERAL CONSTRUCTION NOTES

Symbol Quantity Botanical Name

MS 1 MALUS SARGENT

CAT 2 CATALPA SPECIOSA

AFR 1 ACER X FREEMANII 'AUTUMN BLAZE'

TAR 3 TILIA AMERICANA 'REDMOND'

1. REQUIRED LANDSCAPE MATERIAL SHALL SATISFY AMERICAN ASSOCIATION OF NURSERYMEN STANDARDS AND BE STAKED, WRAPPED, WATERED AND MULCHED PER ORDINANCE.

Master Plant List

AUTUMN BLAZE FREEMAN MAPLE

REDMOND AMERICAN LINDEN

Ornamental Trees

SARGENT CRABAPPLE

Common Name

NORTHERN CATALPA

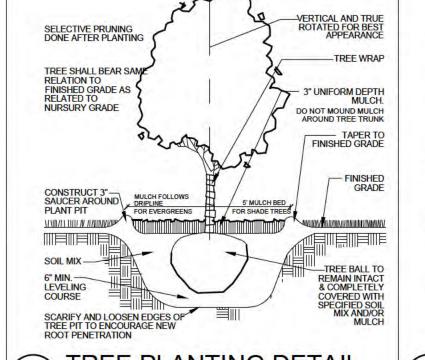
Size Origin

3" BB NATIVE

6' BB

3" BB NATIVE URBAN, MOIST

- 2. BEFORE ANY EXCAVATION ON THE SITE, CALL TO LOCATE ANY EXISTING UTILITIES ON THE SITE. THE CONTRACTOR SHALL FAMILIARIZE HIM/HERSELF WITH THE LOCATIONS OF ALL BURIED UTILITIES IN THE AREAS OF WORK BEFORE STARTING OPERATIONS. THE CONTRACTOR SHALL BE LIABLE FOR THE COST OF REPAIRING OR REPLACING ANY BURIED CONDUITS, CABLES OR PIPING DAMAGED DURING THE INSTALLATION OF THIS WORK.
- 3. FOUR FOOT HIGH FENCING OR OTHER RIGID MATERIAL IS TO BE ERECTED AROUND THE DRIP-LINE OF ALL TREES TO BE
- 4. PLANT QUANTITIES ON PLANT LIST INTENDED TO BE A GUIDE. ALL QUANTITIES SHALL BE CHECKED AND VERIFIED ON PLANTING PLAN. ANY DISCREPANCIES SHALL BE DISCUSSED WITH THE LANDSCAPE ARCHITECT.
- 5. ANY DEVIATIONS FROM OR MODIFICATIONS TO THIS PLAN SHALL BE APPROVED BY THE LANDSCAPE ARCHITECT PRIOR TO
- 6. CONTRACTOR TO NOTIFY LANDSCAPE ARCHITECT UPON DELIVERY OF PLANT MATERIAL TO THE SITE. LANDSCAPE ARCHITECT RESERVES THE RIGHT TO REJECT ANY PLANT MATERIAL THAT DOESN'T MEET STANDARDS OR SPECIFICATIONS
- 7. ALL PLANT MATERIAL TO BE INSTALLED PER THE PLANTING DETAILS PROVIDED ON THIS PLAN SET.
- 8. ALL BED EDGES TO BE WELL SHAPED, SPADE CUT, WITH LINES AND CURVES AS SHOWN ON THIS PLAN SET.
- 9. ALL PLANTING BEDS TO BE PREPARED WITH PLANTING MIX: 50% TOPSOIL, 50% SOIL AMENDMENTS (3 PARTS PEATMOSS, 1 PART COMPOST, 1 PART SAND)
- 10. ALL SPECIFIED LANDSCAPE MATERIAL INDICATED ON THE CONSTRUCTION DOCUMENTS WILL BE REQUIRED TO BE MAINTAINED THROUGHOUT THE LIFE OF THE PROJECT AND MUST BE REPLACED SHOULD IT DIE OR BECOME DAMAGED.
- 11. ALL PLANT MATERIAL SHALL HAVE A ONE YEAR GUARANTEE FROM SUBSTANTIAL COMPLETION AS DETERMINED BY THE LANDSCAPE ARCHITECT, AND SHALL BE REPLACED SHOULD IT DIE WITHIN THAT PERIOD.
- 12. PROTECT STRUCTURES, SIDEWALKS, PAVEMENTS AND UTILITIES TO REMAIN FROM DAMAGE CAUSED BY SETTLEMENT, LATERAL MOVEMENT, UNDERMINING, WASHOUTS AND OTHER HAZARDS CAUSED BY SITE IMPROVEMENT OPERATIONS.
- 13. ALL LAWN AREAS TO BE SEEDED WITH STANDARD TURF GRASS SEED AND COVERED WITH EROSION CONTROL BLANKET. UNLESS OTHERWISE SPECIFIED ON THE PLAN.
- 14. CAREFULLY MAINTAIN PRESENT GRADE AT BASE OF ALL EXISTING TREES TO REMAIN. PREVENT ANY DISTURBANCE OF EXISTING TREES INCLUDING ROOT ZONES. USE TREE PROTECTION BARRICADES WHERE INDICATED. PROTECT EXISTING TREES TO REMAIN AGAINST UNNECESSARY CUTTING, BREAKING OR SKINNING OF ROOTS, BRUISING OF BARK OR SMOTHERING OF TREES. DRIVING, PARKING, DUMPING, STOCKPILING AND/OR STORAGE OF VEHICLES, EQUIPMENT, SUPPLIES, MATERIALS OR DEBRIS ON TOP THE ROOT ZONES AND/OR WITHIN THE DRIPLINE OF EXISTING TREES OR OTHER PLANT MATERIAL TO REMAIN IS STRICTLY PROHIBITED.
- 15. THE CONTRACTOR AT ALL TIMES SHALL KEEP THE PREMISES ON WHICH WORK IS BEING DONE, CLEAR OF RUBBISH AND DEBRIS. ALL PAVEMENT AND DEBRIS REMOVED FROM THE SITE SHALL BE DISPOSED OF LEGALLY.
- 16. ALL WORK AND OPERATIONS SHALL COMPLY WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL CODES AND ORDINANCES.



3" UNIFORM DEPTH MULCH, DO NOT MOUND

2 SHRUB PLANTING DETAIL
SCALE: L1 SCALE:

1 TREE PLANTING DETAIL

© 2005 K M Talty DESIGN

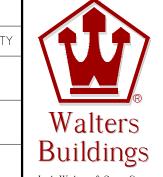
Attachment 6, Page 1

I HAVE REVIEWED THE PRELIMINARY DRAWINGS.

USTOMER SIGNATURE:	DATE:
INDEPCTAND THAT CHANCES MAY BE NECESS	A DV DED CODE OD CTDUCTUD AL DECUUDEMENT

CUSTOMER SIGNATURE: DATE:	TAG	
I UNDERSTAND THAT CHANGES MAY BE NECESSARY PER CODE OR STRUCTURAL REQUIREMENTS		_
ALL DRAWINGS ARE INTELLECTUAL PROPERTY OF WALTERS BUILDINGS UNTIL SOLD		ĺ

	DOOR & WINDOW SCHEDULE	
TAG	TYPE	QUANTI
1)	3'x6'-8" WALKDOOR w/ LEVER LOCKSET & DEADBOLT	2
2	16'x14' OVERHEAD DOOR OPENING	4



Jack Walters & Sons, Corp. P.O. Box 388 6600 Midland Ct. Allenton, WI 53002 1-800-558-7800 www.waltersbuildings.com

REVISIONS:

owner: Township Building

PROJECT: 72'x104' Storage

LOCATION: Minooka, IL

SALES REP / DEALER: Johnie Baker

DRAWN BY: Taylor Z

ESTIMATED BY:

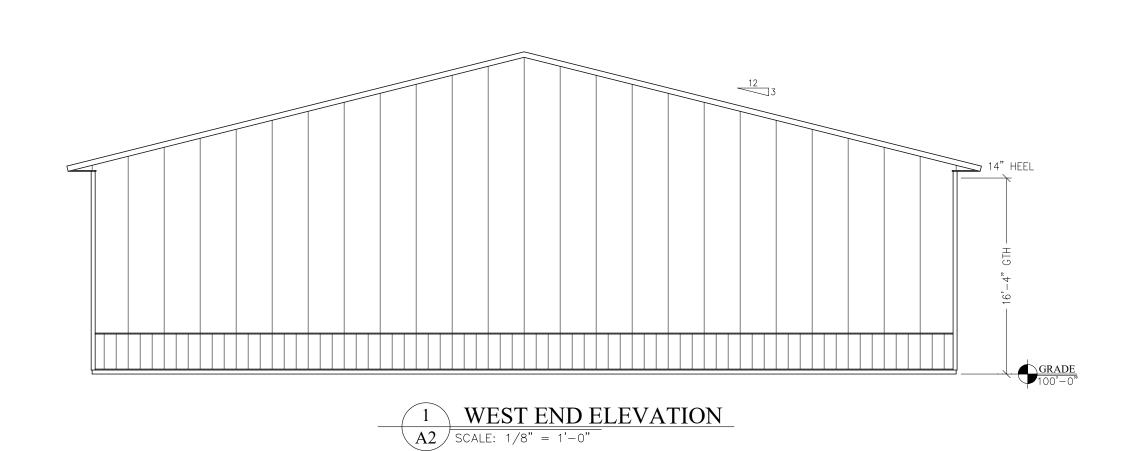
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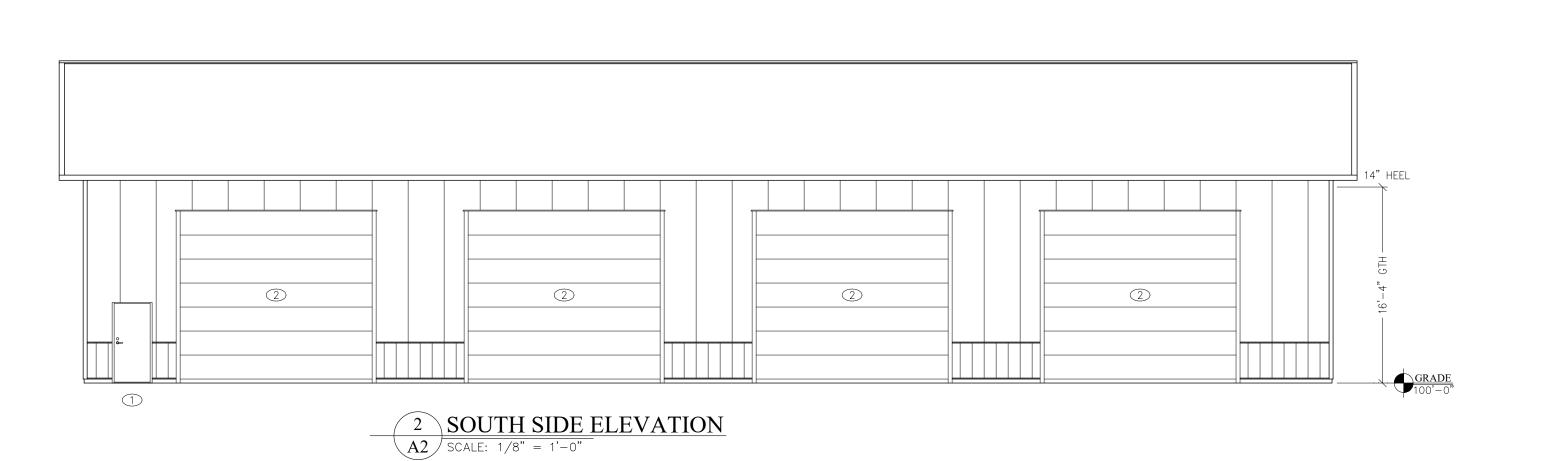
TZEITLER ON: 5/23/2022

SCALE:

JOB NUMBER: P74-078

SHEET NUMBER:



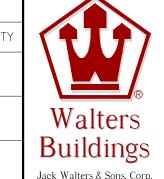


Attachment 6, Page 2	

I HAVE REVIEWED THE PRELIMINARY DRAWINGS.

CUSTOMER SIGNATURE:	DATE:
I UNDERSTAND THAT CHANGES MAY BE NECESSARY	PER CODE OR STRUCTURAL REQUIREMENTS
ALL DRAWINGS ARE INTELLECTUAL PROPERTY OF W	ALTERS BUILDINGS UNTIL SOLD

	DOOR & WINDOW SCHEDULE	
TAG	TYPE	QUANTI
1	3'x6'-8" WALKDOOR w/ LEVER LOCKSET & DEADBOLT	2
2	16'x14' OVERHEAD DOOR OPENING	4



Jack Walters & Sons, Corp. P.O. Box 388 6600 Midland Ct. Allenton, WI 53002 1-800-558-7800 www.waltersbuildings.com

REVISIONS:

owner: Township Building

PROJECT: 72'x104' Storage

LOCATION: Minooka, IL

SALES REP / DEALER: Johnie Baker

DRAWN BY: Taylor Z

ESTIMATED BY:

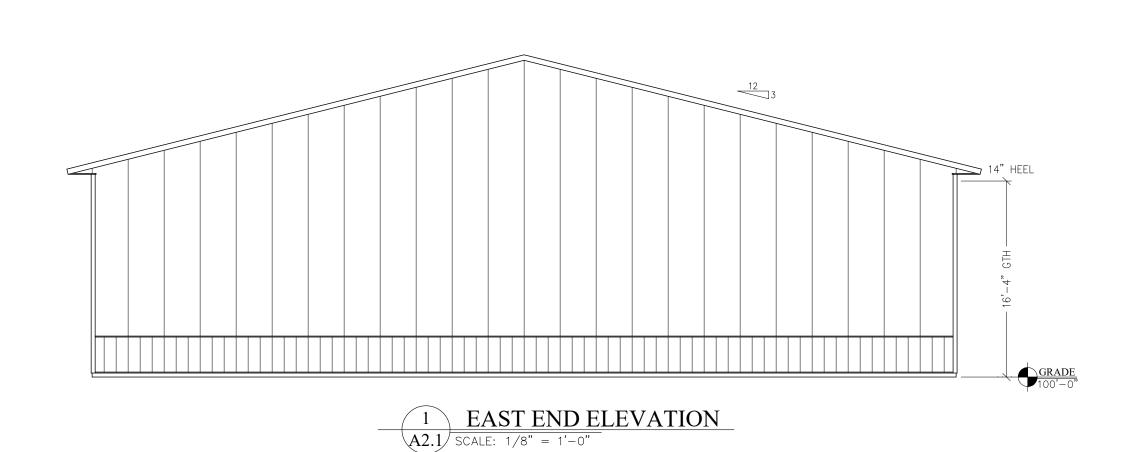
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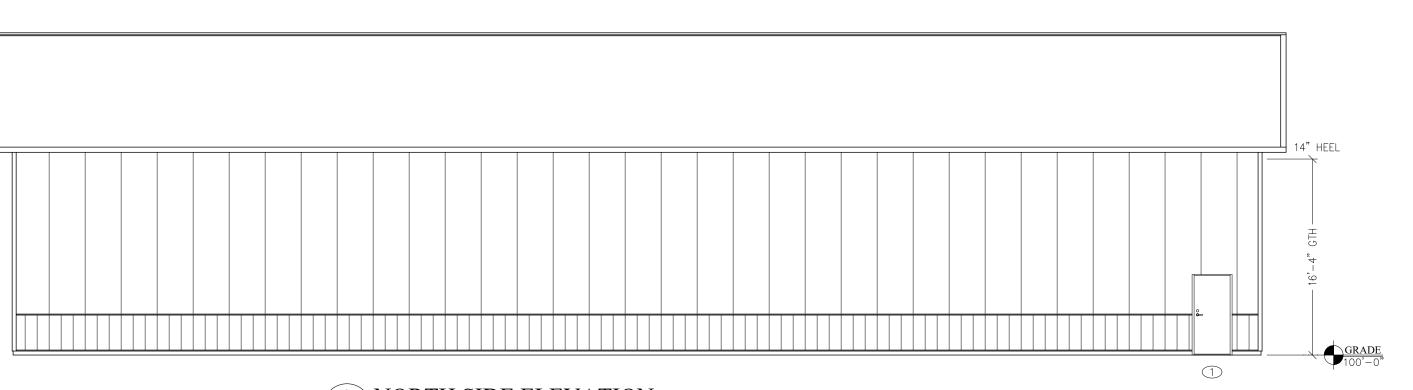
TZEITLER ON: 5/23/2022

SCALE:

JOB NUMBER: P74-078

SHEET NUMBER:





Attachment 6, Page 3

I HAVE REVIEWED THE PRELIMINARY DRAWINGS. CUSTOMER SIGNATURE:

DATE:

I UNDERSTAND THAT CHANGES MAY BE NECESSARY PER CODE OR STRUCTURAL REQUIREMENTS

ALL DRAWINGS ARE INTELLECTUAL PROPERTY OF WALTERS BUILDINGS UNTIL SOLD

DOOR & WINDOW SCHEDULE TAG TYPE QUANTITY 3'x6'-8" WALKDOOR w/ LEVER LOCKSET & DEADBOLT 1 16'x14' OVERHEAD DOOR OPENING 2

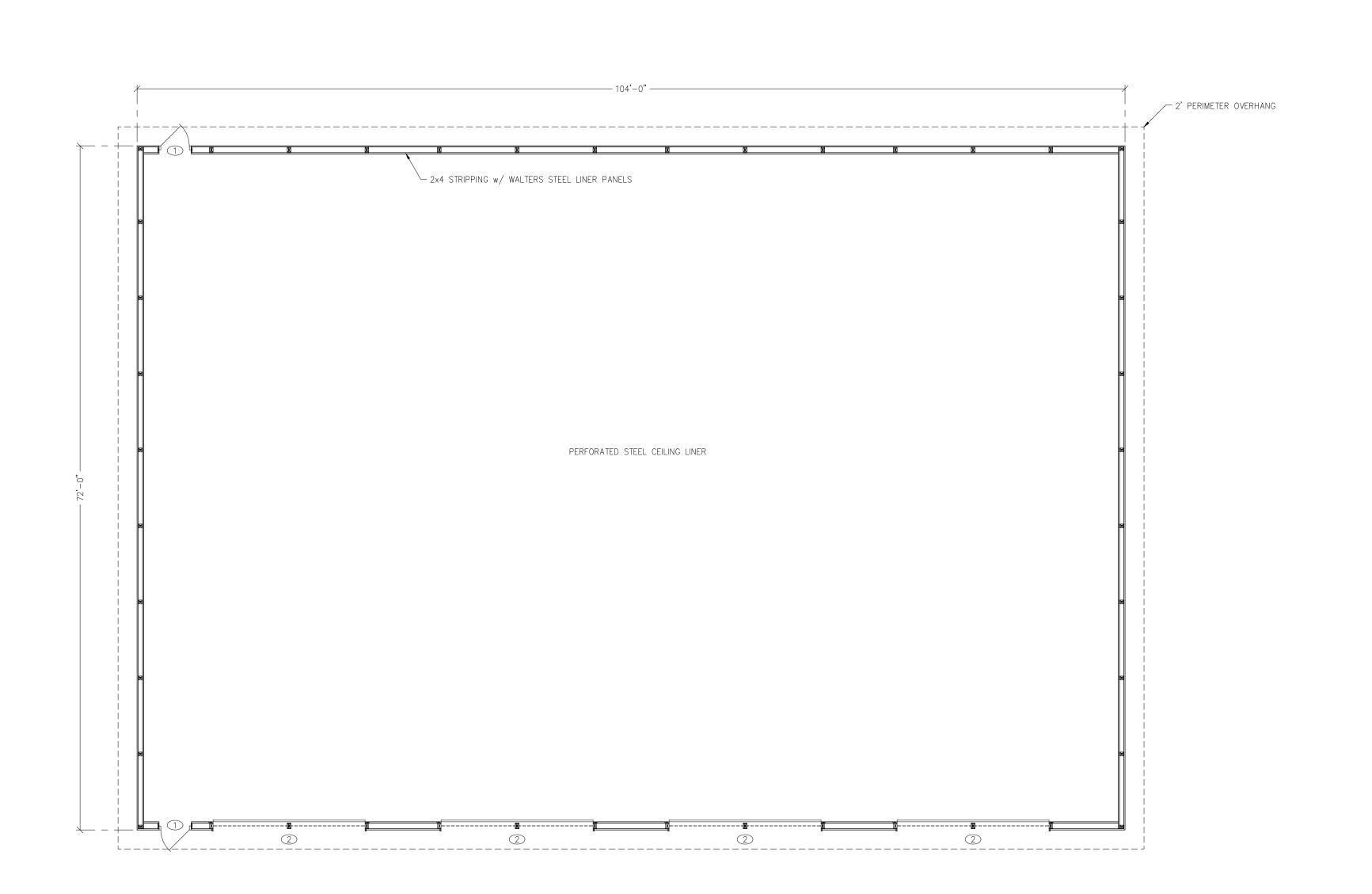
Buildings

2

4

Jack Walters & Sons, Corp. P.O. Box 388 6600 Midland Ct. Allenton, WI 53002 1-800-558-7800 www.waltersbuildings.com

REVISIONS:



OWNER: Township Building

PROJECT: 72'x104' Storage

LOCATION: Minooka, IL

SALES REP / DEALER: Johnie Baker

DRAWN BY: Taylor Z

ESTIMATED BY:

LAST SAVED BY:

TZEITLER ON: 5/23/2022

SCALE:

P74-078

SHEET NUMBER:

Attachment 7

From: Short, Michael A
To: Matt Asselmeier

Cc: Scott Koeppel; Scott Gengler; Fran Klaas

 Subject:
 [External]RE: 15759 Route 47

 Date:
 Wednesday, May 25, 2022 1:01:33 PM

CAUTION - This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Matt,

We have no concerns for a township maintenance facility at this location. We do not need any ROW for multi-use paths at this location.

If additional / relocated / modified entrances are needed to IL 47, a Highway Permit will be required.

Thanks,

Mike

Michael Short

Program Development Engineer
Illinois Department of Transportation, District 3
700 East Norris Drive
Ottawa, IL 61350
815-434-8450
Michael.Short@Illinois.gov

From: Matt Asselmeier <masselmeier@kendallcountyil.gov>

Sent: Monday, May 23, 2022 3:41 PM

To: Short, Michael A < Michael. Short@illinois.gov>

Cc: Scott Koeppel <skoeppel@kendallcountyil.gov>; Scott Gengler <sgengler@kendallcountyil.gov>;

Fran Klaas < FKlaas@kendallcountyil.gov>

Subject: [External] 15759 Route 47

Mike:

Kendall County will likely receive a request for a special use permit from Lisbon Township for a township garage facility at 15759 Route 47 (PINs: 08-21-300-002 and 08-21-300-004).

Does IDOT have any concerns regarding this type of use at this location? Does IDOT want any ROW for bike/walk paths?

ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC) June 7, 2022 – Unapproved Meeting Minutes

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

Present:

Matt Asselmeier – PBZ Department Scott Gengler – PBZ Committee Chair David Guritz – Forest Preserve Brian Holdiman – PBZ Department Commander Jason Langston – Sheriff's Department Alyse Olson – Soil and Water Conservation District Aaron Rybski – Health Department

Absent:

Meagan Briganti – GIS Department Greg Chismark – WBK Engineering, LLC Fran Klaas – Highway Department

Audience:

John Tebrugge

PETITIONS

Petition 22-13 Joe Slivka and Kevin Kunkel on Behalf of Lisbon Township

Mr. Asselmeier summarized the request.

Lisbon Township would like to construct a seven thousand four hundred eighty-eight (7,488) square foot garage on the subject property, located at 15759 Route 47, Newark.

The application materials, plat of survey, existing conditions survey, site plan, landscaping plan, building elevations were provided.

The property is approximately two point zero four (2.04) acres in size.

The existing land use is Institutional, Transportation and Agricultural.

The zoning is A-1.

The County's Future Land Use Map called for the property to be Agricultural. The Village of Lisbon's Future Land Use Map called for the property to be Commercial.

Route 47 is a State maintained Arterial.

The County has a trail planned along Route 47.

There are no floodplains or wetlands on the property.

The adjacent land uses are Agricultural, Farmstead and Comed Right-of-Way.

The nearby properties in the unincorporated area are zoned A-1. The property to the west and south is inside the Village of Lisbon and is zoned Mining.

The County's Future Land Use Map called for the area to be Agricultural, Comed Right-of-Way and Mining. The Village of Lisbon's Future Land Use Map called for the area to Agricultural, Commercial, Mixed Use Business, and Mining.

The property to the southwest is owned by Vulcan Lands, Inc.

EcoCAT Report was submitted on May 12, 2022, and consultation was terminated.

The NRI application was submitted on May 4, 2022.

Petition information was sent to Lisbon Township on May 26, 2022.

Petition information was sent to the Village of Lisbon on May 26, 2022.

ZPAC Meeting Minutes 06.07.22

Attachment 8, Page 2

Petition information was sent to the Lisbon-Seward Fire Protection District on May 26, 2022.

According to the information provided, Lisbon Township plans to construct a garage facility to store township vehicles and equipment. The building will not have an office. The maximum number of employees at the property will be three (3).

According to the site plan, Lisbon Township plans to construct one (1) seven thousand four hundred eighty-eight (7,488) square foot building on the property.

According to the building elevations, the building will be twenty-six feet (26') in height at its highest point. Four (4) doors to drive in vehicles and equipment would be located on the east side of the building and these doors would be sixteen feet, four inches (16' 4") in height. The elevations also show one (1) man door on the east side of the building and one (1) man door on the west side of the building. It should be noted that on the building elevations South Elevation = East, West Elevation = South, North Elevation = West, and East Elevation = North.

The site plan shows an existing metal building and salt storage shelter. The metal building would be demolished in the future; no date has been provided for demolition

The property is served by a well, but does not have a septic system.

One (1) trash enclosure area is shown on the site plan at the location of the existing metal building. This trash enclosure will be installed after the metal building is demolished. Until the metal building is demolished, there will not be a refuse area on the property.

Per the site plan, most of the property drains to the south.

The project does not meet the disturbance or lot coverage requirements needed for a stormwater permit.

Per the site plan, the property will utilize one (1) approximately twenty-five foot (25') wide driveway to access Route 47. The existing conditions survey showed three (3) access points onto Route 47.

According to the site plan, there are six (6) proposed parking stalls, including one (1) handicapped accessible parking stall, located north of the proposed building.

Per Section 11:04 of the Kendall County Zoning Ordinance, one (1) parking space per each employee is required for public service uses.

According to the site plan, the building will have wall pak lighting. No information was provided regarding the location or number of lights.

According to the site plan, one monument sign shall be placed on the subject property. The sign will not be illuminated.

According to the site plan, no fencing will be installed on the property. No other security information was provided.

According to the landscaping plan, one (1) Autumn Blaze Maple, two (2) Northern Catalpa, and three (3) Redwood American Linden will be planted on the property. The trees will be three inch (3") BB. One (1) Sargent Crabapple will also be planted and will be six foot (6') BB. No information was provided regarding the timing of planting.

The existing turf would remain.

No information was provided regarding noise control.

No odor causing activities are foreseen at the property.

If approved, this would be the sixth (6th) special use permit for a government facility in the unincorporated area.

The proposed Findings of Fact were as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided the site is developed in accordance with the submitted site plan and

ZPAC Meeting Minutes 06.07.22

landscaping plan, the proposed use should not be detrimental or endanger the public health, safety, morals, comfort, or general welfare.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. The subject property is located along a four (4) lane highway with agricultural uses on all sides. Few residential uses are located in the vicinity. Provided the site is developed in accordance with the submitted site plan and landscaping plan, the proposed use will not be substantially injurious to neighboring properties and or adversely impact adjacent uses.

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, points of ingress/egress, drainage, and other necessary facilities have been or will be 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. This is true; no variances are needed.

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 proposal is consistent with a goal found on page 9-20 of the Kendall County Land Resource Management Plan call for "Mutually supportive, non-adversarial team of municipal, township, school, park, county, and other governments working toward the benefit of everyone in Kendall County." Also, land next to an arterial highway is a logical location for a township highway facility.

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

- 1. The site shall be developed substantially in accordance with the submitted site plan and landscaping plan. Lisbon Township may demolish the one (1) story metal building shown on the site plan without seeking an amendment to this special use permit.
- 2. The botanicals shown on the landscaping plan shall be installed by June 30, 2024. This deadline may be extended upon approval by the Kendall County Planning, Building and Zoning Committee. Damaged or dead botanicals shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.
- 3. The seven thousand four hundred eighty-eight (7,488) square foot building shall be developed substantially in accordance with the attached elevations (Attachment 6) with a maximum building height of twenty-six feet (26'). On the elevations, South Elevation = East, West Elevation = South, North Elevation = West, and East Elevation = North.
- 4. Any structures constructed, installed, or demolished related to the use allowed by this special use permit on the property shall not be considered for agricultural purposes and must secure applicable building permits.
- 5. One (1) free standing monument sign may be installed in substantially the location shown on the site plan. The sign shall not be illuminated.
- 6. The trash enclosure shall be placed in substantially the location shown on the site plan, upon demolition of the one (1) story metal building. The enclosure shall be screened per the requirements of the Kendall County Zoning Ordinance. The property owners shall ensure that the site is kept free of litter and debris.
- 7. The owners of the uses allowed by this special use permit shall diligently monitor the property for leaks from equipment, vehicles, and materials parked and stored on the subject property and shall promptly clean up the site if leaks occur.
- 8. None of the vehicles or equipment parked or stored on the subject property related to the use allowed by the special use permit shall be considered agricultural vehicles or agricultural equipment.
- 9. The operators of the use allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
- 10. The property owner and operator of the use allowed by this special use permit shall follow all applicable Federal,

State, and Local laws related to the operation of this type of use.

- 11. 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.
- 12. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
- 13. 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.

Discussion occurred regarding screening. Mr. Asselmeier noted that no berms or fencing was proposed. The only screening would be the vegetation shown in the landscaping plan.

Mr. Rybski requested confirmation that no sinks or bathroom facilities would be located in the facility. Mr. Asselmeier said that it was his understanding that no sinks or bathroom facilities would be located in the facility. The facility would be for storage purposes only. Mr. Holdiman said that offices might go in the facility in the future and the Petitioners were aware that a septic facility would be required at that time. The Petitioners might need to purchase additional property to have room for a septic system.

Mr. Gengler asked about the handling of oil waste. Mr. Holdiman said no discussion has occurred regarding maintenance of vehicles and related requirements including oil interceptor and septic system requirements.

Mr. Guritz made a motion, seconded by Mr. Holdiman, to recommend approval of the special use permit with conditions proposed by Staff with the correction of the missing word contained in condition 9.

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

The proposal goes to the Kendall County Regional Planning Commission on June 22, 2022.

PUBLIC COMMENT

Discussion occurred regarding changing the date of the July meeting. The consensus of the Committee was to have Mr. Asselmeier poll Members after the application deadline to see if the date should be changed. Officially, the meeting date will remain July 5th at this time.

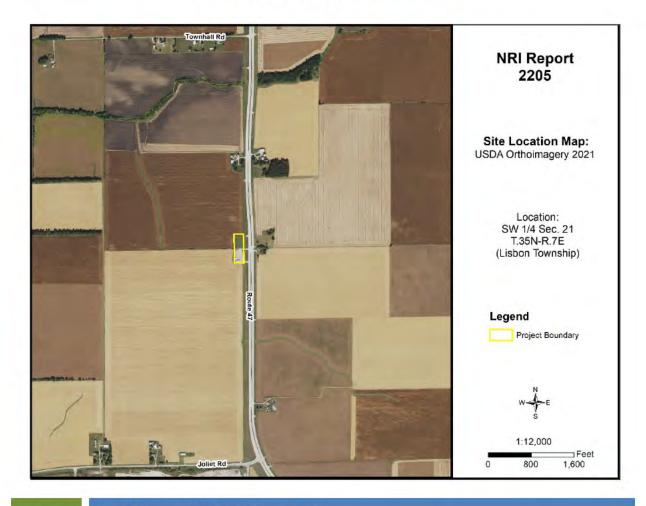
ADJOURNMENT

Mr. Guritz made a motion, seconded by Mr. Rybski, to adjourn. With a voice vote of seven (7) ayes, the motion carried.

The ZPAC, at 9:27 a.m., adjourned.

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

NATURAL RESOURCE INFORMATION (NRI) REPORT: #2205



June 2022 Petitioner: Lisbon Township Contact: Kevin Kunkel

Prepared By:



7775A Route 47 Yorkville, Illinois 60560 Phone: (630) 553-5821 x3 www.kendallswcd.org

KENDALL COUNTY SOIL AND WATER CONSERVATION DISTRICT NATURAL RESOURCE INFORMATION (NRI) REPORT

Natural Resource Information Report Number	2205
Date District Board Reviews Application	June 2022
Applicant's Name	Lisbon Township
Size of Parcel	2.036 acres
Current Zoning & Use	A-1 Agricultural; Lisbon Township Road
	Commission gravel lot & buildings/structures
Proposed Zoning & Use	A-1 SU Agricultural with Special Use Permit;
	Addition of garage facility for
	Lisbon Township Road Commission
Parcel Index Number(s)	08-21-300-002, 08-21-300-004
Contact Person	Kevin Kunkel

Copies of this report or notification of the proposed land-use change was provided to:		No
The Applicant	Х	
The Applicant's Legal Representation		х
The Local/Township Planning Commission	Х	
The Village/City/County Planning and Zoning Department or Appropriate Agency	Х	
The Kendall County Soil and Water Conservation District Files	X	

Report Prepared By: Alyse Olson Position: Resource Conservationist

PURPOSE AND INTENT

The purpose of this report is to provide officials of the local governing body and other decision-makers with natural resource information. This information may be useful when undertaking land use decisions concerning variations, amendments or relief of local zoning ordinances, proposed subdivision of vacant or agricultural lands and the subsequent development of these lands. This report is a requirement under Section 22.02a of the Illinois Soil and Water Conservation Districts Act.

The intent of this report is to present the most current natural resource information available in a readily understandable manner. It contains a description of the present site conditions, the present resources, and the potential impacts that the proposed change may have on the site and its resources. The natural resource information was gathered from standardized data, on-site investigations and information furnished by the petitioner. This report must be read in its entirety so that the relationship between the natural resource factors and the proposed land use change can be fully understood.

Due to the limitations of scale encountered with the various resource maps, the property boundaries depicted in the various exhibits in this report provide a generalized representation of the property location and may not precisely reflect the legal description of the PIQ (Parcel in Question).

This report, when used properly, will provide the basis for proper land use change decisions and development while protecting the natural resource base of the county. It should not be used in place of detailed environmental and/or engineering studies that are warranted under most circumstances, but in conjunction with those studies.

The conclusions of this report in no way indicate that a certain land use is not possible, but it should alert the reader to possible problems that may occur if the capabilities of the land are ignored. Any questions on the technical data supplied in this report or if anyone feels that they would like to see more additional specific information to make the report more effective, please contact:

> Kendall County Soil and Water Conservation District 7775A Route 47, Yorkville, IL 60560 Phone: (630) 553-5821 ext. 3

E-mail: Alyse.Olson@il.nacdnet.net

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EXECUTIVE SUMMARY

Natural Resource Information Report Number	#2205
·	
Petitioner	Lisbon Township
Contact Person	Kevin Kunkel
County or Municipality the Petition is Filed With	Kendall County
Location of Parcel	SW ¼ of Section 21, Township 35 North, Range 7
	East (Lisbon Township) of the 3 rd Principal Meridian
Desirat or Cub division Name	Lishan Tarrashin Francisco
Project or Subdivision Name	Lisbon Township Expansion
	A-1 Agricultural; Lisbon Township Road
Existing Zoning & Land Use	Commission gravel lot & buildings/structures
	grand is a summing of curactures
	A-1 SU Agricultural with Special Use Permit;
Proposed Zoning & Land Use	Addition of garage facility for Lisbon Township
	Road Commission
Proposed Water Source	Existing well
Proposed Type of Sewage Disposal System	N/A
Proposed Type of Storm Water Management	N/A
Cina of Cita	2.026
Size of Site	2.036 acres
Land Evaluation Site Assessment Score	179 (Land Evaluation: 02: Site Assessment: 95)
Land Evaluation Site Assessment Score	178 (Land Evaluation: 93; Site Assessment: 85)

NATURAL RESOURCE CONSIDERATIONS

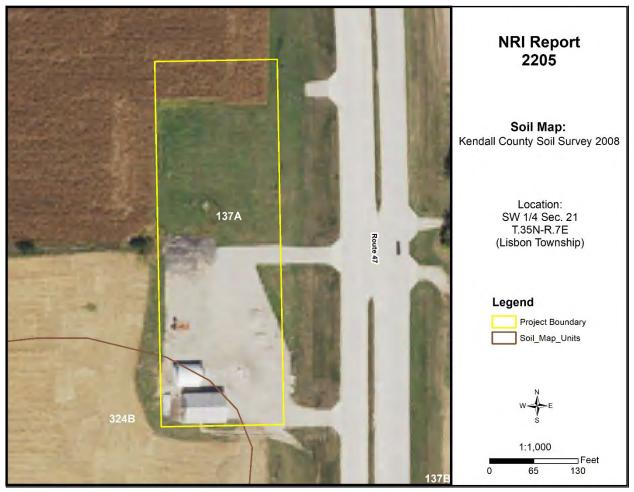


Figure 1: Soil Map

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; if completed, please refer to onsite soil test results for planning/engineering purposes):

Table 1: Soils Information

Map Unit	Soil Name	Drainage Class	Hydrologic Group	Hydric Designation	Farmland Designation
137A	Clare silt loam, 0-2% slopes, bedrock substratum	Moderately Well Drained	С	Non-Hydric	Prime Farmland
324B	Ripon silt loam, 2-5% slopes	Well Drained	С	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 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 that supports the growth or regeneration of hydrophytic vegetation. Soils with hydric inclusions have map units dominantly made up of non-hydric soils that may have inclusions of hydric soils in the lower positions on the landscape. Of the soils found onsite, neither of them are classified as hydric soil.

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, both are designated as prime farmland.

Soil Limitations – The USDA-NRCS Web Soil Survey rates the limitations of soils for dwellings with basements, dwellings without basements, small commercial buildings, shallow excavations, lawns/landscaping, and local roads and streets. Soils have different properties which influence the development of building sites. The USDA-NRCS classifies soils as Not Limited, Somewhat Limited, and Very Limited. Soils that are Not Limited indicates that the soil has properties that are favorable for the specified use. They will perform well and will have low maintenance. Soils that are Somewhat Limited are moderately favorable, and their limitations can be overcome through special planning, design, or installation. Soils that are Very Limited have features that are unfavorable for the specified use, and their limitations cannot easily be overcome.

Table 2: Soil Limitations

Soil Type	Small Commercial Buildings	Shallow Excavations	Conventional Septic Systems
137A	Somewhat Limited	Somewhat Limited	Suitable / Not Limited
324B	Somewhat Limited	Very Limited	Unsuitable / Very Limited

Septic Systems – The factors considered for determining suitability are the characteristics and qualities of the soil that affect the limitations for absorbing waste from domestic sewage disposal systems. The major features considered are soil permeability, percolation rate, groundwater level, depth to bedrock, flooding hazards, and slope. Soils are deemed unsuitable per the Kendall County Subdivision Control Ordinance. Installation of an on-site sewage disposal system in soils designated as unsuitable may necessitate the installation of a non-conventional onsite sewage disposal system. For more information please contact the Kendall County Health Department (811 W. John Street, Yorkville, IL; (630) 553-9100 ext. 8026). Note: the current project scope does not include onsite sewage disposal, however, it was indicated that there could be a need for it in the future.

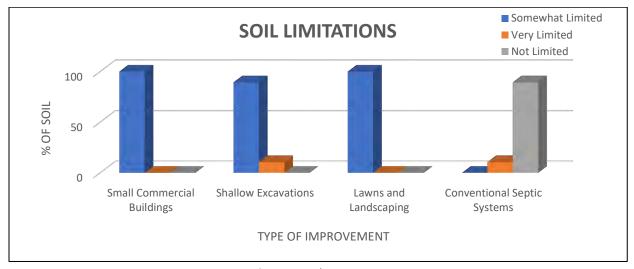


Figure 2: Soil Limitations

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.
 - The Land Evaluation score for this site is 93, indicating that this site is well suited for agricultural uses.
- **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 Site Assessment value is based on a 200-point scale and accounts for 2/3 of the total score. The Kendall County LESA Committee is responsible for this portion of the LESA system.

• The Site Assessment score for this site is **85**.

The LESA Score for this site is 178 out of a possible 300, 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. If the project is agricultural in nature, however, a higher score may provide an indication of the suitability of the project as it relates to the compatibility with existing agricultural land use.

WETLANDS

The U.S. Fish & Wildlife Service's National Wetlands Inventory map does not indicate the presence of a wetland(s) on the proposed project site. To determine if a wetland is present, 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 Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map (FIRM) for Kendall County, Community Panel No. 17093C0200G (effective date February 4, 2009) was reviewed to determine the presence of floodplain and floodway areas within the project site. According to the map, the parcel is **not located within** the floodplain or floodway.

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.

NRI 2205

LAND USE FINDINGS:

The Kendall County Soil and Water Conservation District (SWCD) Board has reviewed the proposed development plans for Petitioner Lisbon Township for the Special Use Permit request to construct one 7,488 square foot garage facility for the Lisbon Township Road Commission on two parcels (Parcel Index Numbers 08-21-300-002 & 08-21-300-004) within Lisbon Township of Kendall County located in the SW ½ of Section 21, Township 35N, and Range 7E of the 3rd Principal Meridian. 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 presents the following information.

The Kendall County SWCD has always had the opinion that Prime Farmland should be preserved whenever feasible. Of the soils found onsite, 100% are classified as prime farmland. A land evaluation (LE), which is a part of the Land Evaluation and Site Assessment (LESA), was conducted on this parcel. The soils on this parcel scored a 93 out of a possible 100 points indicating that the soils are well suited for agricultural uses. The total LESA Score for this site is 178 out of a possible 300, which indicates a low level of protection for the proposed project site. 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. If the project is agricultural in nature, however, a higher score may provide an indication of the suitability of the project as it relates to the compatibility with existing agricultural land use.

Soils found on the project site are rated for specific uses and can have potential limitations for development. 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 development with significant limitations. This report indicates that for soils located on the parcel, 10.6% are very limited for shallow excavations. Additionally, 10.6% of the soils are considered unsuitable for conventional septic systems. The current project scope does not include onsite sewage disposal; however, it was indicated that there could be a need for it in the future. Other developments/land uses that were considered included small commercial buildings and lawns/landscaping. The soils were rated as somewhat limited for these uses. This information is based on the soil in an undisturbed state. If the scope of the project may include the use of onsite septic systems, please consult with the Kendall County Health Department.

This site is located within the Upper Illinois River watershed and the Minooka Branch Aux Sable Creek sub watershed. This development should include a soil erosion and sediment control plan to be implemented during construction. Sediment may become a primary non-point source of pollution; eroded soils during the construction phase can create unsafe conditions on roadways, degrade water quality and destroy aquatic ecosystems lower in the watershed.

For intense use, it is recommended that a drainage tile survey be completed on the parcel to locate the subsurface drainage tile and should be taken into consideration during the land use planning process. 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 that the Land Developers take into full consideration the limitations of that land that they wish to develop. Guidelines and recommendations are also a part of this report and should be considered in the planning process. The Natural Resource Information Report is required by the Illinois Soil and Water Conservation District Act (III, Complied Statues, Ch. 70, Par 405/22.02a).

SWCD Boy d Representative

6/13/2025

PARCEL LOCATION

Location Map for Natural Resources Information Report #2205

SW ¼ of Section 21, Township 35 North, Range 7 East (Lisbon Township) on 2.036 acres. This parcel is located south of Townhall Road and north of Joliet Road on Illinois Route 47 in Newark, IL. The parcel is part of unincorporated Kendall County.

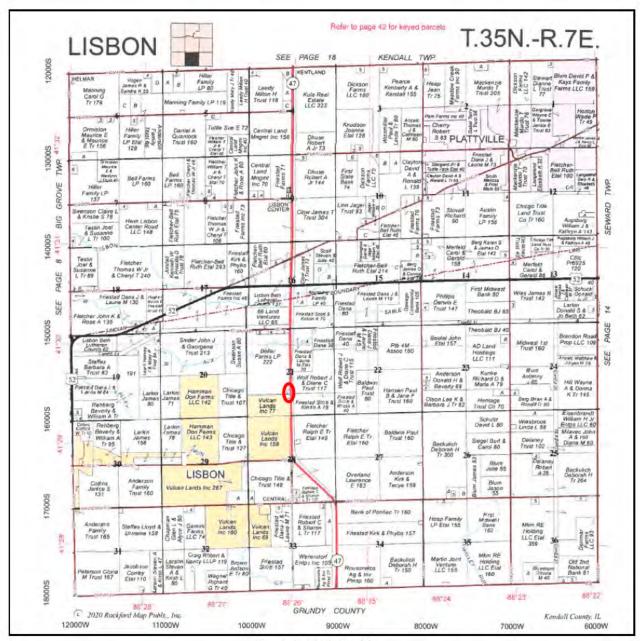


Figure 3: 2021 Plat Map

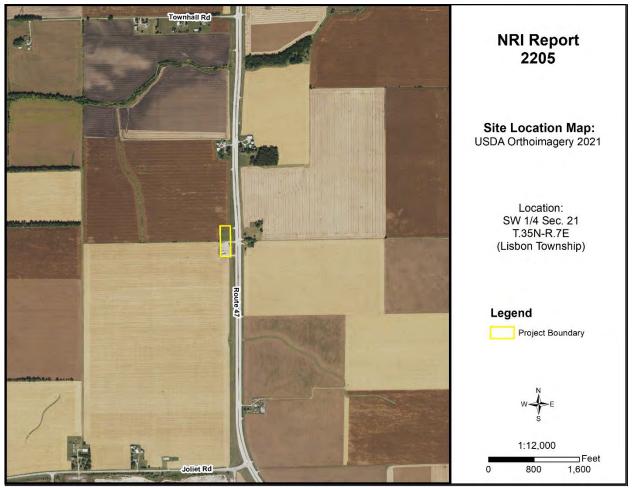


Figure 4: 2021 Aerial Map with NRI Site Boundary

ARCHAEOLOGIC/CULTURAL RESOURCES INFORMATION

Simply stated, cultural resources are all the past activities and accomplishments of people. They include the following: buildings; objects made or used by people; locations; and less tangible resources, such as stories, dance forms, and holiday traditions.

The Soil and Water Conservation District most often encounters cultural resources as historical properties. These may be prehistoric or historical sites, buildings, structures, features, or objects. The most common type of historical property that the Soil and Water Conservation District may encounter is non-structural archaeological sites. These sites often extend below the soil surface and must be protected against disruption by development or other earth moving activity if possible. Cultural resources are *non-renewable* because there is no way to "grow" a site to replace a disrupted site.

Landowners with historical properties on their land have ownership of that historical property. However, the State of Illinois owns all the following: human remains, grave markers, burial mounds, and artifacts associated with graves and human remains.

Non-grave artifacts from archaeological sites and historical buildings are the property of the landowner. The landowner may choose to disturb a historical property but may not receive federal or state assistance to do so. If an earth moving activity disturbs human remains, the landowner must contact the county coroner within 48 hours.

The Illinois Historic Preservation Agency has not been notified of the proposed land use change by the Kendall County SWCD. The applicant may need to contact the IHPA according to current Illinois law.

ECOLOGICALLY SENSITIVE AREAS

WHAT IS BIOLOGICAL DIVERSITY AND WHY SHOULD IT BE CONSERVED? 1

Biological diversity, or biodiversity, is the range of life on our planet. A more thorough definition is presented by botanist Peter H. Raven: "At the simplest level, biodiversity is the sum total of all the plants, animals, fungi and microorganisms in the world, or in a particular area; all of their individual variation; and all of the interactions between them. It is the set of living organisms that make up the fabric of the planet Earth and allow it to function as it does, by capturing energy from the sun and using it to drive all of life's processes; by forming communities of organisms that have, through the several billion years of life's history on Earth, altered the nature of the atmosphere, the soil and the water of our Planet; and by making possible the sustainability of our planet through their life activities now" (Raven 1994).

It is not known how many species occur on our planet. Presently, about 1.4 million species have been named. It has been estimated that there are perhaps 9 million more that have not been identified. What is known is that they are vanishing at an unprecedented rate. Reliable estimates show extinction occurring at a rate several orders of magnitude above "background" in some ecological systems (Wilson 1992, Hoose 1981).

The reasons for protecting biological diversity are complex, but they fall into four major categories. First, loss of diversity generally weakens entire natural systems. Healthy ecosystems tend to have many natural checks and balances. Every species plays a role in maintaining this system. When simplified by the loss of diversity, the system becomes more susceptible to natural and artificial perturbations. The chances of a system-wide collapse increase. In parts of the midwestern United States, for example, it was only the remnant areas of natural prairies that kept soil intact during the dust bowl years of the 1930s (Roush 1982).

Simplified ecosystems are almost always expensive to maintain. For example, when synthetic chemicals are relied upon to control pests, the target species are not the only ones affected. Their predators are almost always killed or driven away, exasperating the pest problem. In the meantime, people are unintentionally breeding pesticide-resistant pests. A process has begun where people become perpetual guardians of the affected area, which requires the expenditure of financial resources and human ingenuity to keep the system going.

A second reason for protecting biological diversity is that it represents one of our greatest untapped resources. Great benefits can be reaped from a single species. About 20 species provide 90% of the world's food. Of these 20, just three, wheat, maize, and rice-supply over one half of that food. American wheat farmers need new varieties every five to 15 years to compete with pests and diseases. Wild strains of wheat are critical genetic reservoirs for these new varieties.

Further, every species is a potential source of human medicine. In 1980, a published report identified the market value of prescription drugs from higher plants at over \$3 billion. Organic alkaloids, a class of

chemical compounds used in medicines, are found in an estimated 20% of plant species. Yet only 2% of plant species have been screened for these compounds (Hoose 1981).

The third reason for protecting diversity is that humans benefit from natural areas and depend on healthy ecosystems. The natural world supplies our air, our water, our food and supports human economic activity. Further, humans are creatures that evolved in a diverse natural environment between forest and grasslands. People need to be reassured that such places remain. When people speak of "going to the country," they generally mean more than getting out of town. For reasons of their own sanity and wellbeing, they need a holistic, organic experience. Prolonged exposure to urban monotony produces neuroses, for which cultural and natural diversity cure.

Historically, the lack of attention to biological diversity, and the ecological processes it supports, has resulted in economic hardships for segments of the basin's human population.

The final reason for protecting biological diversity is that species and natural systems are intrinsically valuable. The above reasons have focused on the benefits of the natural world to humans. All things possess intrinsic value simply because they exist.

BIOLOGICAL RESOURCES CONCERNING THE SUBJECT PARCEL

As part of the Natural Resources Information Report, staff checks office maps to determine if any nature preserves or ecologically sensitive areas are in the general vicinity of the parcel in question. If there is a nature preserve in the area, then that resource will be identified as part of the report. The SWCD recommends that every effort be made to protect that resource. Such efforts should include, but are not limited to erosion control, sediment control, stormwater management, and groundwater monitoring.

Office maps indicate that ecologically sensitive area(s) are not located on or near the parcel in question (PIQ).

11

¹Taken from <u>The Conservation of Biological Diversity in the Great Lakes Ecosystem: Issues and Opportunities</u>, prepared by the Nature Conservancy Great Lakes Program 79W. Monroe Street, Suite 1309, Chicago, IL 60603, January 1994.

SOILS INFORMATION

IMPORTANCE OF SOILS INFORMATION

Soils information comes from the Natural Resources Conservation Service Soil Maps and Descriptions for Kendall County. This information is important to all parties involved in determining the suitability of the proposed land use change.

Each soil polygon is given a number, which represents its soil type. The letter found after the soil type number indicates the soils slope class.

Each soil map unit has limitations for a variety of land uses such as septic systems, buildings with basements, and buildings without basements. It is important to remember that soils do not function independently of each other. The behavior of a soil depends upon the physical properties of adjacent soil types, the presence of artificial drainage, soil compaction, and its position in the local landscape.

The limitation categories (not limited, somewhat limited, or very limited) indicate the potential for difficulty in using that soil unit for the proposed activity and, thus, the degree of need for thorough soil borings and engineering studies. A limitation does not necessarily mean that the proposed activity cannot be done on that soil type. It does mean that the reasons for the limitation need to be thoroughly understood and dealt with to complete the proposed activity successfully. Very limited indicates that the proposed activity will be more difficult and costly to do on that soil type than on a soil type with a somewhat limited or not limited rating.

Soil survey interpretations are predictions of soil behavior for specified land uses and specified management practices. They are based on the soil properties that directly influence the specified use of the soil. Soil survey interpretations allow users of soil surveys to plan reasonable alternatives for the use and management of soils.

Soil interpretations do not eliminate the need for on-site study and testing of specific sites for the design and construction for specific uses. They can be used as a guide for planning more detailed investigations and for avoiding undesirable sites for an intended use. The scale of the maps and the range of error limit the use of the soil delineation.

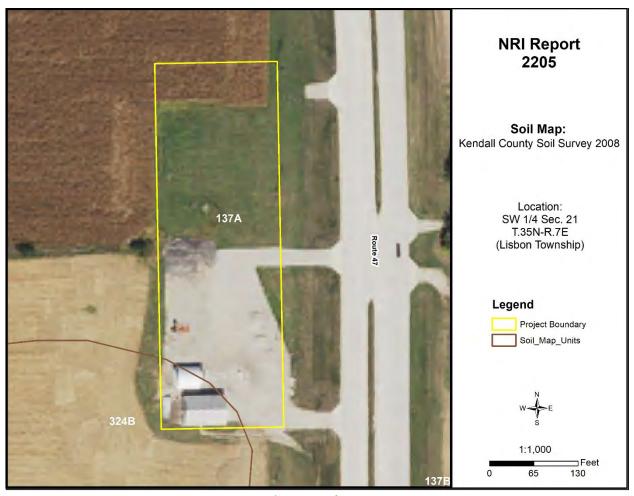


Figure 5: Soil Map

 Table 3: Soil Map Unit Descriptions

Symbol	Descriptions	Acres	Percent
137A	Clare silt loam, 0-2% slopes, bedrock substratum	1.8	89.4%
324B	Ripon silt loam, 2-5% slopes	0.2	10.6%

Source: National Cooperative Soil Survey – USDA-NRCS

SOILS INTERPRETATIONS EXPLANATION

GENERAL – NONAGRICULTURAL

These interpretative ratings help engineers, planners, and others to understand how soil properties influence behavior when used for nonagricultural uses such as building site development or construction materials. This report gives ratings for proposed uses in terms of limitations and restrictive features. The tables list only the most restrictive features.

Other features may need treatment to overcome soil limitations for a specific purpose. Ratings come from the soil's "natural" 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. Most of these practices, however, are costly. The final decision in selecting a site for a particular use generally involves weighing the costs for site preparation and maintenance. Soil properties influence development of building sites, including the selection of the site, the design of the structure, construction, performance after construction, and maintenance. Soil limitation ratings of not limited, somewhat limited, and very limited are given for the types of proposed improvements that are listed or inferred by the petitioner as entered on the report application and/or zoning petition. The most common types of building limitation that this report gives limitations ratings for is septic systems. It is understood that engineering practices can overcome most limitations for buildings with and without basements, and small commercial buildings. Limitation ratings for these types of buildings are not commonly provided. Organic soils, when present on the parcel, are referenced in the hydric soils section of the report. This type of soil is considered unsuitable for all types of construction.

LIMIATIONS RATINGS

- **Not Limited:** This soil has favorable properties for the use. The degree of limitation is minor. The people involved can expect good performance and low maintenance.
- Somewhat Limited: This soil has moderately favorable properties for the use. Special planning, design, or maintenance can overcome this degree of limitation. During some part of the year, the expected performance is less desirable than for soils rated slight.
- Very Limited: This soil has one or more properties that are unfavorable for the rated use. These
 may include the following: steep slopes, bedrock near the surface, flooding, high shrink-swell
 potential, a seasonal high water table, or low strength. This degree of limitation generally requires
 major soil reclamation, special design, or intensive maintenance, which in most situations is
 difficult and costly.

BUILDING LIMITATIONS

BUILDING ON POORLY SUITED OR UNSUITABLE SOILS

Building on poorly suited or unsuitable soils can present problems to future property owners such as cracked foundations, wet basements, lowered structural integrity and high maintenance costs associated with these problems. The staff of the Kendall County SWCD strongly urges scrutiny by the plat reviewers when granting parcels with these soils exclusively.

Small Commercial Buildings – Ratings are for structures that are less than three stories high and do not have basements. The foundation is assumed to be spread footings of reinforced concrete built on disturbed soil at a depth of 2 feet or at the depth of maximum frost penetration, whichever is deeper. The ratings are based on soil properties that affect the capacity of the soil to support a load without movement and on the properties that affect excavation and construction costs.

Shallow Excavations – Trenches or holes dug to a maximum depth of 5 or 6 feet for utility lines, open ditches, or other purposes. Ratings are based on soil properties that influence the ease of digging and the resistance to sloughing.

Lawns and Landscaping – Require soils on which turf and ornamental trees and shrubs can be established and maintained (irrigation is not considered in the ratings). The ratings are based on the soil properties that affect plant growth and trafficability after vegetation is established.

Onsite Sewage Disposal – The factors considered are the characteristics and qualities of the soil that affect the limitations for absorbing waste from domestic sewage disposal systems. The major features considered are soil permeability, percolation rate, groundwater level, depth to bedrock, flooding hazards, and slope. The table below indicates soils that are deemed unsuitable per the Kendall County Subdivision Control Ordinance. Installation of an on-site sewage disposal system in soils designated as unsuitable may necessitate the installation of a non-conventional onsite sewage disposal system. For more information please contact the Kendall County Health Department – Environmental Health at (630) 553-9100 x8026. Note: the current project scope does not include onsite sewage disposal, however, it was indicated that there could be a need for it in the future.

Table 4: Building Limitations

Soil Type	Small Commercial Buildings	Shallow Excavations	Lawns and Landscaping	Onsite Conventional Sewage Systems	Acres	%
137A	Somewhat Limited: Shrink-swell	Somewhat Limited: Depth to saturated zone Depth to hard bedrock Dusty Unstable excavation walls	Somewhat Limited: Dusty	Suitable/Not Limited	1.8	89.4%
324B	Somewhat Limited: Shrink-swell Depth to hard bedrock	Very Limited: Depth to hard bedrock Dusty Unstable excavation walls	Somewhat Limited: Depth to bedrock Dusty	Unsuitable/Very Limited: Bedrock	0.2	10.6%
% Very Limited	0%	10.6%	0%	10.6%		



Figure 6A: Map of Building Limitations – Small Commercial Buildings and Lawns/Landscaping



Figure 6B: Map of Building Limitations – Shallow Excavations

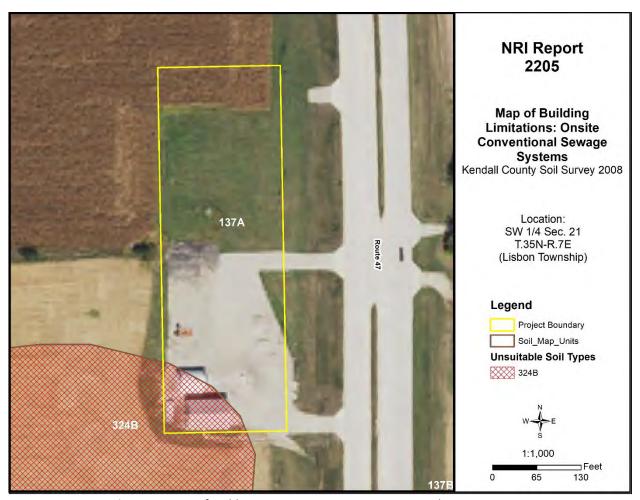


Figure 6C: Map of Building Limitations – Onsite Conventional Sewage System

SOIL WATER FEATURES

Table 5, below, gives estimates of various soil water features that should be taken into consideration when reviewing engineering for a land use project.

HYDROLOGIC SOIL GROUPS (HSGs) – The groups are based on estimates of runoff potential. Soils are assigned to one of four groups according to the rate of water infiltration when the soils are not protected by vegetation, are thoroughly wet, and receive precipitation from long-duration storms.

- **Group A:** Soils having 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.
- Group B: Soils having a moderate infiltration rate when thoroughly wet. These consist chiefly of
 moderately deep or deep, moderately well drained, or well drained soils that have moderately
 fine texture to moderately coarse texture. These soils have a moderate rate of water transmission.
- **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.
- **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, soils that 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.

Note: 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 is for undrained areas.

SURFACE RUNOFF – 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 and 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). The classes are negligible, very low, low, medium, high, and very high.

MONTHS – The portion of the year in which a water table, ponding, and/or flooding is most likely to be a concern.

WATER TABLE – Water table refers to a saturated zone in the soil and the data indicates, by month, depth to the top (upper limit) and base (lower limit) of the saturated zone in most years. These estimates are based upon observations of the water table at selected sites and on evidence of a saturated zone (grayish colors or mottles (redoximorphic features)) in the soil. Note: A saturated zone that lasts for less than a month is not considered a water table.

PONDING – Ponding refers to standing water in a closed depression, and the data indicates surface water depth, duration, and frequency of ponding.

- **Duration:** Expressed as *very brief* if less than 2 days, *brief* if 2 to 7 days, *long* if 7 to 30 days and *very long* if more than 30 days.
- **Frequency:** Expressed as: *none* meaning ponding is not possible; *rare* means unlikely but possible under unusual weather conditions (chance of ponding is 0-5% in any year); *occasional* means that it occurs, on the average, once or less in 2 years (chance of ponding is 5 to 50% in any year); and frequent means that it occurs, on the average, more than once in 2 years (chance of ponding is more than 50% in any year).

FLOODING – The 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: *extremely brief* if 0.1 hour to 4 hours; *very brief* if 4 hours to 2 days; *brief* if 2 to 7 days; *long* if 7 to 30 days; and *very long* if more than 30 days.
- Frequency: Expressed as: none means flooding is not probable; very rare means that it is very unlikely but possible under extremely unusual weather conditions (chance of flooding is less than 1% in any year); rare means that it is unlikely but possible under unusual weather conditions (chance of flooding is 1 to 5% in any year); occasional means that it occurs infrequently under normal weather conditions (chance of flooding is 5 to 50% in any year but is less than 50% in all months in any year); and very frequent means that it is likely to occur very often under normal weather conditions (chance of flooding is more than 50% in all months of any year).

Note: The information is based on evidence in the soil profile. In addition, consideration is also given to local information about the extent and levels of flooding and the relation of each soil on the landscape to historic floods. Information on the extent of flooding based on soil data is less specific than that provided by detailed engineering surveys that delineate flood-prone areas at specific flood frequency levels.

Table 5: Water Features

Map Unit	Hydrologic Group	Surface Runoff	Water Table	Ponding	Flooding
137A	С	Low	<u>January</u>	January – December	January – December
			Upper Limit:	Surface Water Depth:	Duration:
			Lower Limit:	Duration:	Frequency: None
			<u>February – April</u>	Frequency: None	
			Upper Limit : 2.0'-3.5'		
			Lower Limit: 6.0'		
			<u> May – December</u>		
			Upper Limit:		
			Lower Limit:		
324B	С	Low	January – December	January – December	January – December
			Upper Limit:	Surface Water Depth:	Duration:
			Lower Limit:	Duration:	Frequency: None
				Frequency: None	

SOIL EROSION AND SEDIMENT CONTROL

Erosion is the wearing away of the soil by water, wind, and other forces. Soil erosion threatens the Nation's soil productivity and contributes the most pollutants in our waterways. Water causes about two thirds of erosion on agricultural land. Four properties, mainly, determine a soil's erodibility: texture, slope, structure, and organic matter content.

Slope has the most influence on soil erosion potential when the site is under construction. Erosivity and runoff increase as slope grade increases. The runoff then exerts more force on the particles, breaking their bonds more readily and carrying them farther before deposition. The longer water flows along a slope before reaching a major waterway, the greater the potential for erosion.

Soil erosion during and after this proposed construction can be a primary non-point source of water pollution. Eroded soil during the construction phase can create unsafe conditions on roadways, decrease the storage capacity of lakes, clog streams and drainage channels, cause deterioration of aquatic habitats, and increase water treatment costs. Soil erosion also increases the risk of flooding by choking culverts, ditches, and storm sewers and by reducing the capacity of natural and man-made detention facilities.

The general principles of erosion and sedimentation control measures include:

- Reducing or diverting flow from exposed areas, storing flows, or limiting runoff from exposed areas
- Staging construction to keep disturbed areas to a minimum
- Establishing or maintaining temporary or permanent groundcover
- Retaining sediment on site
- Properly installing, inspecting, and maintaining control measures

Erosion control practices are useful controls only if they are properly located, installed, inspected, and maintained.

The SWCD recommends an erosion and sediment control plan for all building sites, especially if there is a wetland or stream nearby.

Table 6: Soil Erosion Potential

Soil Type	Slope	Rating	Acreage	Percent of Parcel
137A	0-2%	Slight	1.8	89.4%
324B	2-5%	Slight	0.2	10.6%

PRIME FARMLAND SOILS

Prime farmland soils are an important resource to Kendall County. Some of the most productive soils in the United States occur locally. Each soil map unit in the United States is assigned a prime or non-prime rating. Prime agricultural land does not need to be in the production of food & fiber.

Section 310 of the NRCS general manual states that urban or built-up land on prime farmland soils is <u>not</u> prime farmland. The percentages of soils map units on the parcel reflect the determination that urban or built up land on prime farmland soils is not prime farmland.

Table 7: Prime Farmland Soils

Soil Types	Prime Designation	Acreage	Percent
137A	Prime Farmland	1.8	89.4%
324B	Prime Farmland	0.2	10.6%
% Prime Farmland	100%		

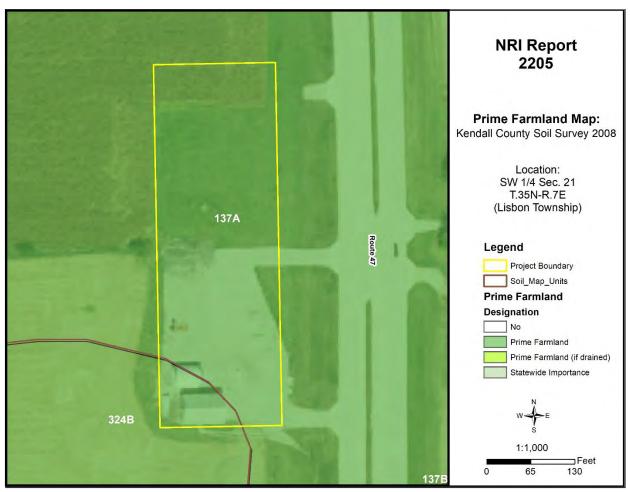


Figure 7: Map of Prime Farmland Soils

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 LE score is calculated by multiplying the relative value of each soil type by the number of acres of that soil. The sum of the products is then divided by the total number of acres; the answer is the Land Evaluation score on this site. 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 value group is a predetermined value based upon prime farmland designation. The Kendall County LESA Committee is responsible for this portion of the LESA system.

Please Note: A land evaluation (LE) score will be compiled for every project parcel. However, when a parcel is located within municipal planning boundaries, a site assessment (SA) score is not compiled as the scoring factors are not applicable. As a result, only the LE score is available, and a full LESA score is unavailable for the parcel.

Table 8A: Land Evaluation Computation

Soil Type	Value Group	Relative Value	Acres	Product (Relative Value x Acres)	
137A	2	94	1.8	169.2	
324B	4	79	0.2	15.8	
Totals			2.0 185		
LE Calculation			(Produc	t of relative value / Total Acres)	
			185 / 2.0 = 92.5		
LE Score			LE = 93		

The Land Evaluation score for this site is 93, indicating that this site is well suited for agricultural uses considering the Land Evaluation score is above 80.

Table 8B: 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 land 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
В.	Compatibility / Impact on Uses	
	1. Distance from city or village limits. (20-10-0)	0
	2. Consistency of proposed use with County Land Resource Management Concept Plan	10
	and/or municipal comprehensive land use plan. (20-10-0)	
	3. Compatibility of agricultural and non-agricultural uses. (15-7-0)	7
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)	0
	4. Distance from fire protection service. (10-8-6-2-0)	8
	Site Assessment Score:	85

The Site Assessment score for this site is 85. The Land Evaluation value (93) is added to the Site Assessment value (85) to obtain a LESA Score of 178. The table below shows the level of protection for the proposed project site based on the LESA Score.

Table 9: LESA Score Summary

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

Land Evaluation Value: <u>93</u> + Site Assessment Value: <u>85</u> = LESA Score: <u>178</u>

The LESA Score for this site is 178 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. If the project is agricultural in nature, however, a higher score may provide an indication of the suitability of the project as it relates to the compatibility with existing agricultural land use.

LAND USE PLANS

Many counties, municipalities, villages, and townships have developed land-use plans. These plans are intended to reflect the existing and future land-use needs of a given community. Please contact the Kendall County Planning, Building & Zoning for information regarding the County's comprehensive land use plan and map.

DRAINAGE, RUNOFF, AND FLOOD INFORMATION

U.S.G.S Topographic maps give information on elevations, which are important mostly to determine slopes, drainage directions, and watershed information.

Elevations determine the area of impact of floods of record. Slope information determines steepness and erosion potential. Drainage directions determine where water leaves the PIQ, possibly impacting surrounding natural resources.

Watershed information is given for changing land use to a subdivision type of development on parcels greater than 10 acres.

WHAT IS A WATERSHED?

Simply stated, a watershed is the area of land that contributes water to a certain point. The watershed boundary is important because the area of land in the watershed can now be calculated using an irregular shape area calculator such as a dot counter or planimeter.

Using regional storm event information, and site-specific soils and land use information, the peak stormwater flow through the point marked "O" for a specified storm event can be calculated. This value is called a "Q" value (for the given storm event) and is measured in cubic feet per second (CFS).

When construction occurs, the Q value naturally increases because of the increase in impermeable surfaces. This process decreases the ability of soils to accept and temporarily hold water. Therefore, more water runs off and increases the Q value.

Theoretically, if each development, no matter how large or small, maintains their preconstruction Q value after construction by the installation of stormwater management systems, the streams and wetlands and lakes will not suffer damage from excessive urban stormwater.

For this reason, the Kendall County SWCD recommends that the developer for intense uses such as a subdivision calculate the preconstruction Q value for the exit point(s). A stormwater management system

should be designed, installed, and maintained to limit the postconstruction Q value to be at or below the preconstruction value.

IMPORTANCE OF FLOOD INFORMATION

A floodplain is defined as land adjoining a watercourse (riverine) or an inland depression (non-riverine) that is subject to periodic inundation by high water. Floodplains are important areas demanding protection since they have water storage and conveyance functions which affect upstream and downstream flows, water quality and quantity, and suitability of the land for human activity. Since floodplains play distinct and vital roles in the hydrologic cycle, development that interferes with their hydrologic and biologic functions should be carefully considered.

Flooding is both dangerous to people and destructive to their properties. The following maps, when combined with wetland and topographic information, can help developers and future homeowners to "sidestep" potential flooding or ponding problems.

FIRM is the acronym for the Flood Insurance Rate Map, produced by the Federal Emergency Management Agency (FEMA). These maps define flood elevation adjacent to tributaries and major bodies of water and superimpose that onto a simplified USGS topographic map. The scale of the FIRM maps is generally dependent on the size and density of parcels in that area. (This is to correctly determine the parcel location and floodplain location.) The FIRM map has three (3) zones. Zone A includes the 100-year flood, Zone B or Zone X (shaded) is the 100 to 500-year flood, and Zone C or Zone X (unshaded) is outside the floodplain.

The Hydrologic Atlas (H.A.) Series of the Flood of Record Map is also used for the topographic information. This map is different from the FIRM map mainly because it will show isolated or pocketed flooded areas. Kendall County uses both these maps in conjunction with each other for flooded area determinations. The Flood of Record maps show the areas of flood for various years. Both maps <u>stress</u> that the recurrence of flooding is merely statistical. A 100-year flood may occur twice in one year, or twice in one week, for that matter.

It should be noted that greater floods than those shown on the two maps are possible. The flood boundaries indicated provide a historic record only until the map publication date. Additionally, these flood boundaries are a function of the watershed conditions existing when the maps were produced. Cumulative changes in runoff characteristics caused by urbanization can result in an increase in flood height of future flood episodes.

Floodplains play a vital role in reducing the flood damage potential associated with an urbanizing area and, when left in an undisturbed state, also provide valuable wildlife habitat benefits. If it is the petitioner's intent to conduct floodplain filling or modification activities, the petitioner, and the Unit of Government responsible need to consider the potentially adverse effects this type of action could have on adjacent properties. The change or loss of natural floodplain storage often increases the frequency and severity of flooding on adjacent property.

If the available maps indicate the presence of a floodplain on the PIQ, the petitioner should contact the IDOT-OWR and FEMA to delineate a floodplain elevation for the parcel. If a portion of the property is indeed floodplain, applicable state, county, and local regulations will need to be reflected in the site plans.

Another indication of flooding potential can be found in the soils information. Hydric soils indicate the presence of drainageways, areas subject to ponding, or a naturally occurring high water table. These need to be considered along with the floodplain information when developing the site plan and the stormwater management plan. Development on hydric soils can contribute to the loss of water storage within the soil and the potential for increased flooding in the area.

This parcel is located on minimal topography (slopes 0 to 5%) and an elevation range of approximately 654'-658' above sea level. According to the FEMA Floodplain Map, the parcel in question does not contain floodway or floodplain. The parcel drains predominantly to the south.

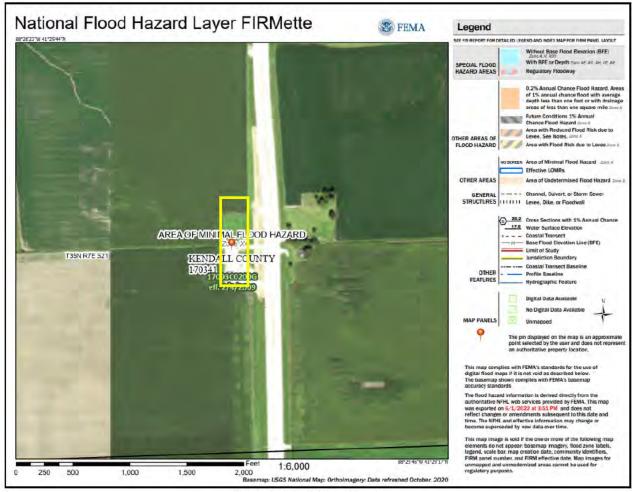


Figure 8: FEMA Floodplain Map

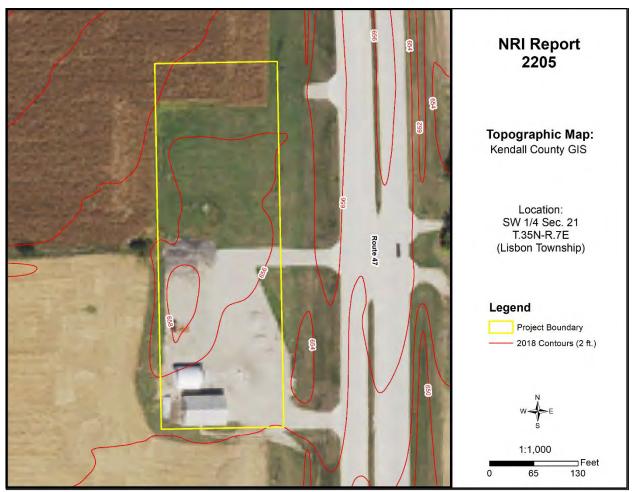


Figure 9: Topographic Map

WATERSHED PLANS

WATERSHED AND SUB WATERSHED INFORMATION

A watershed is the area of land that drains into a specific point including a stream, lake, or other body of water. High points on the Earth's surface, such as hills and ridges define watersheds. When rain falls in the watershed, it flows across the ground towards a stream or lake. Rainwater carries pollutants such as oils, pesticides, and soil.

Everyone lives in a watershed. Their actions can impact natural resources and people living downstream. Residents can minimize this impact by being aware of their environment and the implications of their activities, implementing practices recommended in watershed plans, and educating others about their watershed.

The following are recommendations to developers for protection of this watershed:

- Preserve open space
- Maintain wetlands as part of development
- Use natural water management
- Prevent soil from leaving a construction site
- Protect subsurface drainage
- Use native vegetation
- Retain natural features
- Mix housing styles and types
- Decrease impervious surfaces
- Reduce area disturbed by mass grading
- Shrink lot size and create more open space
- Maintain historical and cultural resources
- Treat water where it falls
- Preserve views
- Establish and link trails

This parcel is located within the Upper Illinois River watershed and the Minooka Branch Aux Sable Creek sub watershed.

WETLAND INFORMATION

IMPORTANCE OF WETLAND INFORMATION

Wetlands function in many ways to provide numerous benefits to society. They control flooding by offering a slow release of excess water downstream or through the soil. They cleanse water by filtering out sediment and some pollutants and can function as rechargers of our valuable groundwater. They also are essential breeding, rearing, and feeding grounds for many species of wildlife.

These benefits are particularly valuable in urbanizing areas as development activity typically adversely affects water quality, increases the volume of stormwater runoff, and increases the demand for groundwater. In an area where many individual homes rely on shallow groundwater wells for domestic water supplies, activities that threaten potential groundwater recharge areas are contrary to the public good. The conversion of wetlands, with their sediment trapping and nutrient absorbing vegetation, to biologically barren stormwater detention ponds can cause additional degradation of water quality in downstream or adjacent areas.

It has been estimated that over 95% of the wetlands that were historically present in Illinois have been destroyed while only recently has the true environmental significance of wetlands been fully recognized. America is losing 100,000 acres of wetland a year and has saved 5 million acres total (since 1934). One acre of wetland can filter 7.3 million gallons of water a year. These are reasons why our wetlands are high quality and important.

This section contains the NRCS (Natural Resources Conservation Service) Wetlands Inventory, which is the most comprehensive inventory to date. The NRCS Wetlands Inventory is reproduced from an aerial photo at a scale of 1" equals 660 feet. The NRCS developed these maps in cooperation with U.S. EPA (Environmental Protection Agency,) and the U.S. Fish and Wildlife Service, using the National Food Security Act Manual, 3rd Edition. The main purpose of these maps is to determine wetland areas on agricultural fields and areas that may be wetlands but are in a non-agriculture setting.

The NRCS Wetlands Inventory in no way gives an exact delineation of the wetlands, but merely an outline, or the determination that there is a wetland within the outline. For the final, most accurate wetland **determination** of a specific wetland, a wetland **delineation** must be certified by NRCS staff using the National Food Security Act Manual (on agricultural land.) On urban land, a certified wetland delineator must perform the delineation using the ACOE 1987 Manual. See the glossary section for the definitions of "delineation" and "determination.

NRI 2205

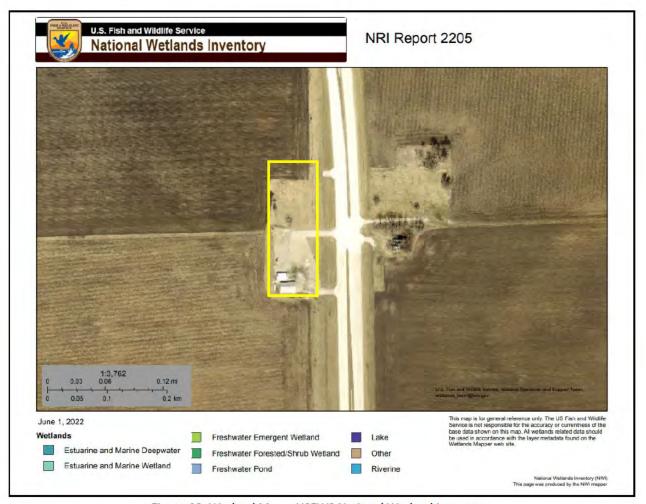


Figure 10: Wetland Map - USFWS National Wetland Inventory

Office maps indicate that there are no mapped wetlands on the parcel in question (PIQ).

HYDRIC SOILS

Soils information gives another indication of flooding potential. The soils map on the following page indicates the soil(s) on the parcel that the Natural Resources Conservation Service indicates as hydric. Hydric soils, by definition, have seasonal high water at or near the soil surface and/or have potential flooding or ponding problems. All hydric soils range from poorly suited to unsuitable for building. One group of the hydric soils are the organic soils, which formed from dead organic material. Organic soils are unsuitable for building because of not only the high water table but also their subsidence problems.

It is important to add the possibility of hydric inclusions in a soil type. An inclusion is a soil polygon that is too small to appear on these maps. While relatively insignificant for agricultural use, hydric soil inclusions become more important to more intense uses such as a residential subdivision.

While considering hydric soils and hydric inclusions, it is noteworthy to mention that subsurface agriculture drainage tile occurs in almost all poorly drained and somewhat poorly drained soils. Drainage tile expedites drainage and facilitates farming. It is imperative that these drainage tiles remain undisturbed. A damaged subsurface drainage tile may return original hydrologic conditions to all the areas that drained through the tile (ranging from less than one acre to many square miles.)

For an intense land use, such as a subdivision, the Kendall County SWCD recommends the following: a topographical survey with 1 foot contour intervals to accurately define the flood area on the parcel, an intensive soil survey to define most accurately the locations of the hydric soils and inclusions, and a drainage tile survey on the area to locate the tiles that must be preserved to maintain subsurface drainage.

Table 10: Hydric Soils

Soil Types	Drainage Class	Hydric Designation	Hydric Inclusions Likely	Acreage	Percent
137A	Moderately Well Drained	Non-Hydric	No	1.8	89.4%
324B	Well Drained	Non-Hydric	No	0.2	10.6%

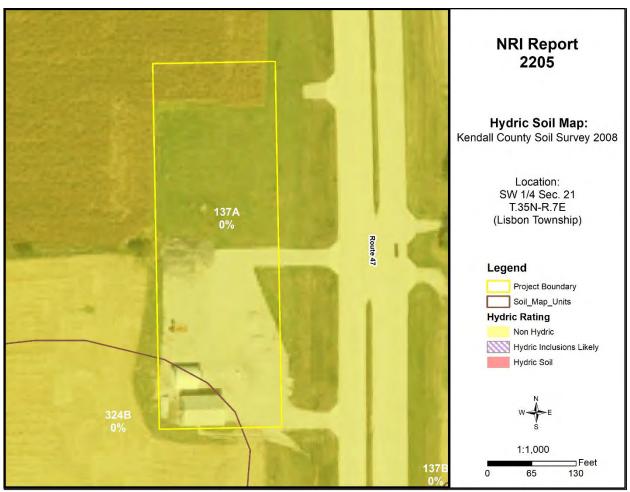


Figure 11: Hydric Soil Map

WETLAND AND FLOODPLAIN REGULATIONS

PLEASE READ THE FOLLOWING IF YOU ARE PLANNING TO DO ANY WORK NEAR A STREAM (THIS INCLUDES SMALL UNNAMED STREAMS), LAKE, WETLAND OR FLOODWAY.

The laws of the United States and the State of Illinois assign certain agencies specific and different regulatory roles to protect the waters within the State's boundaries. These roles, when considered together, include protection of navigation channels and harbors, protection against floodway encroachments, maintenance and enhancement of water quality, protection of fish and wildlife habitat and recreational resources, and, in general, the protection of total public interest. Unregulated use of the waters within the State of Illinois could permanently destroy or alter the character of these valuable resources and adversely impact the public. Therefore, please contact the proper regulatory authorities when planning any work associated with Illinois waters so that proper consideration and approval can be obtained.

WHO MUST APPLY?

Anyone proposing to dredge, fill, rip rap, or otherwise alter the banks or beds of, or construct, operate, or maintain any dock, pier, wharf, sluice, dam, piling, wall, fence, utility, floodplain or floodway subject to State or Federal regulatory jurisdiction should apply for agency approvals.

REGULATORY AGENCIES

- Wetland or U.S. Waters: U.S. Army Corps of Engineers, Rock Island District, Clock Tower Building, Rock Island, IL
- **Floodplains**: Illinois Department of Natural Resources/Office of Water Resources, One Natural Resources Way, Springfield, IL 62702-1270.
- Water Quality/Erosion Control: Illinois Environmental Protection Agency, Springfield, IL

COORDINATION

We recommend early coordination with the regulatory agencies <u>BEFORE</u> finalizing work plans. This allows the agencies to recommend measures to mitigate or compensate for adverse impacts. Also, the agency can make possible environmental enhancement provisions early in the project planning stages. This could reduce time required to process necessary approvals.

CAUTION: Contact with the United States Army Corps of Engineers is strongly advised before commencement of any work in or near a Waters of the United States. This could save considerable time and expense. Persons responsible for willful and direct violation of Section 10 of the River and Harbor Act of 1899 or Section 404 of the Federal Water Pollution Control Act are subject to fines ranging up to \$27,500 per day of violation and imprisonment for up to one year or both.

GLOSSARY

AGRICULTURAL PROTECTION AREAS (AG AREAS) - Allowed by P.A. 81-1173. An AG AREA consists of a minimum of 350 acres of farmland, as contiguous and compact as possible. Petitioned by landowners, AG AREAS protect for a period of ten years initially, then reviewed every eight years thereafter. AG AREA establishment exempts landowners from local nuisance ordinances directed at farming operations, and designated land cannot receive special tax assessments on public improvements that do not benefit the land, e.g. water and sewer lines.

AGRICULTURE - The growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm buildings used for growing, harvesting and preparing crop products for market, or for use on the farm; roadside stands, farm buildings for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm dwellings occupied by farm owners, operators, tenants or seasonal or year around hired farm workers.

B.G. - Below Grade. Under the surface of the Earth.

BEDROCK - Indicates depth at which bedrock occurs. Also lists hardness as rippable or hard.

FLOODING - Indicates frequency, duration, and period during year when floods are likely to occur.

HIGH LEVEL MANAGEMENT - The application of effective practices adapted to different crops, soils, and climatic conditions. Such practices include providing for adequate soil drainage, protection from flooding, erosion and runoff control, near optimum tillage, and planting the correct kind and amount of high-quality seed. Weeds, diseases, and harmful insects are controlled. Favorable soil reaction and near optimum levels of available nitrogen, phosphorus, and potassium for individual crops are maintained. Efficient use is made of available crop residues, barnyard manure, and/or green manure crops. All operations, when combined efficiently and timely, can create favorable growing conditions and reduce harvesting losses -- within limits imposed by weather.

HIGH WATER TABLE - A seasonal high water table is a zone of saturation at the highest average depth during the wettest part of the year. May be apparent, perched, or artesian kinds of water tables.

- Water table, Apparent: A thick zone of free water in the soil. An apparent water table is indicated
 by the level at which water stands in an uncased borehole after adequate time is allowed for
 adjustment in the surrounding soil.
- Water table, Artesian: A water table under hydrostatic head, generally beneath an impermeable layer. When this layer is penetrated, the water level rises in an uncased borehole.
- Water table, Perched: A water table standing above an unsaturated zone. In places an upper, or perched, water table is separated from a lower one by a dry zone.

DELINEATION - For Wetlands: A series of orange flags placed on the ground by a certified professional that outlines the wetland boundary on a parcel.

DETERMINATION - A polygon drawn on a map using map information that gives an outline of a wetland.

HYDRIC SOIL - This type of soil is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part (USDA Natural Resources Conservation Service 1987).

INTENSIVE SOIL MAPPING - Mapping done on a smaller more intensive scale than a modern soil survey to determine soil properties of a specific site, e.g. mapping for septic suitability.

LAND EVALUATION AND SITE ASSESSMENT (L.E.S.A.) - LESA is a systematic approach for evaluating a parcel of land and to determine a numerical value for the parcel for farmland preservation purposes.

MODERN SOIL SURVEY - A soil survey is a field investigation of the soils of a specific area, supported by information from other sources. The kinds of soil in the survey area are identified and their extent shown on a map, and an accompanying report describes, defines, classifies, and interprets the soils. Interpretations predict the behavior of the soils under different used and the soils' response to management. Predictions are made for areas of soil at specific places. Soils information collected in a soil survey is useful in developing land-use plans and alternatives involving soil management systems and in evaluating and predicting the effects of land use.

PALUSTRINE - Name given to inland freshwater wetlands.

PERMEABILITY - Values listed estimate the range (in rate and time) it takes for downward movement of water in the major soil layers when saturated but allowed to drain freely. The estimates are based on soil texture, soil structure, available data on permeability and infiltration tests, and observation of water movement through soils or other geologic materials.

PIQ - Parcel in question

POTENTIAL FROST ACTION - Damage that may occur to structures and roads due to ice lens formation causing upward and lateral soil movement. Based primarily on soil texture and wetness.

PRIME FARMLAND - Prime farmland soils are lands that are best suited to food, feed, forage, fiber and oilseed crops. It may be cropland, pasture, woodland, or other land, but it is not urban and built up land or water areas. It either is used for food or fiber or is available for those uses. The soil qualities, growing season, and moisture supply are those needed for a well-managed soil economically to produce a sustained high yield of crops. Prime farmland produces in highest yields with minimum inputs of energy and economic resources and farming the land results in the least damage to the environment. Prime farmland has an adequate and dependable supply of moisture from precipitation or irrigation. The temperature and growing season are favorable. The level of acidity or alkalinity is acceptable. Prime farmland has few or no rocks and is permeable to water and air. It is not excessively erodible or saturated

with water for long periods and is not frequently flooded during the growing season. The slope ranges mainly from 0 to 5 percent (USDA Natural Resources Conservation Service).

PRODUCTIVITY INDEXES - Productivity indexes for grain crops express the estimated yields of the major grain crops grown in Illinois as a single percentage of the average yields obtained under basic management from several of the more productive soils in the state. This group of soils is composed of the Muscatine, Ipava, Sable, Lisbon, Drummer, Flanagan, Littleton, Elburn and Joy soils. Each of the 425 soils found in Illinois are found in Circular 1156 from the Illinois Cooperative Extension Service.

SEASONAL - When used in reference to wetlands indicates that the area is flooded only during a portion of the year.

SHRINK-SWELL POTENTIAL - Indicates volume changes to be expected for the specific soil material with changes in moisture content.

SOIL MAPPING UNIT - A map unit is a collection of soil areas of miscellaneous areas delineated in mapping. A map unit is generally an aggregate of the delineations of many different bodies of a kind of soil or miscellaneous area but may consist of only one delineated body. Taxonomic class names and accompanying phase terms are used to name soil map units. They are described in terms of ranges of soil properties within the limits defined for taxa and in terms of ranges of taxadjuncts and inclusions.

SOIL SERIES - A group of soils, formed from a particular type of parent material, having horizons that, except for texture of the A or surface horizon, are similar in all profile characteristics and in arrangement in the soil profile. Among these characteristics are color, texture, structure, reaction, consistence, and mineralogical and chemical composition.

SUBSIDENCE - Applies mainly to organic soils after drainage. Soil material subsides due to shrinkage and oxidation.

TERRAIN - The area or surface over which a particular rock or group of rocks is prevalent.

TOPSOIL - That portion of the soil profile where higher concentrations of organic material, fertility, bacterial activity and plant growth take place. Depths of topsoil vary between soil types.

WATERSHED - An area of land that drains to an associated water resource such as a wetland, river or lake. Depending on the size and topography, watersheds can contain numerous tributaries, such as streams and ditches, and ponding areas such as detention structures, natural ponds and wetlands.

WETLAND - An area that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient enough to support, and under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.

REFERENCES

Hydric Soils of the United States. USDA Natural Resources Conservation Service, 2007.

<u>DFIRM – Digital Flood Insurance Rate Maps for Kendall County.</u> Prepared by FEMA – Federal Emergency Management Agency.

<u>Hydrologic Unit Map for Kendall County.</u> Natural Resources Conservation Service, United States Department of Agriculture.

<u>Land Evaluation and Site Assessment System.</u> The Kendall County Department of Planning Building and Zoning, and The Kendall County Soil and Water Conservation District. In cooperation with: USDA, Natural Resources Conservation Service.

<u>Soil Survey of Kendall County</u>. United States Department of Agriculture 2008, Natural Resources Conservation Service.

Illinois Urban Manual. Association of Illinois Soil & Water Conservation Districts, 2020.

Kendall County Land Atlas and Plat Book. 21st Edition, 2021.

<u>Potential For Contamination of Shallow Aquifers from Land Burial of Municipal Wastes</u>. Illinois State Geological Survey.

<u>Natural Resources Conservation Service National Wetland Inventory Map.</u> United States Department of Agriculture.

<u>Geologic Road Map of Illinois.</u> Department of Natural Resources, Illinois State Geological Survey, Natural Resources Building, 615 East Peabody, Champaign IL 61820-6964.

Wetlands - The Corps of Engineers' Administration of the Section 404 Program (GAO/RCED-88-110).

<u>Soil Erosion by Water</u> - United States Department of Agriculture Natural Resources Conservation Service. Agriculture Information Bulletin 513.

<u>The Conservation of Biological Diversity in the Great Lakes Ecosystem: Issues and Opportunities</u>, prepared by the Nature Conservancy Great Lakes Program 79W. Monroe Street, Suite 1309, Chicago, IL 60603, January 1994.

Attachment 10, Page 1 KENDALL COUNTY REGIONAL PLANNING COMMISSION

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

Unapproved - Meeting Minutes of June 22, 2022 - 7:00 p.m.

Chairman Ashton called the meeting to order at 7:03 p.m.

ROLL CALL

Members Present: Bill Ashton, Tom Casey, Karin McCarthy-Lange, Larry Nelson, Ruben Rodriguez, Claire

Wilson, and Seth Wormley

<u>Members Absent</u>: Dave Hamman and Bob Stewart Staff Present: Matthew H. Asselmeier, Senior Planner

Others Present: Judd Lofchie, Joe Antoniolli, and Kevin Kunkel

PETITIONS

Petition 22-13 Joe Slivka and Kevin Kunkel on Behalf of Lisbon Township

Mr. Asselmeier summarized the request.

Lisbon Township would like to construct a seven thousand four hundred eighty-eight (7,488) square foot garage on the subject property, located at 15759 Route 47, Newark.

The application materials, plat of survey, existing conditions survey, site plan, landscaping plan, building elevations were provided.

The property is approximately two point zero four (2.04) acres in size.

The existing land use is Institutional, Transportation and Agricultural.

The zoning is A-1.

The County's Future Land Use Map called for the property to be Agricultural. The Village of Lisbon's Future Land Use Map called for the property to be Commercial.

Route 47 is a State maintained Arterial. IDOT had no concerns regarding this proposal, an email to that effect was provided.

The County has a trail planned along Route 47.

There are no floodplains or wetlands on the property.

The adjacent land uses are Agricultural, Farmstead and Comed Right-of-Way.

The nearby properties in the unincorporated area are zoned A-1. The property to the west and south is inside the Village of Lisbon and is zoned Mining.

The County's Future Land Use Map called for the area to be Agricultural, Comed Right-of-Way and Mining. The Village of Lisbon's Future Land Use Map called for the area to Agricultural, Commercial, Mixed Use Business, and Mining.

The property to the southwest is owned by Vulcan Lands, Inc.

EcoCAT Report was submitted on May 12, 2022, and consultation was terminated.

The NRI application was submitted on May 4, 2022. The LESA Score was 178 indicated a low level of protection. The NRI Report was provided.

Petition information was sent to Lisbon Township on May 26, 2022. To date, no comments have been received.

Petition information was sent to the Village of Lisbon on May 26, 2022. To date, no comments have been received.

Petition information was sent to the Lisbon-Seward Fire Protection District on May 26, 2022. To date, no comments have been received.

ZPAC reviewed the proposal at their meeting on June 7, 2022. Discussion occurred regarding screening. The only screening would be the vegetation shown in the landscaping plan. Mr. Rybski requested confirmation that no sinks or bathroom facilities would be located in the facility. Mr. Asselmeier said that it was his understanding that no sinks or bathroom facilities would be located in the facility. The facility would be for storage purposes only. Mr. Holdiman said that offices might go in the facility in the future and the Petitioners were aware that a septic facility would be required at that time. The Petitioners might need to purchase additional property to have room for a septic system. Mr. Gengler asked about the handling of oil waste. Mr. Holdiman said no discussion has occurred regarding maintenance of vehicles and related requirements including oil interceptor and septic system requirements. ZPAC recommended approval of the request with a correction to a typo in condition 9 by a vote of seven (7) in favor and zero (0) in opposition with three (3) members absent. The minutes of the meeting were provided.

According to the information provided, Lisbon Township plans to construct a garage facility to store township vehicles and equipment. The building will not have an office. The maximum number of employees at the property will be three (3).

According to the site plan, Lisbon Township plans to construct one (1) seven thousand four hundred eighty-eight (7,488) square foot building on the property.

According to the building elevations, the building will be twenty-six feet (26') in height at its highest point. Four (4) doors to drive in vehicles and equipment would be located on the east side of the building and these doors would be sixteen feet, four inches (16' 4") in height. The elevations also show one (1) man door on the east side of the building and one (1) man door on the west side of the building. It should be noted that on the building elevations South Elevation = East, West Elevation = South, North Elevation = West, and East Elevation = North.

The site plan shows an existing metal building and salt storage shelter. The metal building would be demolished in the future; no date has been provided for demolition.

The property is served by a well, but does not have a septic system.

One (1) trash enclosure area is shown on the site plan at the location of the existing metal building. This trash enclosure will be installed after the metal building is demolished. Until the metal building is demolished, there will not be a refuse area on the property.

Per the site plan, most of the property drains to the south.

The project does not meet the disturbance or lot coverage requirements needed for a stormwater permit.

KCRPC Meeting Minutes 06.22.22

Per the site plan, the property will utilize one (1) approximately twenty-five foot (25') wide driveway to access Route 47. The existing conditions survey showed three (3) access points onto Route 47.

According to the site plan, there are six (6) proposed parking stalls, including one (1) handicapped accessible parking stall, located north of the proposed building.

Per Section 11:04 of the Kendall County Zoning Ordinance, one (1) parking space per each employee is required for public service uses.

According to the site plan, the building will have wall pak lighting. No information was provided regarding the location or number of lights.

According to the site plan, one monument sign shall be placed on the subject property. The sign will not be illuminated.

According to the site plan, no fencing will be installed on the property. No other security information was provided.

According to the landscaping plan, one (1) Autumn Blaze Maple, two (2) Northern Catalpa, and three (3) Redwood American Linden will be planted on the property. The trees will be three inch (3") BB. One (1) Sargent Crabapple will also be planted and will be six foot (6') BB. No information was provided regarding the timing of planting.

The existing turf would remain.

No information was provided regarding noise control.

No odor causing activities are foreseen at the property.

If approved, this would be the sixth (6th) special use permit for a government facility in the unincorporated area.

The proposed Findings of Fact were as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided the site is developed in accordance with the submitted site plan and landscaping plan, the proposed use should not be detrimental or endanger the public health, safety, morals, comfort, or general welfare.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. The subject property is located along a four (4) lane highway with agricultural uses on all sides. Few residential uses are located in the vicinity. Provided the site is developed in accordance with the submitted site plan and landscaping plan, the proposed use will not be substantially injurious to neighboring properties and or adversely impact adjacent uses.

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, points of ingress/egress, drainage, and other necessary facilities have been or will be 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. This is true; no variances are needed.

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 proposal is consistent with a goal found on page 9-20 of the Kendall County Land Resource Management Plan call for "Mutually supportive, non-adversarial team of municipal, township, school, park, county, and other governments working toward the benefit of everyone in Kendall County." Also, land next to an arterial highway is a logical location for a township highway facility.

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

- 1. The site shall be developed substantially in accordance with the submitted site plan and landscaping plan. Lisbon Township may demolish the one (1) story metal building shown on the site plan without seeking an amendment to this special use permit.
- 2. The botanicals shown on the landscaping plan shall be installed by June 30, 2024. This deadline may be extended upon approval by the Kendall County Planning, Building and Zoning Committee. Damaged or dead botanicals shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.
- 3. The seven thousand four hundred eighty-eight (7,488) square foot building shall be developed substantially in accordance with the attached elevations (Attachment 6) with a maximum building height of twenty-six feet (26'). On the elevations, South Elevation = East, West Elevation = South, North Elevation = West, and East Elevation = North.
- 4. Any structures constructed, installed, or demolished related to the use allowed by this special use permit on the property shall not be considered for agricultural purposes and must secure applicable building permits.
- 5. One (1) free standing monument sign may be installed in substantially the location shown on the site plan. The sign shall not be illuminated.
- 6. The trash enclosure shall be placed in substantially the location shown on the site plan, upon demolition of the one (1) story metal building. The enclosure shall be screened per the requirements of the Kendall County Zoning Ordinance. The property owners shall ensure that the site is kept free of litter and debris.
- 7. The owners of the uses allowed by this special use permit shall diligently monitor the property for leaks from equipment, vehicles, and materials parked and stored on the subject property and shall promptly clean up the site if leaks occur.
- 8. None of the vehicles or equipment parked or stored on the subject property related to the use allowed by the special use permit shall be considered agricultural vehicles or agricultural equipment.
- 9. The operators of the use allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause (**typo corrected at ZPAC**).

10. The property owner and operator of the use allowed by this special use permit shall follow all applicable KCRPC Meeting Minutes 06.22.22 Page 4 of 6

Federal, State, and Local laws related to the operation of this type of use.

- 11. 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.
- 12. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
- 13. 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 questioned the need for a bathroom on the site. No restrooms are located on the property.

Member Nelson asked if borings had occurred on the property. Joe Antoniolli and Kevin Kunkel responded no. Member Nelson expressed concerns that leaked oils would not get absorbed into the ground. His concerns regarding leaks was connected to concerns about installing a septic system on the property. Restrooms and offices would occur as part of a Phase II. The existing tanks owned by Lisbon Township were doubled walled tanks.

Chairman Ashton noted that he is a Lisbon Township trustee.

Chairman Ashton said Lisbon Township did not have the funds to install restroom facilities.

Kevin Kunkel said townships can only borrow money for a maximum ten (10) years.

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

The votes on were as follows:

Ayes (7): Ashton, Casey, McCarthy-Lange, Nelson, Rodriguez, Wilson, and Wormley

Nays (0): None

Absent (2): Hamman and Stewart

Abstain (0): None

The motion carried.

The proposal will go to the Kendall County Zoning Board of Appeals on June 27, 2022.

CITIZENS TO BE HEARD/PUBLIC COMMENT

Member Wormley asked about the Yogi Bear Campground amending their special use permit. Mr. Asselmeier reported that the Yogi Bear Campground was still working on their application. Discussion occurred about potential improvements at the Yogi Bear Campground.

Chairman Ashton requested that the County explore using the water pumped out of the quarries as a source of drinking water. When the County is updating the Land Resource Management Plan, this topic, and land uses that could facilitate using the water, should be explored. No objections were voiced regarding this suggestion.

Discussion occurred regarding the materials extracted from the quarries.

Discussion about the TransCanada Pipeline in Little Rock Township. They were trying to equalize pressure in

the pipes and created a loud noise when they bled the pipes. Petroleum based film has caked on some things (chairs, furniture, etc.) at the property and they plan to burn these items which will produce black smoke. The Commission favors hauling these items away instead of burning. The burning would occur the first part of July.

Discussion also occurred about solar farm companies looking for land in the County.

OTHER BUSINESS/ANNOUNCEMENTS

Mr. Asselmeier said that he received a request to add definitions of tree farm and forestry to the Zoning Ordinance. Member Wormley was against making more rules. Chairman Ashton expressed concerns that more "forestry" type businesses were looking to start in the County; he favored adding definitions to the Zoning Ordinance. Member Nelson favored making definitions. Member Casey did not favor having a junky appearing property on Route 52. Discussion occurred about the criteria used to evaluate zoning applications.

Discussion also occurred about solar farm companies looking for land in the County.

Discussion also occurred regarding notice requirements for zoning petitions.

Discussion also occurred about allowing gravel to be classified as something other than impervious surface in the Stormwater Management Ordinance.

ADJOURNMENT

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

The Kendall County Regional Planning Commission meeting adjourned at 8:33 p.m.

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

Enc.



KENDALL COUNTY REGIONAL PLANNING COMMISSION JUNE 22, 2022

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)	
July Lof	chie		
Jee Antonio Ili			
Kaus Kumpet			

MINUTES – UNOFFICIAL UNTIL APPROVED KENDALL COUNTY ZONING BOARD OF APPEALS MEETING

111 WEST FOX STREET, COUNTY BOARD ROOM (ROOMS 209 and 210)
YORKVILLE, IL 60560
June 27, 2022 – 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, Tom LeCuyer, Randy Mohr, Dick Thompson, and Dick Whitfield

Members Absent: Cliff Fox

<u>Staff Present:</u> Matthew Asselmeier, AICP, CFM, Senior Planner <u>Others Present:</u> Judd Lofchie, Joe Antoniolli, and Kevin Kunkel

PETITIONS

Chairman Mohr swore in Judd Lofchie, Joe Antoniolli, and Kevin Kunkel

The Zoning Board of Appeals started their review of Petition 22-13 at 7:40 p.m.

Petition 22 – 13 – Joe Slivka and Kevin Kunkel on Behalf of Lisbon Township

Request: Special Use Permit for a Government Building or Facility (Garage)

PINs: 08-21-300-002 and 08-21-300-004

Location: 15759 Route 47, Newark, Lisbon Township

Purpose: Petitioner Wants to Construct a Garage for Township Equipment; Property is Zoned A-1

Agricultural District

Mr. Asselmeier summarized the request.

Lisbon Township would like to construct a seven thousand four hundred eighty-eight (7,488) square foot garage on the subject property, located at 15759 Route 47, Newark.

The application materials, plat of survey, existing conditions survey, site plan, landscaping plan, building elevations were provided.

The property is approximately two point zero four (2.04) acres in size.

The existing land use is Institutional, Transportation and Agricultural.

The zoning is A-1.

The County's Future Land Use Map called for the property to be Agricultural. The Village of Lisbon's Future Land Use Map called for the property to be Commercial.

Route 47 is a State maintained Arterial. IDOT had no concerns regarding this proposal, an email to that effect was provided.

The County has a trail planned along Route 47.

There are no floodplains or wetlands on the property.

The adjacent land uses are Agricultural, Farmstead and Comed Right-of-Way.

The nearby properties in the unincorporated area are zoned A-1. The property to the west and south is inside the Village of Lisbon and is zoned Mining.

The County's Future Land Use Map called for the area to be Agricultural, Comed Right-of-Way and Mining. The Village of Lisbon's Future Land Use Map called for the area to Agricultural, Commercial, Mixed Use Business, and Mining.

The property to the southwest is owned by Vulcan Lands, Inc.

EcoCAT Report was submitted on May 12, 2022, and consultation was terminated.

The NRI application was submitted on May 4, 2022. The LESA Score was 178 indicated a low level of protection. The NRI Report was provided.

Petition information was sent to Lisbon Township on May 26, 2022. To date, no comments have been received.

Petition information was sent to the Village of Lisbon on May 26, 2022. To date, no comments have been received.

Petition information was sent to the Lisbon-Seward Fire Protection District on May 26, 2022. To date, no comments have been received.

ZPAC reviewed the proposal at their meeting on June 7, 2022. Discussion occurred regarding screening. The only screening would be the vegetation shown in the landscaping plan. Mr. Rybski requested confirmation that no sinks or bathroom facilities would be located in the facility. Mr. Asselmeier said that it was his understanding that no sinks or bathroom facilities would be located in the facility. The facility would be for storage purposes only. Mr. Holdiman said that offices might go in the facility in the future and the Petitioners were aware that a septic facility would be required at that time. The Petitioners might need to purchase additional property to have room for a septic system. Mr. Gengler asked about the handling of oil waste. Mr. Holdiman said no discussion has occurred regarding maintenance of vehicles and related requirements including oil interceptor and septic system requirements. ZPAC recommended approval of the request with a correction to a typo in condition 9 by a vote of seven (7) in favor and zero (0) in opposition with three (3) members absent. The minutes of the meeting were provided.

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on June 22, 2022. Member Nelson questioned the need for a bathroom on the site. No restrooms are located on the property. Member Nelson also asked if borings had occurred on the property. Joe Antoniolli and Kevin Kunkel responded no. Member Nelson expressed concerns that leaked oils would not get absorbed into the ground. His concerns regarding leaks was connected to concerns about installing a septic system on the property. Restrooms and offices would occur as part of a Phase II. The existing

tanks owned by Lisbon Township were double walled tanks. Chairman Ashton said Lisbon Township did not have the funds to install restroom facilities. Kevin Kunkel said townships can only borrow money for a maximum ten (10) years. The Kendall County Regional Planning Commission recommended approval of the proposal by a vote of seven (7) in favor and zero (0) in opposition with two (2) members absent. The minutes of the meeting were provided.

According to the information provided, Lisbon Township plans to construct a garage facility to store township vehicles and equipment. The building will not have an office. The maximum number of employees at the property will be three (3).

According to the site plan, Lisbon Township plans to construct one (1) seven thousand four hundred eighty-eight (7,488) square foot building on the property.

According to the building elevations, the building will be twenty-six feet (26') in height at its highest point. Four (4) doors to drive in vehicles and equipment would be located on the east side of the building and these doors would be sixteen feet, four inches (16' 4") in height. The elevations also show one (1) man door on the east side of the building and one (1) man door on the west side of the building. It should be noted that on the building elevations South Elevation = East, West Elevation = South, North Elevation = West, and East Elevation = North.

The site plan shows an existing metal building and salt storage shelter. The metal building would be demolished in the future; no date has been provided for demolition.

The property is served by a well, but does not have a septic system.

One (1) trash enclosure area is shown on the site plan at the location of the existing metal building. This trash enclosure will be installed after the metal building is demolished. Until the metal building is demolished, there will not be a refuse area on the property.

Per the site plan, most of the property drains to the south.

The project does not meet the disturbance or lot coverage requirements needed for a stormwater permit.

Per the site plan, the property will utilize one (1) approximately twenty-five foot (25') wide driveway to access Route 47. The existing conditions survey showed three (3) access points onto Route 47.

According to the site plan, there are six (6) proposed parking stalls, including one (1) handicapped accessible parking stall, located north of the proposed building.

Per Section 11:04 of the Kendall County Zoning Ordinance, one (1) parking space per each employee is required for public service uses.

According to the site plan, the building will have wall pak lighting. No information was provided regarding the location or number of lights.

According to the site plan, one monument sign shall be placed on the subject property. The sign will not be illuminated.

According to the site plan, no fencing will be installed on the property. No other security information was provided.

According to the landscaping plan, one (1) Autumn Blaze Maple, two (2) Northern Catalpa, and three (3) Redwood American Linden will be planted on the property. The trees will be three inch (3") BB. One (1) Sargent Crabapple will also be planted and will be six foot (6') BB. No information was provided regarding the timing of planting.

The existing turf would remain.

No information was provided regarding noise control.

No odor causing activities are foreseen at the property.

If approved, this would be the sixth (6th) special use permit for a government facility in the unincorporated area.

The proposed Findings of Fact were as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided the site is developed in accordance with the submitted site plan and landscaping plan, the proposed use should not be detrimental or endanger the public health, safety, morals, comfort, or general welfare.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. The subject property is located along a four (4) lane highway with agricultural uses on all sides. Few residential uses are located in the vicinity. Provided the site is developed in accordance with the submitted site plan and landscaping plan, the proposed use will not be substantially injurious to neighboring properties and or adversely impact adjacent uses.

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, points of ingress/egress, drainage, and other necessary facilities have been or will be 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. This is true; no variances are needed.

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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 proposal is consistent with a goal found on page 9-20 of the Kendall County Land Resource Management Plan call for "Mutually supportive, non-adversarial team of municipal, township, school, park, county, and other governments working toward the benefit of everyone in Kendall County." Also, land next to an arterial highway is a logical location for a township highway facility.

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

- 1. The site shall be developed substantially in accordance with the submitted site plan and landscaping plan. Lisbon Township may demolish the one (1) story metal building shown on the site plan without seeking an amendment to this special use permit.
- 2. The botanicals shown on the landscaping plan shall be installed by June 30, 2024. This deadline may be extended upon approval by the Kendall County Planning, Building and Zoning Committee. Damaged or dead botanicals shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.
- 3. The seven thousand four hundred eighty-eight (7,488) square foot building shall be developed substantially in accordance with the elevations with a maximum building height of twenty-six feet (26'). On the elevations, South Elevation = East, West Elevation = South, North Elevation = West, and East Elevation = North.
- 4. Any structures constructed, installed, or demolished related to the use allowed by this special use permit on the property shall not be considered for agricultural purposes and must secure applicable building permits.
- 5. One (1) free standing monument sign may be installed in substantially the location shown on the site plan. The sign shall not be illuminated.
- 6. The trash enclosure shall be placed in substantially the location shown on the site plan, upon demolition of the one (1) story metal building. The enclosure shall be screened per the requirements of the Kendall County Zoning Ordinance. The property owners shall ensure that the site is kept free of litter and debris.
- 7. The owners of the uses allowed by this special use permit shall diligently monitor the property for leaks from equipment, vehicles, and materials parked and stored on the subject property and shall promptly clean up the site if leaks occur.
- 8. None of the vehicles or equipment parked or stored on the subject property related to the use allowed by the special use permit shall be considered agricultural vehicles or agricultural equipment.
- 9. The operators of the use allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause (**typo corrected at ZPAC**).
- 10. The property owner and operator of the use allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of use.
- 11. Failure to comply with one or more of the above conditions or restrictions could result in the

Attachment 11, Page 6

amendment or revocation of the special use permit.

12. If one or more of the above conditions is declared invalid by a court of competent jurisdiction,

the remaining conditions shall remain valid.

13. 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 Whitfield ask about the trash enclosure. Mr. Asselmeier said the trash enclosure was the area

reserved for a dumpster.

Chairman Mohr asked where a trail could go on this property. Mr. Asselmeier said, because of the Comed right-of-way, a trail would have been required to be further inside the property. For this reason,

neither the Illinois Department of Transportation nor the Kendall County Highway Department

requested a dedication for a trail. The trees would not be impacted by a bike trail.

Chairman Mohr opened the public hearing at 7:52 p.m.

Chairman Mohr asked if the Petitioners were agreeable to the proposed conditions. Kevin Kunkel,

Petitioner, responded yes.

Discussion occurred regarding the lack of restrooms. Mr. Kunkel said future plans call for the

construction of another building will meeting rooms and restrooms.

Member Whitfield asked about the project cost. Mr. Kunkel responded Five Hundred Thousand Dollars

(\$500,000). Mr. Kunkel explained township cannot borrow funds for longer than ten (10) years. The

Township budget is One Hundred Fifty Thousand Dollars (\$150,000).

Discussion occurred regarding ADA compliance and reasonable accommodations with regards to

restrooms. The property never had restroom facilities.

Chairman Mohr closed the public hearing at 7:55 p.m.

Member Thompson made a motion, seconded by Member Cherry, to approve the Findings of Fact.

The votes were as follows:

Ayes (5): Cherry, LeCuyer, Mohr, Thompson, and Whitfield

Nays (0): None None

Abstain (0):

Absent (1): Fox

The motion passed.

Member Whitfield made a motion, seconded by Member Cherry, to recommend approval of the special

use permit with the conditions proposed by Staff.

The votes were as follows:

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Ayes (5): Cherry, LeCuyer, Mohr, Thompson, and Whitfield

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

The motion passed.

The proposal will go to the Planning, Building and Zoning Committee on July 11, 2022.

The Zoning Board of Appeals completed their review of Petition 22-13 at 7:57 p.m.

PUBLIC COMMENTS

Mr. Asselmeier reported that no applications for text amendments, map amendments, or special use permit have been submitted for the August 1, 2022, hearing/meeting. The application deadline for variances is July 1, 2022.

ADJOURNMENT OF THE ZONING BOARD OF APPEALS

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

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

The Zoning Board of Appeals meeting adjourned at 8:04 p.m.

The next regularly scheduled hearing/meeting will be on August 1, 2022.

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

Exhibits

- 1. Memo on Petition 22-13 Dated June 24, 2022
- 2. Certificate of Publication for Petition 22-13 (Not Included with Report but on file in Planning, Building and Zoning Office)



KENDALL COUNTY ZONING BOARD OF APPEALS JUNE 27, 2022

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
Juld Lafalie Joe Antoniolli Kan Kun		

State of Illinois County of Kendall Zoning Petition #22-13

ORDINANCE NUMBER 2022-____

GRANTING A SPECIAL USE PERMIT FOR A GOVERNMENTAL BUILDING OR FACILITY (GARAGE) AT 15759 ROUTE 47 AND IDENTIFIED BY PARCEL IDENTIFICATION NUMBERS 08-21-300-002 AND 08-21-300-004 IN LISBON TOWNSHIP

<u>WHEREAS</u>, Section 13:08 of the Kendall County Zoning Ordinance permits the Kendall County Board to issue and revoke special use permits and place conditions on special use permits and provides the procedure through which special use permits are granted and revoked; and

<u>WHEREAS</u>, Section 7:01.D.22 of the Kendall County Zoning Ordinance permits the placement of governmental buildings and facilities as a special use in the A-1 Agricultural Zoning District; and

<u>WHEREAS</u>, the property which is the subject of this Ordinance has been, at all relevant times, and remains currently located within the A-1 Agricultural Zoning District and consists of approximately 2.04 +/- acres located at 15759 Route 47 (PINs: 08-21-300-002 and 08-21-300-004), in Lisbon Township. The legal description for the subject property is set forth in Exhibit A attached hereto and incorporated by reference, and this property shall hereinafter be referred to as "the subject property"; and

<u>WHEREAS</u>, on July 20, 2004, the Kendall County Board approved Ordinance 2004-24 which granted a special use for the operation of a church with conditions at the subject property; and

<u>WHEREAS</u>, the subject property is owned by Lisbon Township as represented by Joe Slivka and Kevin Kunkel; and

<u>WHEREAS</u>, on or about May 24, 2022, Petitioner's representative filed a petition for a special use permit for the placement of a governmental building or facility, specifically a township garage, at the subject property; and

<u>WHEREAS</u>, following due and proper notice by publication in the Kendall County Record on June 9, 2022, the Kendall County Zoning Board of Appeals conducted a public hearing on June 27, 2022, at 7:00 p.m., in the County Board Room of the Kendall County Office Building at 111 W. Fox Street in Yorkville, at which the Petitioner and their representative presented evidence, testimony, and exhibits in support of the requested special use permit and zero members of the public testified in favor or in opposition to the request; and

<u>WHEREAS</u>, based on the evidence, testimony, and exhibits, the Kendall County Zoning Board of Appeals has made their findings of fact and recommended approval of the special use permit with conditions as set forth in the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, dated June 27, 2022, a true and correct copy of which is attached hereto as Exhibit B; and

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

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

State of Illinois Zoning Petition
County of Kendall #22-13

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

<u>NOW, THEREFORE, BE IT ORDAINED, BY THE COUNTY BOARD OF KENDALL COUNTY, ILLINOIS,</u> as follows:

- 1. The Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals attached hereto as Exhibit B is hereby accepted and the Findings of Fact set forth therein are hereby adopted as the Findings of Fact and Conclusions of this Kendall County Board.
- 2. The Kendall County Board hereby grants approval of Petitioner's petition for a special use permit for the placement of a governmental building or facility, specifically a township garage, on the subject property subject to the following conditions:
 - A. The site shall be developed substantially in accordance with the site plan attached hereto as Exhibit C and landscaping plan attached hereto as Exhibit D. Lisbon Township may demolish the one (1) story metal building shown on the site plan without seeking an amendment to this special use permit.
 - B. The botanicals shown on the landscaping plan attached hereto as Exhibit D shall be installed by June 30, 2024. This deadline may be extended upon approval by the Kendall County Planning, Building and Zoning Committee. Damaged or dead botanicals shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.
 - C. The seven thousand four hundred eighty-eight (7,488) square foot building shall be developed substantially in accordance with the elevations attached hereto as Exhibit E with a maximum building height of twenty-six feet (26'). On the elevations, South Elevation = East, West Elevation = South, North Elevation = West, and East Elevation = North.
 - D. Any structures constructed, installed, or demolished related to the use allowed by this special use permit on the property shall not be considered for agricultural purposes and must secure applicable building permits.
 - E. One (1) free standing monument sign may be installed in substantially the location shown on the site plan attached hereto as Exhibit C. The sign shall not be illuminated.
 - F. The trash enclosure shall be placed in substantially the location shown on the site plan attached hereto as Exhibit C, upon demolition of the one (1) story metal building. The enclosure shall be screened per the requirements of the Kendall County Zoning Ordinance. The property owners shall ensure that the site is kept free of litter and debris.
 - G. The owners of the uses allowed by this special use permit shall diligently monitor the property for leaks from equipment, vehicles, and materials parked and stored on the subject property and shall promptly clean up the site if leaks occur.
 - H. None of the vehicles or equipment parked or stored on the subject property related to the use allowed by the special use permit shall be considered agricultural vehicles or agricultural equipment.
 - I. The operators of the use allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
 - J. The property owner and operator of the use allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of use.

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State of Illinois Zoning Petition
County of Kendall #22-13

- K. 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.
- L. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
- 3. 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.
- 4. The Zoning Administrator and other appropriate County Officials are hereby authorized and directed to amend the Official Zoning Map of Kendall County to reflect this special use permit.

<u>IN WITNESS OF</u>, this ordinance has been enacted by a majority vote of the Kendall County Board and is effective this 19th day of July, 2022.

Attest:	
Kendall County Clerk	Kendall County Board Chairman
Debbie Gillette	Scott R. Gryder

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PARCEL 1:

A PART OF THE SOUTHWEST QUARTER OF SECTION NUMBER TWENTY ONE (21) OF TOWNSHIP THIRTY FIVE NORTH RANGE SEVEN (7) EAST OF THE THIRD PRINCIPAL MERIDIAN AND DESCRIBED AS FOLLOWS: COMMENCING AT THE QUARTER CORNER ON THE SOUTH LINE OF SECTION TWENTY ONE AND RUNNING THENCE NORTH 1357.3 FEET; THENCE WEST 83 FEET TO THE WEST LINE OF RIGHT OF WAY OF THE FOX AND ILLINOIS UNION RAILWAY AS PLACE OF BEGINNING; THENCE SOUTH ALONG SAID RIGHT OF WAY 264 FEET; THENCE WEST 165 FEET; THENCE NORTH 264 FEET; THENCE EAST 165 FEET TO PLACE OF BEGINNING, CONTAINING ONE ACRE OF LAND, MORE OR LESS.

AND ALSO

A PART OF THE SOUTHWEST QUARTER OF SECTION NUMBER TWENTY ONE (21) OF TOWNSHIP THIRTY FIVE NORTH RANGE SEVEN (7) EAST OF THE THIRD PRINCIPAL MERIDIAN AND DESCRIBED AS FOLLOWS: COMMENCING AT THE QUARTER CORNER ON THE SOUTH LINE OF SECTION TWENTY ONE AND RUNNING THENCE NORTH 1357.3 FEET; THENCE WEST 83 FEET TO THE WEST LINE OF RIGHT OF WAY OF THE FOX AND ILLINOIS UNION RAILWAY; THENCE WEST 165 FEET AS PLACE OF BEGINNING; THENCE SOUTH 264 FEET; THENCE WEST 6 FEET; THENCE NORTH 264 FEET; THENCE EAST 6 FEET TO THE PLACE OF BEGINNING.

PARCEL 2:

A PART OF THE SOUTHWEST QUARTER OF SECTION TWENTY-ONE (21), OF TOWNSHIP THIRTY-FIVE (35) NORTH, RANGE SEVEN (7), EAST OF THE THIRD PRINCIPAL MERIDIAN, AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER ON THE SOUTH LINE OF SECTION TWENTY-ONE (21), AND RUNNING THENCE NORTH ALONG THE CENTERLINE OF STATE HIGHWAY 47, 1327.3 FEET; THENCE WEST 83 FEET TO THE WEST LINE OF RIGHT OF WAY OF FOX AND ILLINOIS UNION RAILWAY AS PLACE OF BEGINNING; THENCE NORTH ALONG SAID RIGHT OF WAY 264 FEET; THENCE WEST 165 FEET; THENCE SOUTH 264 FEET; THENCE EAST 165 FEET TO THE PLACE OF BEGINNING AND CONTAINING ONE ACRE MORE OR LESS, SITUATED IN LISBON TOWNSHIP, KENDALL COUNTY, ILLINOIS.

Exhibit B

The Kendall County Zoning Board of Appeals approved the following Findings of Fact and Recommendation at their meeting on June 27, 2022 by a vote of five (5) in favor and zero (0) in opposition; Member Fox was absent.

FINDINGS OF FACT-SPECIAL USE PERMIT

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided the site is developed in accordance with the submitted site plan and landscaping plan, the proposed use should not be detrimental or endanger the public health, safety, morals, comfort, or general welfare.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. The subject property is located along a four (4) lane highway with agricultural uses on all sides. Few residential uses are located in the vicinity. Provided the site is developed in accordance with the submitted site plan and landscaping plan, the proposed use will not be substantially injurious to neighboring properties and or adversely impact adjacent uses.

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, points of ingress/egress, drainage, and other necessary facilities have been or will be 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. **This is true**; **no variances are needed.**

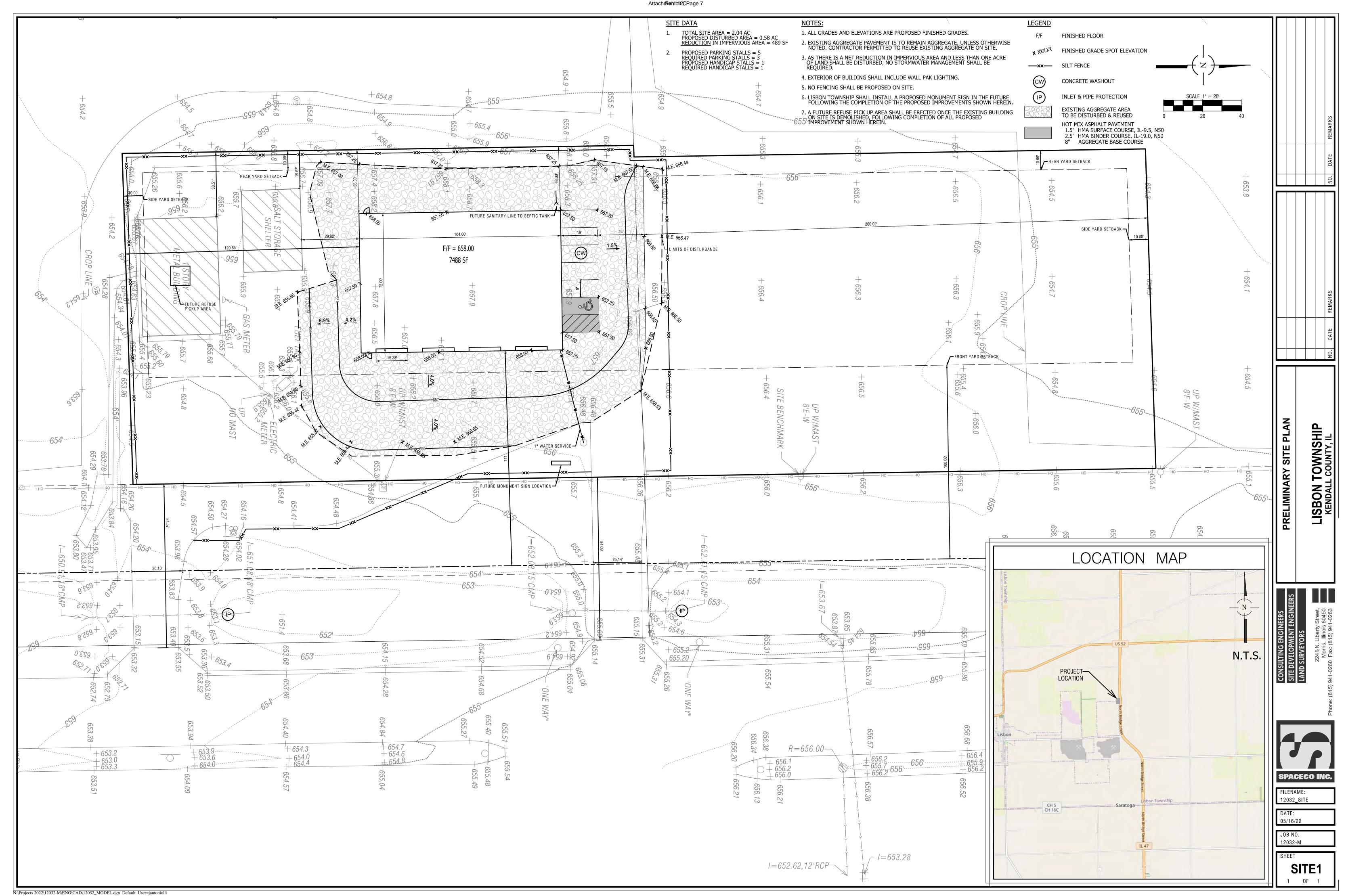
That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposal is consistent with a goal found on page 9-20 of the Kendall County Land Resource Management Plan call for "Mutually supportive, non-adversarial team of municipal, township, school, park, county, and other governments working toward the benefit of everyone in Kendall County." Also, land next to an arterial highway is a logical location for a township highway facility.

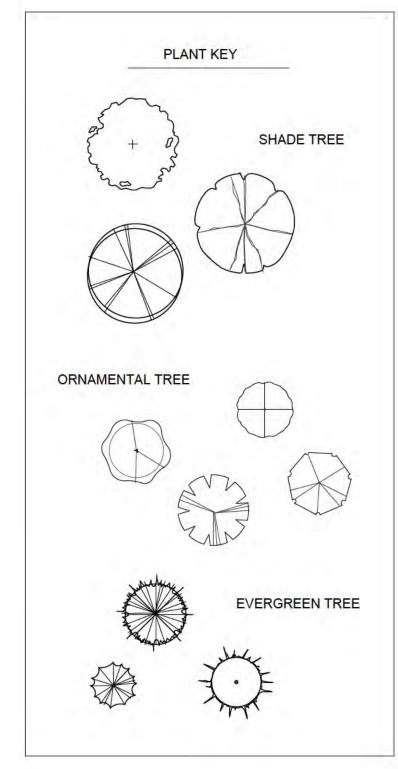
RECOMMENDATION

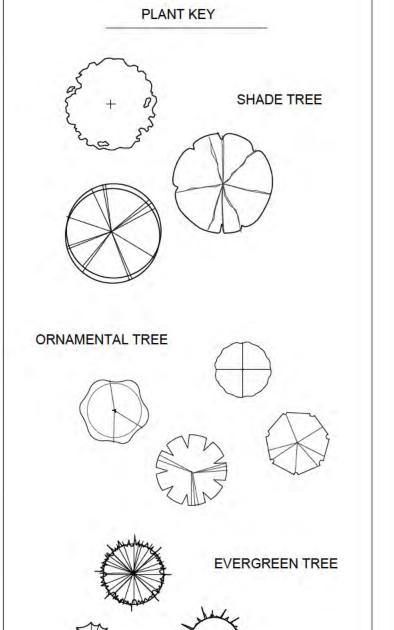
Approval subject to the following conditions and restrictions:

- 1. The site shall be developed substantially in accordance with the site plan and landscaping plan. Lisbon Township may demolish the one (1) story metal building shown on the site plan without seeking an amendment to this special use permit.
- 2. The botanicals shown on the landscaping plan shall be installed by June 30, 2024. This deadline may be extended upon approval by the Kendall County Planning, Building and Zoning Committee. Damaged or dead botanicals shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.
- 3. The seven thousand four hundred eighty-eight (7,488) square foot building shall be developed substantially in accordance with the elevations with a maximum building height of twenty-six feet (26'). On the elevations, South Elevation = East, West Elevation = South, North Elevation = West, and East Elevation = North.

- 4. Any structures constructed, installed, or demolished related to the use allowed by this special use permit on the property shall not be considered for agricultural purposes and must secure applicable building permits.
- 5. One (1) free standing monument sign may be installed in substantially the location shown on the site plan. The sign shall not be illuminated.
- 6. The trash enclosure shall be placed in substantially the location shown on the site plan, upon demolition of the one (1) story metal building. The enclosure shall be screened per the requirements of the Kendall County Zoning Ordinance. The property owners shall ensure that the site is kept free of litter and debris.
- 7. The owners of the uses allowed by this special use permit shall diligently monitor the property for leaks from equipment, vehicles, and materials parked and stored on the subject property and shall promptly clean up the site if leaks occur.
- 8. None of the vehicles or equipment parked or stored on the subject property related to the use allowed by the special use permit shall be considered agricultural vehicles or agricultural equipment.
- 9. The operators of the use allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
- 10. The property owner and operator of the use allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of use.
- 11. 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.
- 12. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
- 13. 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.





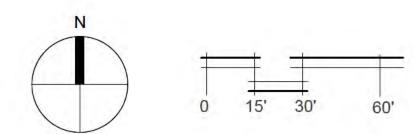


OVERHEAD

REPAIR TURF AS NEEDED

PRELIMINARY LANDSCAPE PLAN

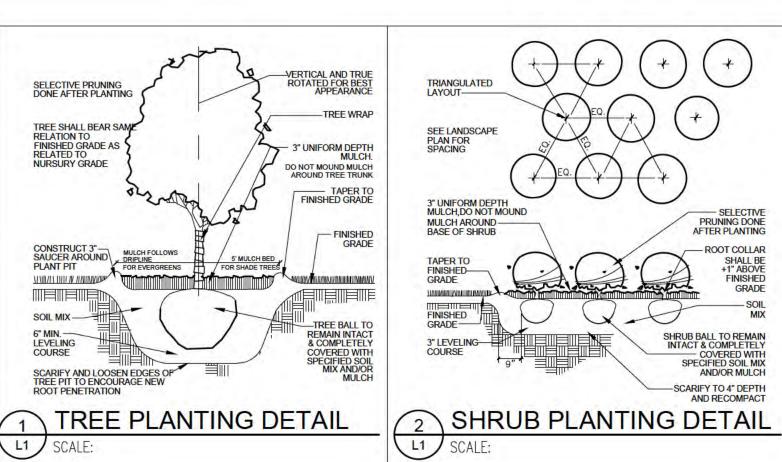
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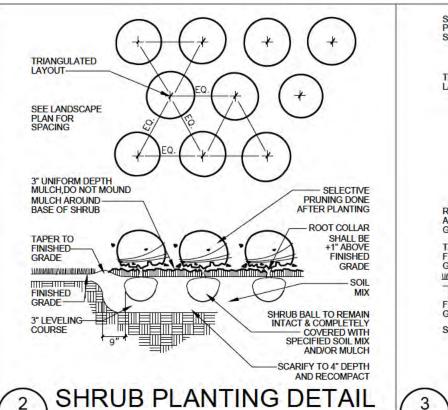


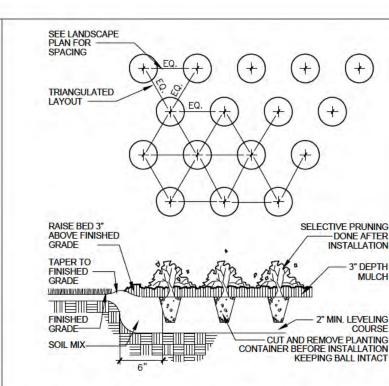
			Master Plant List			
Symbol	Quantity	Botanical Name	Common Name	Size	Origin	Notes
			Shade Trees			
AFR	1	ACER X FREEMANII 'AUTUMN BLAZE'	AUTUMN BLAZE FREEMAN MAPLE	3" BB		MOIST
CAT	2	CATALPA SPECIOSA	NORTHERN CATALPA	3" BB	NATIVE	
TAR	3	TILIA AMERICANA 'REDMOND'	REDMOND AMERICAN LINDEN	3" BB	NATIVE	URBAN, MOIST
			Ornamental Trees			
MS	1	MALUS SARGENT	SARGENT CRABAPPLE	6' BB		8', GREEN, PINK

GENERAL CONSTRUCTION NOTES

- 1. REQUIRED LANDSCAPE MATERIAL SHALL SATISFY AMERICAN ASSOCIATION OF NURSERYMEN STANDARDS AND BE STAKED, WRAPPED, WATERED AND MULCHED PER ORDINANCE.
- 2. BEFORE ANY EXCAVATION ON THE SITE, CALL TO LOCATE ANY EXISTING UTILITIES ON THE SITE. THE CONTRACTOR SHALL FAMILIARIZE HIM/HERSELF WITH THE LOCATIONS OF ALL BURIED UTILITIES IN THE AREAS OF WORK BEFORE STARTING OPERATIONS. THE CONTRACTOR SHALL BE LIABLE FOR THE COST OF REPAIRING OR REPLACING ANY BURIED CONDUITS, CABLES OR PIPING DAMAGED DURING THE INSTALLATION OF THIS WORK.
- 3. FOUR FOOT HIGH FENCING OR OTHER RIGID MATERIAL IS TO BE ERECTED AROUND THE DRIP-LINE OF ALL TREES TO BE
- 4. PLANT QUANTITIES ON PLANT LIST INTENDED TO BE A GUIDE. ALL QUANTITIES SHALL BE CHECKED AND VERIFIED ON PLANTING PLAN. ANY DISCREPANCIES SHALL BE DISCUSSED WITH THE LANDSCAPE ARCHITECT.
- 5. ANY DEVIATIONS FROM OR MODIFICATIONS TO THIS PLAN SHALL BE APPROVED BY THE LANDSCAPE ARCHITECT PRIOR TO
- 6. CONTRACTOR TO NOTIFY LANDSCAPE ARCHITECT UPON DELIVERY OF PLANT MATERIAL TO THE SITE. LANDSCAPE ARCHITECT RESERVES THE RIGHT TO REJECT ANY PLANT MATERIAL THAT DOESN'T MEET STANDARDS OR SPECIFICATIONS
- 7. ALL PLANT MATERIAL TO BE INSTALLED PER THE PLANTING DETAILS PROVIDED ON THIS PLAN SET.
- 8. ALL BED EDGES TO BE WELL SHAPED, SPADE CUT, WITH LINES AND CURVES AS SHOWN ON THIS PLAN SET.
- 9. ALL PLANTING BEDS TO BE PREPARED WITH PLANTING MIX: 50% TOPSOIL, 50% SOIL AMENDMENTS (3 PARTS PEATMOSS, 1 PART COMPOST, 1 PART SAND)
- 10. ALL SPECIFIED LANDSCAPE MATERIAL INDICATED ON THE CONSTRUCTION DOCUMENTS WILL BE REQUIRED TO BE MAINTAINED THROUGHOUT THE LIFE OF THE PROJECT AND MUST BE REPLACED SHOULD IT DIE OR BECOME DAMAGED.
- 11. ALL PLANT MATERIAL SHALL HAVE A ONE YEAR GUARANTEE FROM SUBSTANTIAL COMPLETION AS DETERMINED BY THE LANDSCAPE ARCHITECT, AND SHALL BE REPLACED SHOULD IT DIE WITHIN THAT PERIOD.
- 12. PROTECT STRUCTURES, SIDEWALKS, PAVEMENTS AND UTILITIES TO REMAIN FROM DAMAGE CAUSED BY SETTLEMENT, LATERAL MOVEMENT, UNDERMINING, WASHOUTS AND OTHER HAZARDS CAUSED BY SITE IMPROVEMENT OPERATIONS.
- 13. ALL LAWN AREAS TO BE SEEDED WITH STANDARD TURF GRASS SEED AND COVERED WITH EROSION CONTROL BLANKET. UNLESS OTHERWISE SPECIFIED ON THE PLAN.
- 14. CAREFULLY MAINTAIN PRESENT GRADE AT BASE OF ALL EXISTING TREES TO REMAIN. PREVENT ANY DISTURBANCE OF EXISTING TREES INCLUDING ROOT ZONES. USE TREE PROTECTION BARRICADES WHERE INDICATED. PROTECT EXISTING TREES TO REMAIN AGAINST UNNECESSARY CUTTING, BREAKING OR SKINNING OF ROOTS, BRUISING OF BARK OR SMOTHERING OF TREES. DRIVING, PARKING, DUMPING, STOCKPILING AND/OR STORAGE OF VEHICLES, EQUIPMENT, SUPPLIES, MATERIALS OR DEBRIS ON TOP THE ROOT ZONES AND/OR WITHIN THE DRIPLINE OF EXISTING TREES OR OTHER PLANT MATERIAL TO REMAIN IS STRICTLY PROHIBITED.
- 15. THE CONTRACTOR AT ALL TIMES SHALL KEEP THE PREMISES ON WHICH WORK IS BEING DONE, CLEAR OF RUBBISH AND DEBRIS. ALL PAVEMENT AND DEBRIS REMOVED FROM THE SITE SHALL BE DISPOSED OF LEGALLY.
- 16. ALL WORK AND OPERATIONS SHALL COMPLY WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL CODES AND ORDINANCES.

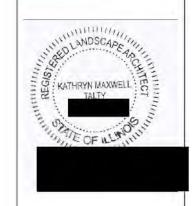






3 GROUNDCOVER DETAIL L1 SCALE:

© 2005 K M Talty DESIGN



LISBON TOWNSHIP KENDALL COUNTY, IL

22240

sheet no.

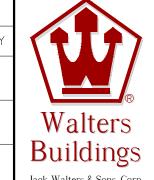
Attanhinetre, 12 agage 9

CUSTOMER SIGNATURE:

I UNDERSTAND THAT CHANGES MAY BE NECESSARY PER CODE OR STRUCTURAL REQUIREMENTS

ALL DRAWINGS ARE INTELLECTUAL PROPERTY OF WALTERS BUILDINGS UNTIL SOLD

	DOOR & WINDOW SCHEDULE	
TAG	TYPE	QUAN ¹
1	3'x6'-8" WALKDOOR w/ LEVER LOCKSET & DEADBOLT	2
2	16'x14' OVERHEAD DOOR OPENING	4



Jack Walters & Sons, Corp. P.O. Box 388 6600 Midland Ct. Allenton, WI 53002 1-800-558-7800 www.waltersbuildings.com

REVISIONS:

owner: Township Building

PROJECT: 72'x104' Storage

LOCATION: Minooka, IL

SALES REP / DEALER: Johnie Baker

Taylor Z

DRAWN BY:

ESTIMATED BY:

LAST SAVED BY:

TZEITLER ON: 5/23/2022

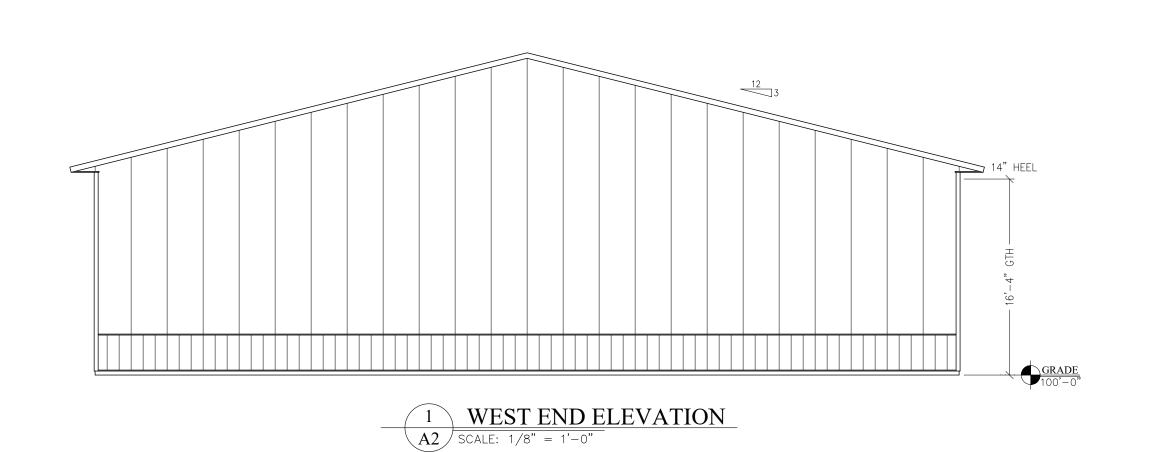
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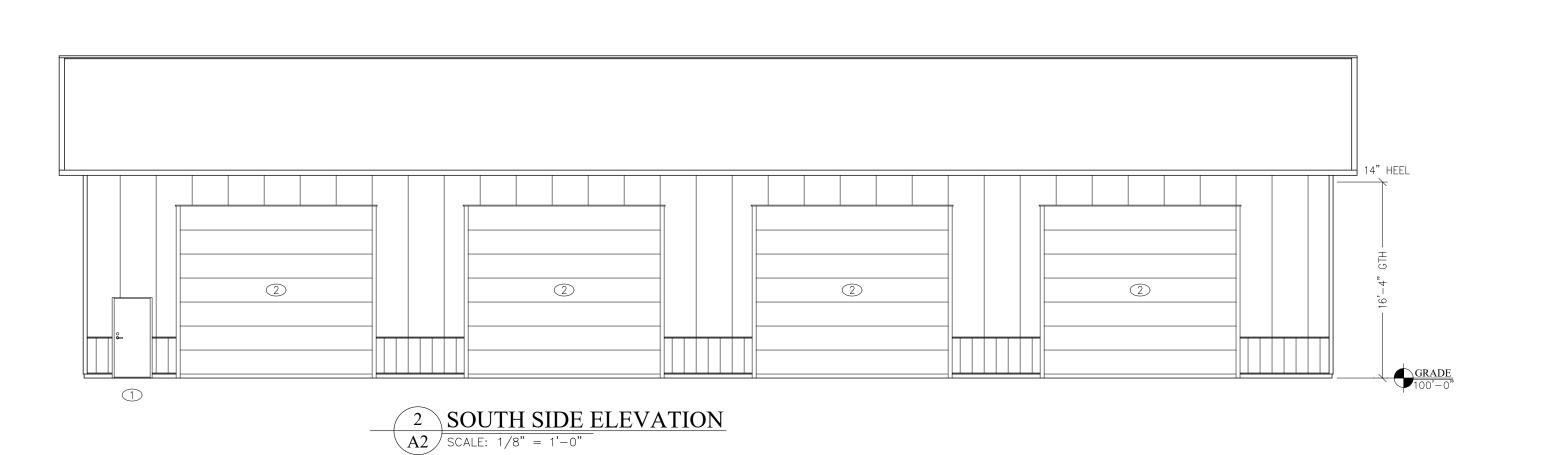
1/8" = 1'-0"

JOB NUMBER: P74-078

SHEET NUMBER:

A2

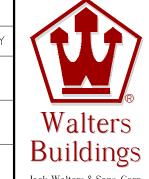




Attackinitein E. 12, agaige TO THE PRELIMINARY DRAWINGS.

CUSTOMER SIGNATURE:	DATE:
I UNDERSTAND THAT CHANGES MAY BE NECESSARY	PER CODE OR STRUCTURAL REQUIREMENTS
ALL DRAWINGS ARE INTELLECTUAL PROPERTY OF W	VALTERS BUILDINGS UNTIL SOLD

	DOOR & WINDOW SCHEDULE	
TAG	TYPE	QUANTI
1)	3'x6'-8" WALKDOOR w/ LEVER LOCKSET & DEADBOLT	2
2	16'x14' OVERHEAD DOOR OPENING	4



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Taylor Z

DRAWN BY:

ESTIMATED BY:

LAST SAVED BY:

TZEITLER ON: 5/23/2022

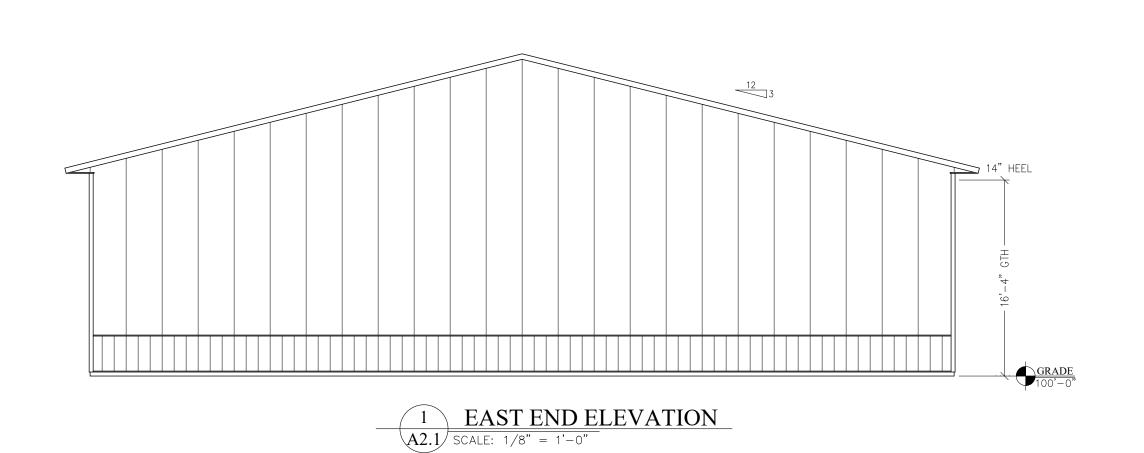
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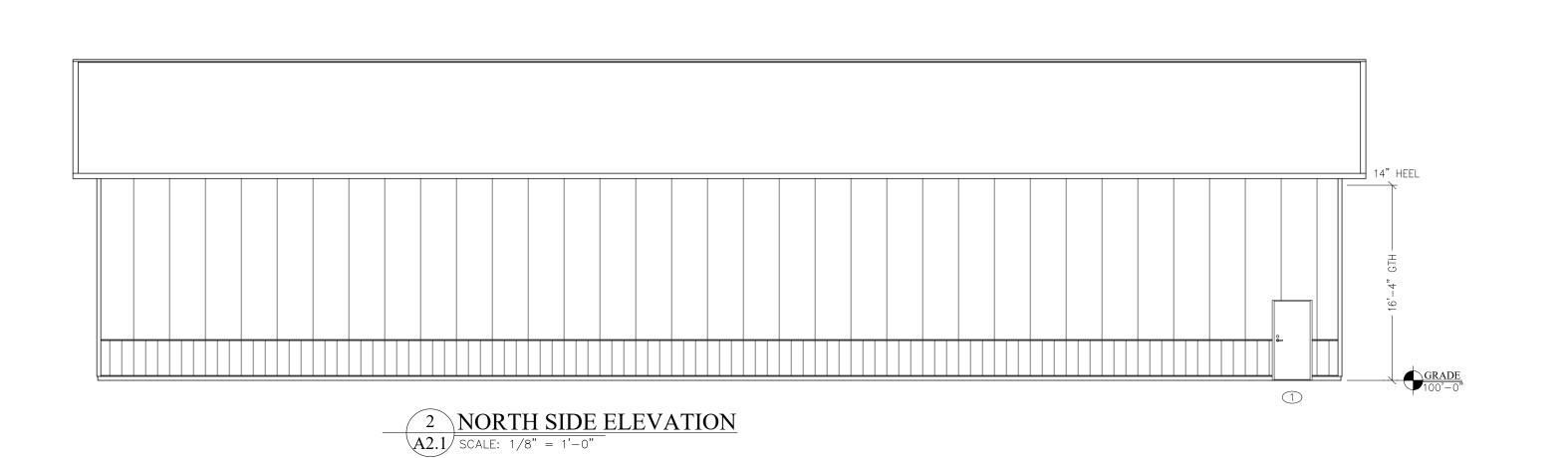
1/8" = 1'-0" 0 5' 8' 10

JOB NUMBER: P74-078

SHEET NUMBER:

A2.1





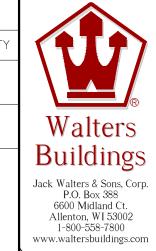
Attackinite her representation of the Preliminary Drawings.

CUSTOMER SIGNATURE:

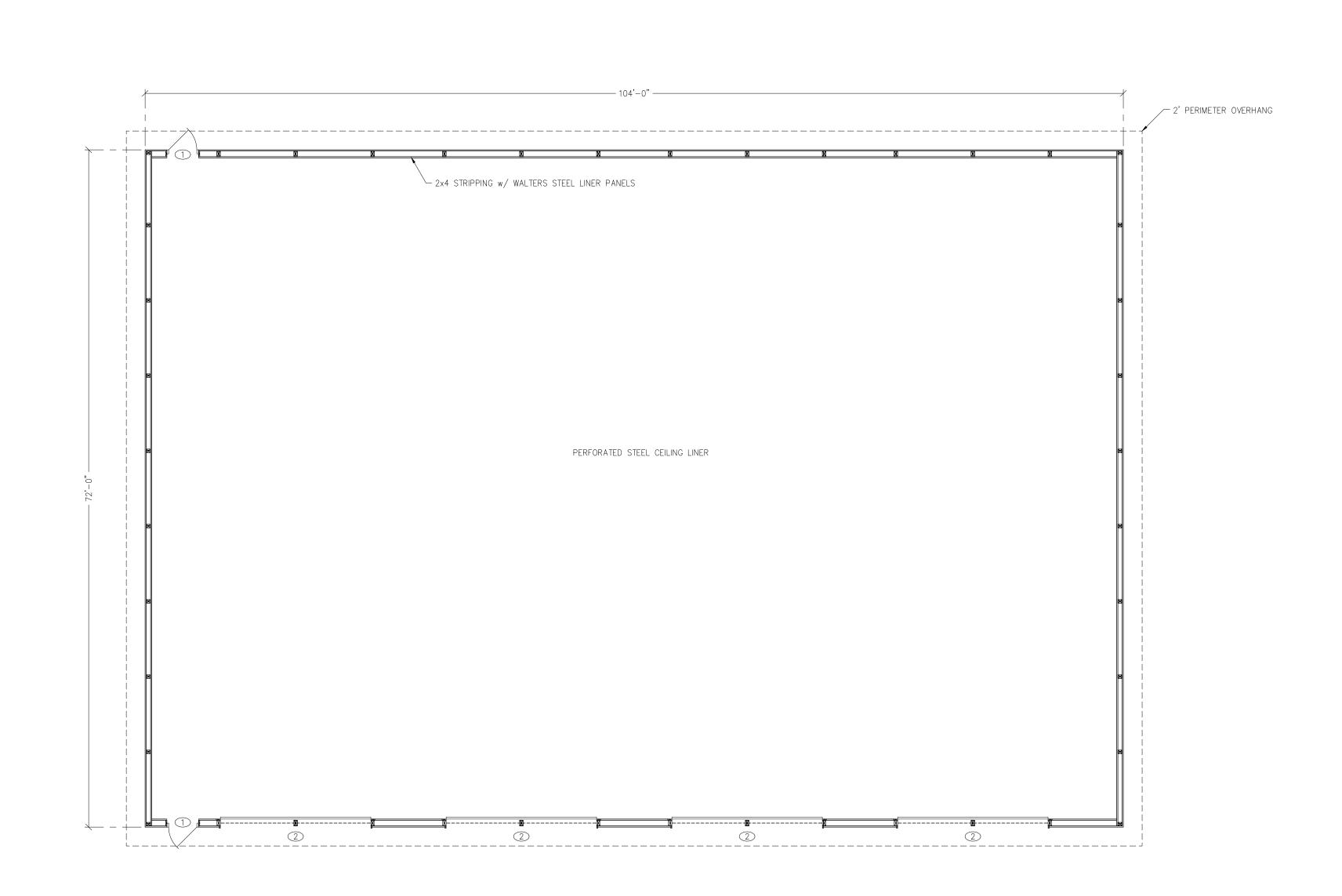
ATURE: DATE:

I UNDERSTAND THAT CHANGES MAY BE NECESSARY PER CODE OR STRUCTURAL REQUIREMENTS
ALL DRAWINGS ARE INTELLECTUAL PROPERTY OF WALTERS BUILDINGS UNTIL SOLD

	DOOR & WINDOW SCHEDULE	
TAG	TYPE	QUAN
	3'x6'-8" WALKDOOR w/ LEVER LOCKSET & DEADBOLT	2
2	16'x14' OVERHEAD DOOR OPENING	4



REVISIONS:



owner: Township Building

PROJECT: 72'x104' Storage

LOCATION: Minooka, IL

SALES REP / DEALER: Johnie Baker

DRAWN BY: Taylor Z

ESTIMATED BY:

LAST SAVED BY:

TZEITLER ON: 5/23/2022

SCALE:

1/8" = 1'-0"

JOB NUMBER: P74-078

SHEET NUMBER:

A3

379

1 FRAMING PLAN
A3 SCALE: 1/8" = 1'-0"

Kendall County Employment

Part Time Code Enforcement Officer

Type: Part Time

Salary/Pay Rate: 18.00

Posted Date: 07/06/2022 **Deadline to Apply:** 07/19/2022

Code Enforcement Officer

Department: Planning, Building and Zoning (PBZ)

Salary / Pay Rate: \$18.00

Job Type: Part Time

Post Date: 07/6/2022

Expire Date: 07/19/2022

Job description

Part Time Code Enforcement Officer

• Status: Non- Exempt

The Kendall County Planning, Building and Zoning Department (PBZ) is seeking an enthusiastic, detail-oriented, highly motivated individual for the position of Part –time Code Enforcement Officer.

The primary job responsibilities of the Part –time Code Enforcement Officer will be to support the PBZ needs of the County. The ideal candidate will be comfortable investigating complaints of possible violations of the Kendall County Zoning Ordinance and other applicable local, state and federal laws and regulations ("Zoning Ordinances, Laws and Regulations"); provides information to the public on zoning requirements and home construction project violations; and obtains, where possible, voluntary compliance with Zoning Ordinances, Laws and Regulations. The employee will assist the State's Attorney's Office in pursuing ordinance violations, including, drafting and signing necessary and appropriate documents. Under general supervision, has authority to request the removal or alteration of conditions or materials, which violate applicable Zoning Ordinances, Laws and Regulations. The employee will conduct field inspection duties independently, according to adopted Zoning Ordinances, Laws and Regulations. The employee will attend conferences, seminars, training, meetings and prepares reports, as needed. The employee must be able to perform all assigned job duties during normal business hours and outside of normal business hours.

A minimum of a high school diploma or GED is required.

Valid Illinois Driver's License with a good driving recordis required.

Code enforcement, law enforcement or other administrative experience is preferred.

For more information, please review the full job description provided in the official posting on Kendall County's website: https://www.kendallcountyil.gov/employment/

County Employment Application

The pay rate will be \$18 per hour, dependent upon qualifications, and the position is Part-time. Must have a flexible schedule. Work hours will not exceed 20 hours per pay period (2 weeks).

Questions and additional details concerning this job posting should be directed to PBZ – Brian Holdiman at bholdiman@kendallcountyil.gov or Matt Asselmeier at masselmeier@kendallcountyil.gov

Interested candidates may submit their application and resume by email to tdado@kendallcountyil.gov with the subject "Part Time Code Enforcement Officer" or by mail to

Tina Dado 111 West Fox Street Suite 316 Yorkville, Illinois 60560

Position will remain open until filled.

Kendall County is an equal opportunity employer, and all qualified applicants will receive consideration for employment without regard to race, religion, age sex, sexual orientation, national origin, disability status, genetics, veteran status, or any other characteristic protected by federal, state or local laws.

Consistent with the Americans with Disabilities Act (ADA) and the Illinois Human Rights Act (IHRA), it is the policy of Kendall County to provide reasonable accommodation when requested by a qualified applicant or employee with a disability, unless such accommodation would cause an undue hardship. The policy regarding requests for reasonable accommodation applies to all aspects of employment, including the application process. If reasonable accommodation is needed, please contact Tina Dado, Human Resource Specialist at the contact information below:

Tina Dado

Human Resource Department

111W. Fox St. Suite 316

Yorkville, Illinois 605602

tdado@kendallcountyil.gov



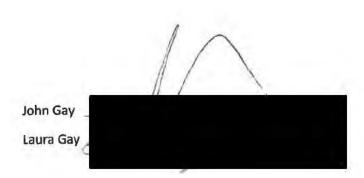
Project: The Pets Home 3601 Plainfield Rd. Oswego IL. 60543

Mr. Asselmeier,

It has been brought to our attention that a request for an extension may be required with regards to the completion date of our landscaping plan at 3601 Plainfield Road which is currently scheduled for July 31, 2022 per condition 2.8 of Ordinance 2022-09. Due to supply chain issues that have hampered progress we would like for formally request an extension until August 31, 2022 as a revised completion date.

October 31,2022

Lee Bryan





Project: The Pets Home 3601 Plainfield Rd. Oswego IL. 60543

Mr. Asselmeier,

It has been brought to our attention that a request for an extension may be required with regards to the completion date of our landscaping plan at 3601 Plainfield Road which is currently scheduled for June 1, 2022 per condition 2.B of Ordinance 2022-09. It has taken some additional time to get through the permitting process to start construction so we would like for formally request an extension until July 31, 2022 as a revised completion date.



ORDINANCE NUMBER 2022-

GRANTING A MAJOR AMENDMENT TO AN EXISTING SPECIAL USE PERMIT FOR A KENNEL GRANTED BY ORDINANCE 2019-33 BY CHANGING THE SITE PLAN AT 3601 PLAINFIELD ROAD AND IDENTIFIED BY PARCEL IDENTIFICATION NUMBER 03-28-100004 IN OSWEGO TOWNSHIP

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

<u>WHEREAS.</u> Section 7.01.D.29 of the Kendall County Zoning Ordinance permits the operation of kennels as a special use with certain restrictions in the A-1 Agricultural Zoning District; and

<u>WHEREAS</u> the property which is the subject of this Ordinance has been, at all relevant times, and remains currently located within the A-1 Agricultural Zoning District and consists of approximately 5.0 acres located at 3601 Plainfield Road (PIN: 03-28-100-004) in Oswego Township. The legal description for the subject property is set forth in Exhibit A attached hereto and incorporated by reference, and this property shall hereinafter be referred to as "the subject property."; and

<u>WHEREAS</u>, on November 19, 2019, the Kendall County Board approved Ordinance 2019-33 which granted a special use permit for a kennel with conditions and applicable variances at the subject property; and

<u>WHEREAS</u>, conditions 2.A and 2.E of Ordinance 2019-33 required the subject property be developed substantially in accordance with an attached site plan; an

<u>WHEREAS</u>, the subject property is currently owned by John and Laura Gay and shall hereinafter be referred to as "Petitioner"; and

<u>WHEREAS</u>, on or about December 21, 2021, Petitioner's representative filed a petition for a major amendment to an existing special use permit by deleting the site plan attached to Ordinance 2019-33 and replacing the site plan with a new, proposed site plan; and

<u>WHEREAS</u> following due and proper notice by publication in the Kendall County Record on January 6, 2022, the Kendall County Zoning Board of Appeals initiated a public hearing on January 31, 2022, at 7:00 p.m., in the County Office Building at 111 W. Fox Street in Yorkville, and continued the public hearing to February 28, 2022, at 7:00 p.m., at the same location, at which the Petitioner's attorney presented evidence, testimony, and exhibits in support of the requested major amendment to an existing special use permit and zero members of the public testified in favor or in opposition to the request; and

<u>WHEREAS</u>, based on the evidence, testimony, and exhibits, the Kendall County Zoning Board of Appeals has made their Findings of Fact and recommended approval of the major amendment to an existing special use permit with conditions as set forth in the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, dated February 28, 2022, a true and correct copy of which is attached hereto as Exhibit B; and

<u>WHEREAS</u>, the Kendall County Planning, Building and Zoning Committee of the Kendall County Board has reviewed the testimony presented at the aforementioned public hearing and has considered the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, and has forwarded to the Kendall

State of Illinois Zoning Petition
County of Kendall #22-04

County Board a recommendation of approval of the requested major amendment to an existing special use permit with conditions; and

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

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

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

- The Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals attached hereto as Exhibit B is hereby accepted and the Findings of Fact set forth therein are hereby adopted as the Findings of Fact and Conclusions of this Kendall County Board.
- 2. The Kendall County Board hereby grants approval of Petitioner's petition for a major amendment to an existing special use permit allowing the operation of a kennel on the subject property subject to the following conditions:
 - A. The site plan, security plan, landscaping plan, and lighting plan referenced as Exhibit C in Ordinance 2019-33 is replaced with the site plan attached hereto as Exhibit C, elevations attached hereto as Exhibit D, and landscaping plan attached hereto Exhibit E.
 - B. The vegetation and berm outlined in the landscaping plan attached hereto as Exhibit E shall be installed in the quantities outlined and described in the landscaping plan and shall be installed by June 1, 2022. The Planning, Building and Zoning Committee may extend this deadline upon the request of the property owner. Damaged or dead vegetation shall be replaced on a timeframe approved by the Planning, Building and Zoning Department.
 - C. The remaining conditions and restrictions contained in Ordinance 2019-33 shall remain effective.
 - D. Failure to comply with one or more of the above conditions or restrictions or the conditions and restrictions contained in Ordinance 2019-33 could result in the amendment or revocation of the special use permit.
 - E. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
- This special use permit and major amendment to an existing special use permit shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property.
- The Zoning Administrator and other appropriate County Officials are hereby authorized and directed to amend the Official Zoning Map of Kendall County to reflect this special use permit.

<u>IN WITNESS OF</u>, this ordinance has been enacted by a majority vote of the Kendall County Board and is effective this 15th day of March, 2022.

State of Illinois County of Kendall

Attest:

Kendall County Clerk Debbie Gillette Sim KENDALLA

Kendall County Board Chairman

Scott R. Gryder

Exhibit A

LEGAL DESCRIPTION

THAT PART OF THE NORTH HALF OF THE NORTH HALF OF SECTION 28, TOWNSHIP 37 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE NORTH HALF OF THE NORTH HALF OF SAID SECTION 28, THENCE EASTERLY ALONG THE SOUTH LINE OF SAID NORTH HALF OF THE NORTH HALF OF SAID SECTION 28, 1902.46 FEET TO A POINT IN THE EASTERLY RIGHT OF WAY OF PLAINFIELD ROAD FOR A POINT OF BEGINNING: THENCE NORTHWESTERLY ALONG THE EASTERLY RIGHT OF WAY LINE OF PLAINFIELD ROAD WHICH FORMS AN ANGLE OF 129 DEGREES 35 MINUTES 20 SECONDS TO THE LEFT FROM A PROLONGATION OF THE LAST DESCRIBED LINE, 354.51 FEET TO A POINT IN THE CENTER LINE OF MORGAN CREEK; THENCE NORTHEASTERLY ALONG SAID CENTER LINE OF MORGAN CREEK WHICH FORMS AN ANGLE OF 71 DEGREES 58 MINUTES 30 SECONDS WITH THE LAST DESCRIBED LINE, MEASURED FROM SOUTHEAST TO NORTHEAST, 131.19 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY ALONG SAID CENTER LINE OF MORGAN CREEK BEING A CURVE TO THE RIGHT HAVING A RADIUS OF 150.00 FEET FOR AN ARC DISTANCE OF 100.42 FEET TO A POINT OF TANGENCY; THENCE SOUTHEASTERLY ALONG SAID CENTER LINE OF MORGAN CREEK, 933.39 FEET TO A POINT OF CURVATURE; THENCE EASTERLY ALONG SAID CENTER LINE OF MORGAN CREEK BEING A CURVE TO THE LEFT HAVING A RADIUS OF 753.23 FEET FOR AN ARC DISTANCE OF 149.51 FEET TO A POINT OF TANGENCY; THENCE EASTERLY ALONG SAID CENTER LINE OF MORGAN CREEK 73.03 FEET; THENCE SOUTHERLY ALONG A LINE WHICH FORMS AN ANGLE OF 95 DEGREES 25 MINUTES 11 SECONDS MEASURED FROM WEST TO SOUTH WITH THE LAST DESCRIBED LINE, 20.00 FEET TO A POINT IN SAID SOUTH LINE OF THE NORTH HALF OF THE NORTH HALF OF SECTION 28, THENCE WESTERLY ALONG THE SAID SOUTH LINE OF THE NORTH HALF OF THE NORTH HALF OF SECTION 28. 1107.30 FEET TO THE POINT OF BEGINNING, ALL IN THE TOWNSHIP OF OSWEGO. KENDALL COUNTY, ILLINOIS.

Exhibit B

The Kendall County Zoning Board of Appeals approved the following Findings of Fact and Recommendation at their meeting on February 28, 2022, by a vote of five (5) in favor and zero (0) in opposition. Members Thompson and Whitfield were absent.

FINDINGS OF FACT-MAJOR AMENDMENT TO SPECIAL USE PERMIT

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided the Oswego Fire Protection District approves the new turnaround area and the Kendall County Highway Department approves the new access point, the operation of the special use will not be detrimental to the public health, safety, morals, comfort, or general welfare. The immediately adjacent properties are also zoned A-1. There are no existing structures on adjacent properties within one hundred feet (100') of the property line. Taking into account the residential properties to the west and southwest of the property, the proposed kennel location will be situated on the east end of the property, thereby well-exceeding the two hundred fifty foot (250') setback requirement from any residential district set forth in the Zoning Ordinance. In addition, the Petitioners have a waste management plan and have considered the impact of noise on surrounding properties. A six foot (6') tall fencing is planned around the outdoor play area. The Petitioners intend to follow the Kendall County Zoning Ordinance as it relates to having all pets inside by dusk.

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. As noted in the previous finding, the proposed special use will be setback further than the required setback for residentially zoned properties. The Petitioners plan to install a fence and appropriate lighting. The Petitioners agreed to have animals indoors by sunset. The proposed of hours of operation will also prevent injury to neighboring land uses.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. This is true. An existing curb cut is already located off of Plainfield Road at the subject property. The Petitioners will have to secure applicable permits related stormwater, drainage, well, septic systems, and the new driveway access.

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. Kendall County previously granted a variance regarding distance to non-residentially zoned or use properties through Ordinance 2019-33 at this property. No variances are necessary for the proposed amendment and the special use would otherwise conform to the applicable regulations of the district.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed use is consistent with an objective found on Page 6-34 of the Kendall County Land Resource Management Plan which calls for "a strong base of agricultural, commercial and industrial uses that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents" through the encouragement "... of locally owned businesses."

RECOMMENDATION

Approval subject to the following conditions and restrictions:

- 1. The site plan, security plan, landscaping plan, and lighting plan referenced as Exhibit C in Ordinance 2019-33 is replaced with the submitted site plan, elevations, and landscaping plan.
- 2. The vegetation and berm outlined in the landscaping plan shall be installed in the quantities outlined and described in the landscaping plan and shall be installed by June 1, 2022. The Planning, Building and Zoning Committee may extend this deadline upon the request of the property owner. Damaged or dead vegetation shall be replaced on a timeframe approved by the Planning, Building and Zoning Department.
- 3. The remaining conditions and restrictions contained in Ordinance 2019-33 shall remain effective.
- Failure to comply with one or more of the above conditions or restrictions or the conditions and restrictions contained in Ordinance 2019-33 could result in the amendment or revocation of the special use permit.
- 5. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
- This special use permit and major amendment to an existing special use permit shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property.

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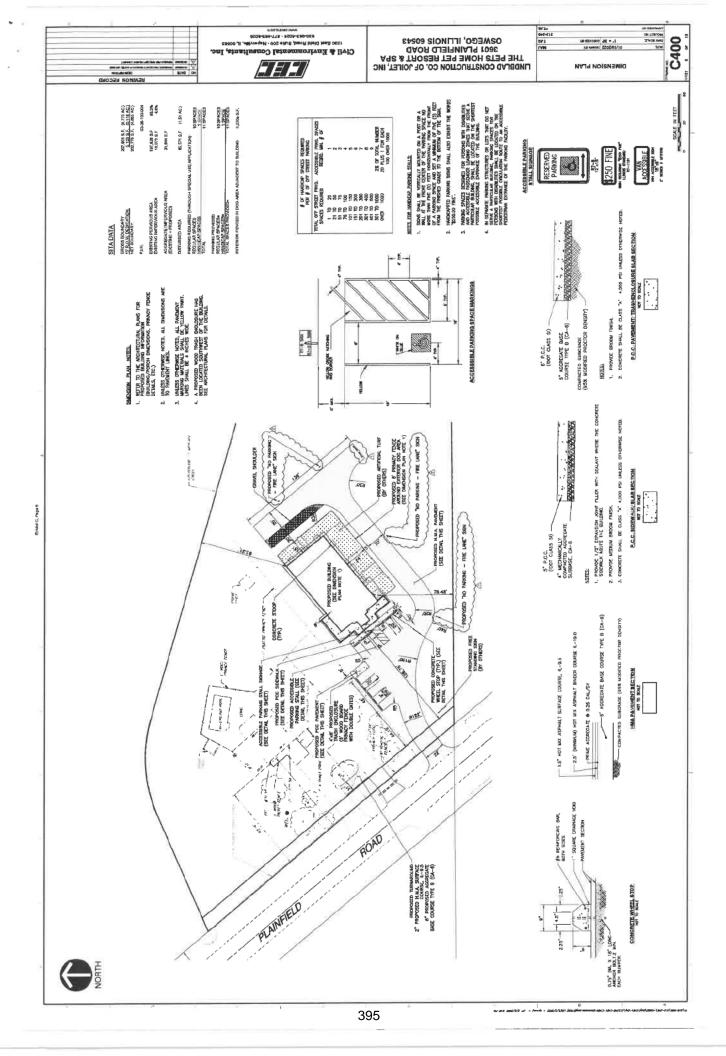
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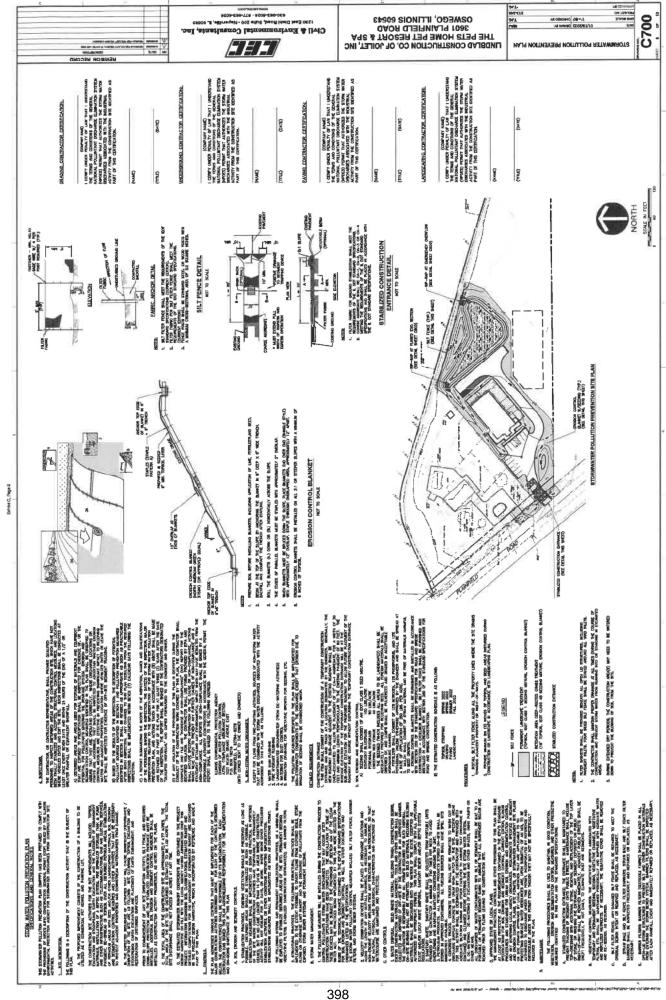




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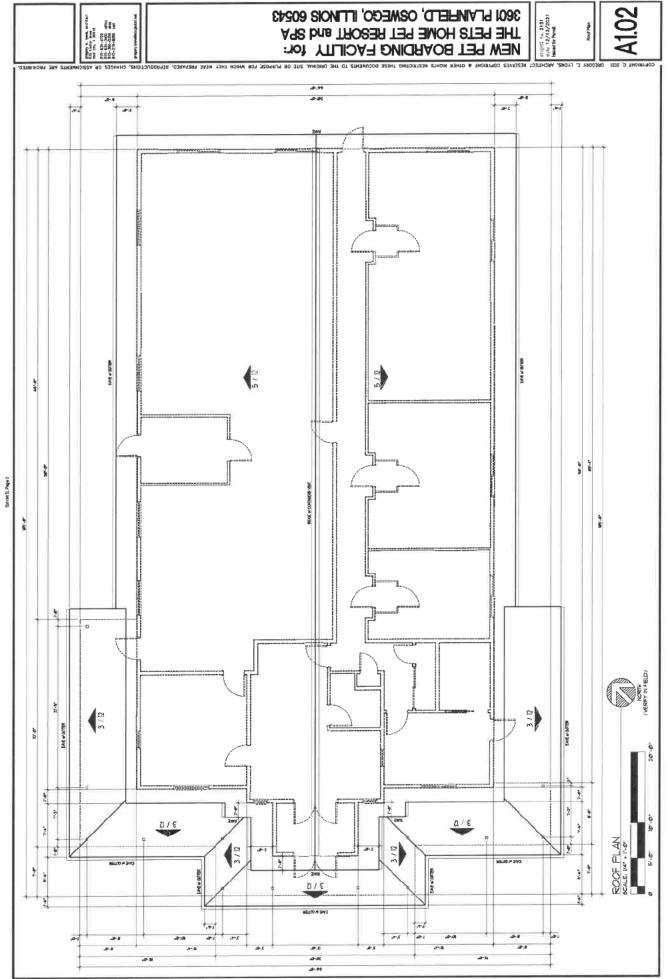
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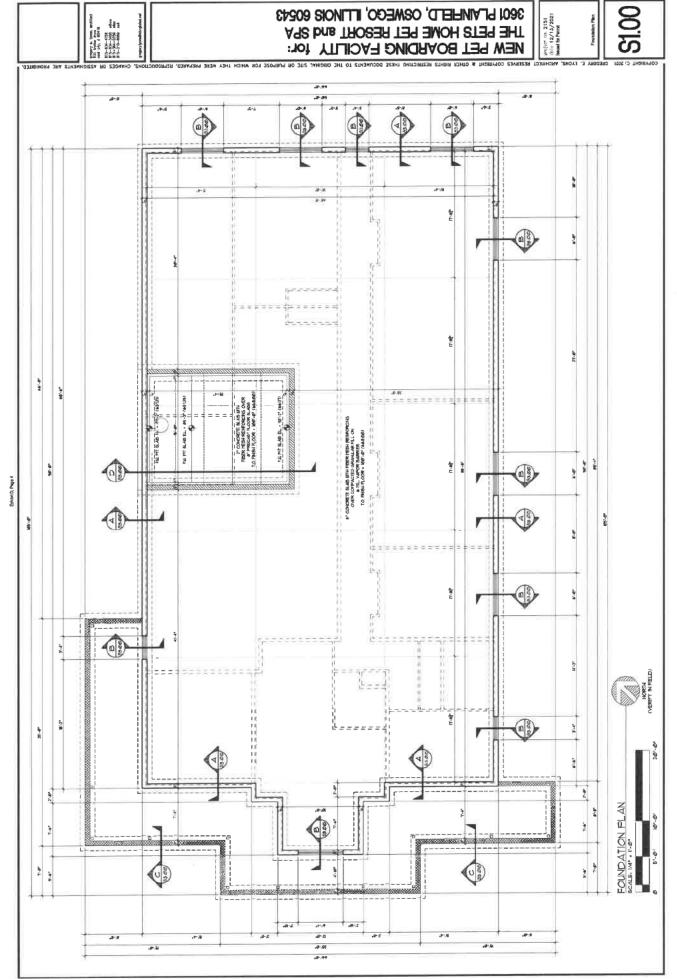


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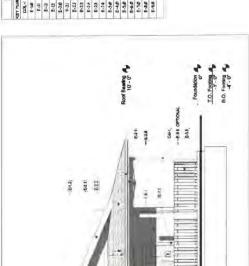
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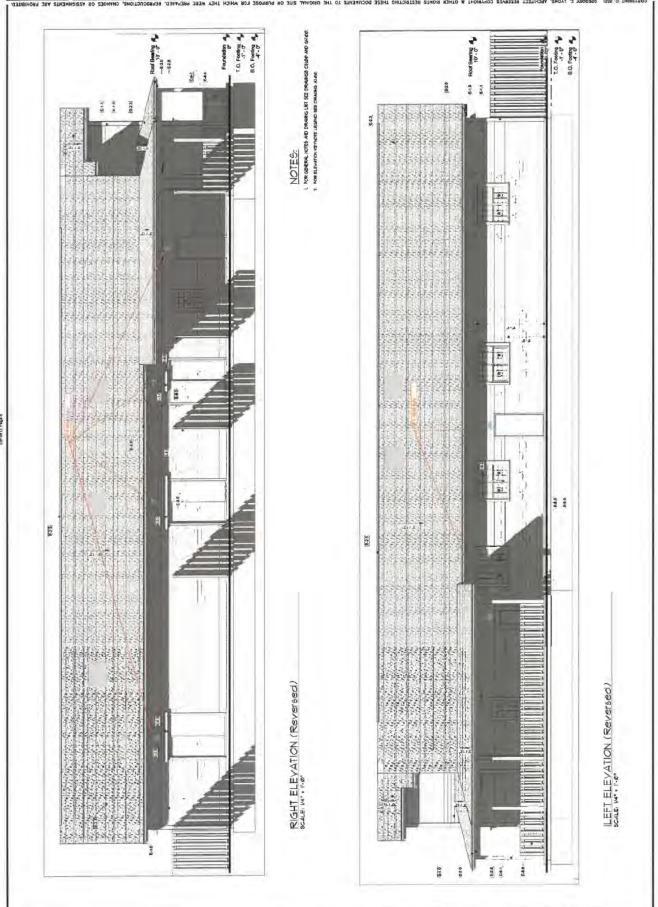
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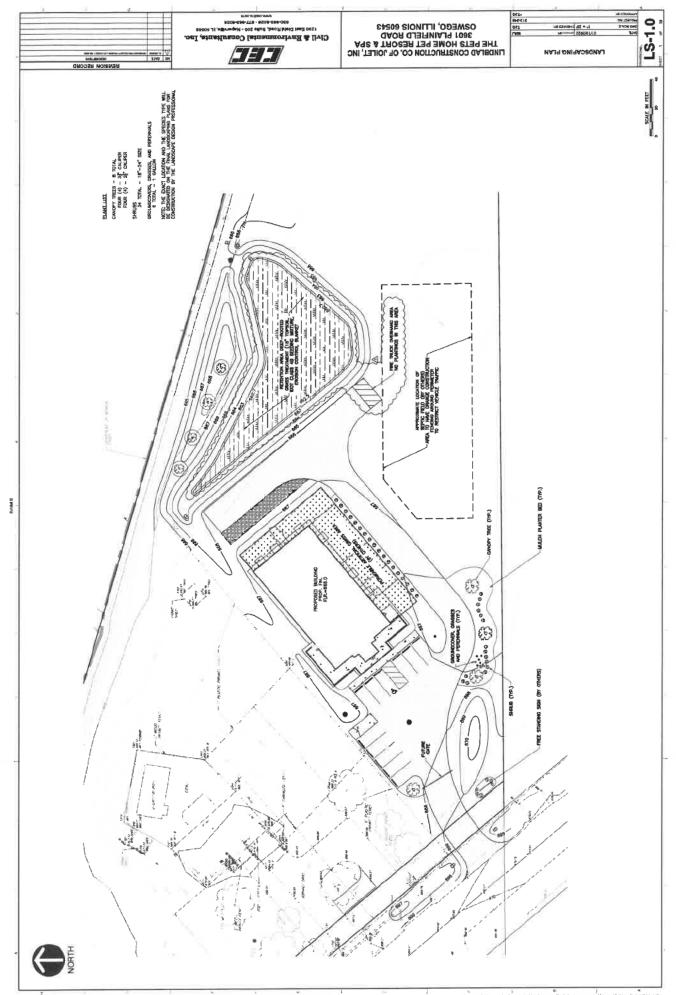
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NEW PET BOARDING FACILITY for: THE PETS HOME PET RESORT and SPA 3601 PLAINFIELD, OSWEGO, ILLINOIS 60543

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DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 204 Yorkville, IL • 60560 (630) 553-4141 Fax (630) 553-4179

MEMORANDUM

To: Kendall County Planning, Building and Zoning Committee From: Matthew H. Asselmeier, AICP, CFM, Senior Planner

Date: June 24, 2022

Re: Definitions of Forestry and Tree Farming and Related Text Amendments

Following the June 21, 2022, County Board meeting, Staff received a request to draft definitions of forestry and tree farming.

The term "forestry" was added as a permitted use in the A-1 District in 2000. The State of Illinois does not have a definition of forestry or forest. Also, professional organizations related to tree care do not have the exact same definitions of these terms. Accordingly, Staff suggests the following definition of forestry:

"Forestry. A business engaged in the growing, managing, and selling of trees not including the processing of trees or tree by-products."

Tree farms are listed in State law as an agricultural purpose. However, no definition of "tree farm" is provided. Tree farms are a permitted use in the A-1 District only. Staff suggests the following definition of tree farm:

"Tree Farm and Tree Farming. A business engaged in the growing, cultivating, and harvesting of trees, including fruits and nuts grown on trees, on the same premises of where the trees are grown and not including the processing of trees or tree by-products."

At the June 16, 2022, Committee of the Whole meeting, it was mentioned that the processing of mulch was not listed as a use within the Kendall County Zoning Ordinance. The closest related use is the production, publishing, processing, cleaning, testing, or repair of lumber mentioned in Section 10:01.B.21.k of the Kendall County Zoning Ordinance. This use is a permitted use in the M-1 and M-2 Districts. While other uses not specifically listed that conform to the goals, purpose, and objective of the district are special uses in the M-1 and M-2 Districts, Staff suggests the following amendment to Section 10:01.B.21.k to clarify certain uses related to mulch:

"k) Building equipment, building materials, mulch derived from plants, lumber, coal, sand and gravel yards, and yards for contracting equipment of public agencies, or public utilities, or materials or equipment of similar nature."

If you have any questions regarding this memo, please let me know.

Thanks,

MHA

Matt Asselmeier

From:

Gargrave, Tom <Tom.Gargrave@Illinois.gov>

Sent:

Tuesday, June 28, 2022 4:17 PM

To:

Matt Asselmeier

Cc:

Hayek, Jay C; Whittom, Chris; Bill Ashton; Scott Koeppel; Scott Gengler; Latreese

Caldwell

Subject:

RE: [External]Re: Tree Farm Definition

I do not, but a forest must have trees, can be simple or complex, urban or rural, native plants or otherwise. I would just use a standard definition, one you prefer.... but include that "act of forestry" is science and considered the practice of planting, growing, and managing the forest.

From: Matt Asselmeier < masselmeier@kendallcountyil.gov>

Sent: Tuesday, June 28, 2022 3:49 PM

To: Gargrave, Tom <Tom.Gargrave@Illinois.gov>

Cc: Hayek, Jay C < jhayek@illinois.edu>; Whittom, Chris < Chris.Whittom@illinois.gov>; Bill Ashton

<w.ashton62@gmail.com>; Scott Koeppel <skoeppel@kendallcountyil.gov>; Scott Gengler <sgengler@kendallcountyil.gov>; Latreese Caldwell <LCaldwell@kendallcountyil.gov>

Subject: RE: [External]Re: Tree Farm Definition

Tom:

Thank you for you input.

Do you have a preferred definition of forest?

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: Gargrave, Tom <Tom.Gargrave@Illinois.gov>

Sent: Tuesday, June 28, 2022 3:40 PM

To: Matt Asselmeier < masselmeier@kendallcountyil.gov>

Cc: Hayek, Jay C < ihayek@illinois.edu>; Whittom, Chris < Chris.Whittom@illinois.gov>

Subject: RE: [External]Re: Tree Farm Definition

Matt,

Thank you for the invite, I cannot make that meeting. I agree some changes should be considered.

I would however like to add that the standard worldwide accepted definition of Forestry reflects a "sound science or practice of managing, planting, and caring for forests". This involves principles of silviculture, ecology, cover types, stand succession, complex nutrient/energy systems and many other classification dynamics.

The business of growing and selling wood is a byproduct of the forest and by definition Forestry does not need to be considered a business. Cutting timber or firewood is a commodity but is not always considered a business.

The act processing any forest products should have nothing to do with the art and science of growing trees/habitats. Harvesting deer from your woods does not make your land a deer processing facility.

I would move that you consider defining forestry as "the practice of Silviculture based on the sound science of well managed natural resource systems including flora and fauna, soil/water benefits, carbon sequestration, recreation, and others..." Many Kendall County landowners fit into this.

- -A wood chipping, lumber production (sawmill), firewood processor, or other production facilities does not fit under "Forestry" definition. These facilities are industrial complexes that *are* considered agricultural businesses. Same as a grain elevator.
- -Tree Farms are a bit different but can also be in on both sides of business or forest. Tree Farms usually sell trees for profit but also can produce the same befits as a forest. A wood chipping or sawmill facility does not fit here either. Many Kendall Co landowners fit into this.
- -Nurseries produce a multitude of products for landscape purposes and are defined clearly.

Please feel free to reach out if you need any further assistance
Best regards
tom
Tom Gargrave
IDNR Forestry Division Chief
State Forester
30550 Boathouse Rd
Wilmington, Il 60481
630-399-3249

From: Matt Asselmeier < masselmeier@kendallcountyil.gov>

Sent: Monday, June 27, 2022 9:07 AM

To: Hayek, Jay C < ihayek@illinois.edu >; Gargrave, Tom < Tom.Gargrave@Illinois.gov >

Subject: RE: [External]Re: Tree Farm Definition

Jay and Tom:

The Kendall County Planning, Building and Zoning Committee will be holding a meeting on Wednesday, June 29th, at 5:30 p.m., in the County Boardroom, at 111 W. Fox Street, Yorkville, to discuss the following:

 Discussion of Adding Definitions of Forestry, Tree Farm, and Related Text Amendments to the Kendall County Zoning Ordinance; Committee Could Initiate Text Amendments Related to These Terms and Uses or Forward the Proposal to the Comprehensive Land Plan and Ordinance Committee

Would either of you be able to attend the meeting? There is no remote attendance option.

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



User Name: Boyd Ingemunson

Date and Time: Monday, June 20, 2022 10:52:00 AM EDT

Job Number: 173580104

Document (1)

1. People ex rel. Pletcher v. Joliet, 321 III. 385

Client/Matter: -None-

Search Terms: zoning & forestry

Search Type: Terms and Connectors

Narrowed by:

Content Type

Narrowed by

Cases

Court: State Courts > Illinois

People ex rel. Pletcher v. Joliet

Supreme Court of Illinois

April 23, 1926

No. 17341.

Reporter

321 Ill. 385 *; 152 N.E. 159 **; 1926 Ill. LEXIS 918 ***

THE PEOPLE *ex rel*. Henry S. Pletcher *et al.* Appellants, *vs.* THE CITY OF JOLIET, Appellee.

Subsequent History: [***1] Rehearing denied June 4, 1926.

Prior History: APPEAL from the Circuit Court of Will county; the Hon. FRANK L. HOOPER, Judge, presiding.

Disposition: Reversed and remanded.

Core Terms

tract, territory, subdivision of land, annexed, agricultural purposes, subdivided, words, agricultural, embraced, bounded, farm

Case Summary

Procedural Posture

Appellants, a property owner and others, challenged the judgement of the Circuit Court of Will County (Illinois), which found appellee City of Joliet, Illinois, not guilty in the appellants' quo warranto proceeding to test the validity of the City's proceeding to annex territory under Ill. Smith's Stat. 1925, p. 377.

Overview

The City attempted to annex the territory of the property owner. The act for the annexation of territory to a city provided that territory that was contiguous could be annexed but excluded lands used exclusively for agricultural purposes without the owner's consent, unless the agricultural lands were bounded on at least three sides by subdivided lands. Appellants claimed that the property owner's lands were agricultural and that the act was void because it was not passed in accordance with the requirements of the Illinois Constitution. Reversing and remanding, the court concluded that the property owner's land could not be annexed without his consent. The court concluded that the property owner's

land was not subdivided because there was nothing in the plat showing that it was subdivided and the property owner's conversation with a real estate salesman about subdividing part of his land did not mean that it was subdivided. The use of the property owner's land for growing grapes and for hay was an agricultural purpose. The court found that there was no need to determine the constitutional questions.

Outcome

The court reversed the judgment of the circuit court and remanded.

LexisNexis® Headnotes

Governments > Local Governments > Boundaries

HN1[♣] Local Governments, Boundaries

Smith's Stat. 1925, p. 377 provides for the annexation of territory, conforming to the limitations fixed by the act, to a city to which the territory is contiguous, excluding, however, lands used exclusively for agricultural purposes where the owner does not consent to its inclusion, unless such agricultural lands are bounded on at least three sides by subdivided lands also embraced in such territory to be annexed.

Governments > Public Lands > Forest Lands

Governments > Legislation > Interpretation

HN2[♣] Public Lands, Forest Lands

The definition for "agriculture" given by Webster is, of or pertaining to agriculture; connected with, or engaged in tillage. "Agriculture" is defined as the art or science of cultivating the ground, including harvesting of crops and rearing and management of livestock; tillage; husbandry; farming; in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of the these products for man's use. In this broad use it includes farming, horticulture and *forestry*, together with such subjects as butter and cheese making, sugar making, etc. Unless restricted by the context, the words "agricultural purposes" have generally been given this comprehensive meaning by the courts of the country. The words "agricultural purposes" are descriptive of the nature of the use to which the land is put, and so the amount of land involved will have no bearing on the meaning of the words.

Counsel: HJALMAR REHN, State's Attorney, and SAMUEL W. KING, for appellants.

FRANK J. WISE, City Attorney, (WILLIAM C. MOONEY, of counsel,) for appellee.

Opinion by: THOMPSON

Opinion

[*386] [**159] Mr. JUSTICE THOMPSON delivered the opinion of the court:

This appeal is from a judgment of not guilty entered by the circuit court of Will county in a quo warranto proceeding brought to test the validity of certain proceedings to annex territory to the city of Joliet, pursuant to the provisions of the act of June 20, 1921, providing an additional method of annexing territory to cities in this State. (Smith's Stat. 1925, p. 377.) HNI[1] This act provides for the annexation of territory, conforming to the limitations fixed by the act, to a city to which the territory is contiguous, excluding, however, lands "used exclusively for agricultural purposes" where the owner does not consent to its inclusion, "unless such agricultural lands are bounded on at least three sides by subdivided lands also embraced in such territory to be annexed."

[***2] It is contended by appellants that a judgment of ouster should have been entered because (1) the lands of relator Henry S. Pletcher are agricultural lands which are not bounded on three sides by subdivided lands and he has not given his consent to the annexation; and (2) the act under which the annexation proceedings were had is void because it was not passed in the manner prescribed by the constitution, is a local and special law which delegates executive duties to the judge of the county court, is so uncertain that it is incapable of administration, and is so unreasonable that it

deprives the owners of property within the territory sought to be annexed, of their property without due process of law.

The lands sought to be annexed lie east of the city of Joliet. Pletcher owns a 2 1/2-acre tract, the east line of which is the east line of the territory sought to be annexed. His residence and other buildings occupy about one-eighth of the tract. Three-fourths of an acre is a grape vineyard and the remainder of the tract is in meadow. He harvests hay from this tract and sells it to his neighbors. As soon [*387] as his vineyard is old enough to produce he proposes to sell [***3] grapes. That part of the tract now in meadow was in oats in 1924. East of this tract are farm lands not embraced in the territory sought to be annexed. North of the tract is an 80-acre farm which is embraced in the territory sought to be annexed. West of the tract is an acre tract which Pletcher formerly owned. West of the acretract and south of both tracts are lots forming a part of Hyde Park subdivision.

The first question of fact to be determined is whether Pletcher's tract is "bounded on at least three sides by subdivided lands." Just what the legislature meant by subdivided lands is difficult to determine. Under the congressional system of surveying, most of the lands of this State are divided into townships, which in turn are subdivided into sections, and these are in turn subdivided into halfsections, quarter-sections and quarter-quarter-sections. It is clear that the legislature did not mean to include within the words "subdivided lands," subdivisions of 40 acres or more. Among dealers in real estate, lands divided into blocks and lots are often called subdivided lands, but no such definition is given in any standard dictionary. The parties to this litigation seem [***4] to treat the words as meaning lands divided into city lots, and for the purposes of this discussion we shall so treat them.

[**160] It is conceded by appellee that the 80-acre tract north of the Pletcher tract is not subdivided land, but it is contended that Pletcher has subdivided the north third of his tract into city lots and that this brings his lands within the language of the statute. This contention is based upon the testimony of Ben Brunning, who is a real estate salesman. He states that he assisted Pletcher to stake out six lots across the north end of the tract of land and that Pletcher listed them for sale with him. Pletcher testifies on this point that Brunning's employer, Fred Walsh, was interested in the annexation of the territory and requested witness to [*388] withdraw his objections; that he refused to do this, and Walsh asked him what it would take to make him neutral; that he replied that he would be neutral when he did not own any property in the territory; that Walsh asked him to put a price on his property, and he priced it at \$800 a lot; that Brunning came to his place a few days later and inquired what part of his tract was for sale; that together [***5] they measured a strip off the north end of this tract to ascertain how many lots could be carved out of it, but that nothing further was done; that no lots were staked off and no effort was made to sell the lots; that no portion of his land had been surveyed with the intention of subdividing it into lots and none of it had ever been subdivided; that he had not prepared a plat showing a subdivision of his land into lots nor had any such plat been prepared. John M. Wolfrom, an abstracter, testified that he had examined the records in the office of the recorder of Will county but found no recorded plat showing a subdivision into lots of Pletcher's tract. From his knowledge of the territory in question and from the records, he testified that the land north of Pletcher's was unsubdivided farm land and that there was an acre-tract west of Pletcher's land. It is clear from this evidence that Pletcher's tract is not bounded on three sides by subdivided lands, as the term "subdivided" is used in the statute.

The next question is whether Pletcher's tract is used "for agricultural purposes." "Agricultural" is another indefinite word which renders the statute more or less uncertain. HN2[The [***6] definition given by Webster is, "of or pertaining to agriculture; connected with, or engaged in tillage." "Agriculture" is defined as the "art or science of cultivating the ground, including harvesting of crops and rearing and management of livestock; tillage; husbandry; farming; in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of the these products for man's use. In [*389] this broad use it includes farming, horticulture and *forestry*, together with such subjects as butter and cheese making, sugar making, etc." Unless restricted by the context, the words "agricultural purposes" have generally been given this comprehensive meaning by the courts of the country. (State v. Stewart, 58 Mont. 1, 190 Pac. 129; Davis v. Industrial Com. 59 Utah. 607, 206 Pac. 267; Cook v. Massey. 38 Ida. 264, 220 Pac. 1088; Northern Cedar Co. v. French. (Wash.) 230 Pac. 837; Binzel v. Grogan. 67 Wis. 147, 29 N.W. 895; Slycord v. Horn, 179 Ia. 936, 162 N.W. 249; McNeeley v. State, 50 Tex. Crim. 279, 96 S.W. 1083; Simons v. Lovell, 7 Heisk. (Tenn.) 510; [***7] Dillard v. Webb. 55 Ala. 468.) The words "agricultural purposes" are descriptive of the nature of the use to which the land is put, (Lerch v. Missoula Brick and Tile Co. 45 Mont. 314, 123 Pac. 25,) and so the amount of land involved would have no bearing on the meaning of the words. No one can seriously contend that land devoted to the production of grapes and hay and oats is not used for agricultural purposes. If the legislature desires to limit the application of the words to tracts containing more than two and one-half acres then it must fix the limitation. We have no authority to do so.

The lands of Pletcher are "used exclusively for agricultural purposes" and are not "bounded on at least three sides by subdivided lands also embraced in such territory to be annexed," within the meaning of the statute, and can not be embraced in territory to be annexed to appellee without his written consent.

Inasmuch as it is not necessary to a proper disposition of this case to consider or determine the constitutional questions presented we do not decide them. *People v. Small.* 319 Ill. 437.

The judgment is reversed and the cause is remanded to the circuit court [***8] of Will county.

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User Name: Boyd Ingemunson

Date and Time: Monday, June 20, 2022 10:45:00 AM EDT

Job Number: 173579555

Document (1)

1. County of Kendall v. Aurora Nat'l Bank Trust No. 1107, 170 III. App. 3d 212

Client/Matter: -None-

Search Terms: zoning & forestry
Search Type: Terms and Connectors

Narrowed by:

Content Type

Cases

Narrowed by

Court: State Courts > Illinois

County of Kendall v. Aurora Nat'l Bank Trust No. 1107

Appellate Court of Illinois, Second District

June 1, 1988, Filed

No. 2-87-0720

Reporter

170 III. App. 3d 212 *; 524 N.E.2d 262 **; 1988 III. App. LEXIS 791 ***; 120 III. Dec. 497 ****

THE COUNTY OF KENDALL, Plaintiff-Appellee, v. AURORA NATIONAL BANK TRUST NO. 1107 et al., Defendants-Appellants

Subsequent History: [***1] Rehearing Denied June 29, 1988.

Prior History: Appeal from the Circuit Court of Kendall County; the Hon. Douglas R. Engel, Judge, presiding.

Disposition: Reversed and remanded with direction.

Core Terms

pond, sod, agricultural purposes, agricultural, sand and gravel, site, *zoning*, excavation, irrigation, farming, Soil, planted, acres, sludge, quarry, sand, land use, regulations, exemption, mining, injunction, defendants', removal, dig, *zoning* ordinance, cultivating, planned, storage, feet, lake

Case Summary

Procedural Posture

Defendants, beneficiaries of a land trust, sought review of orders of the Circuit Court of Kendall County (Illinois), which temporarily and permanently enjoined them from conducting certain activities on property they own in an unincorporated county. The land trust was held by defendant bank.

Overview

The parcel of land owned by defendants was zoned agricultural pursuant to the Kendall County zoning ordinance. The county sought to restrain defendants from excavating and/or removing sand from the premises. The county's complaint alleged essentially that defendants planned to mine sand on their property and that mining was prohibited in an agricultural zone. In its order, the trial court found that defendants were planning to engage in mining activities in an agricultural zone and, thus, were in violation of the county zoning ordinance. Defendants argued, however, that their

excavation goal was to create a pond to serve as a source of irrigation for sod they had already planted. Creation of such a pond, defendants insisted, was an agricultural use of the land, which was exempt from county regulations. On appeal, the court reversed the trial court's orders. The court ruled that the evidence presented had persuaded it that the pond defendants' wanted to dig would be used for agricultural purposes to an extent that brought their property within the exemption created by III. Rev. Stat. ch. 34, para. 3151 (1985).

Outcome

The court reversed the trial court orders, which enjoined defendants from excavating or removing sand from their property. The court remanded the case with directions to vacate the injunction.

LexisNexis® Headnotes

Business & Corporate Compliance > ... > Environmental Law > Land Use & *Zoning* > Agriculture & Farmland

Environmental Law > Land Use & <u>Zoning</u> > Equitable & Statutory Limits

Governments > Agriculture & Food > General Overview

HNI[Land Use & Zoning, Agriculture & Farmland

Agricultural land uses are controlled by the statutory provisions for county zoning, Ill. Rev. Stat. ch. 34, para. 3151 (1985) rather than by the county zoning ordinance. Section I of "An Act in relation to county zoning" indicates that a county may not exercise its zoning powers so as to impose regulations or require permits with respect to land used or to be used for agricultural purposes or with respect to structures used or to be used for agricultural purposes upon such land except that structures for agricultural purposes may be required to conform to building or set back lines. Ill. Rev.

170 III. App. 3d 212, *212; 524 N.E.2d 262, **262; 1988 III. App. LEXIS 791, ***1; 120 III. Dec. 497, ****497

Stat. ch. 34, para. 3151 (1985). Accordingly, other than setback lines, a county may not regulate land used for agricultural purposes.

Business & Corporate Compliance > ... > Environmental Law > Land Use & Zoning > Agriculture & Farmland

Environmental Law > Land Use & **Zoning** > Judicial Review

HN7[Land Use & Zoning, Agriculture & Farmland

In deciding if a challenged use is for an agricultural purpose the courts have not concerned themselves with the property owners' business activities or ultimate business objectives. Rather, the courts have focused on the nature of the specific activity in light of the definition of agriculture.

Business & Corporate Compliance > ... > Environmental Law > Land Use & Zoning > Agriculture & Farmland

HN3 Land Use & Zoning, Agriculture & Farmland

"Agriculture" is defined as the art or science of cultivating the ground, including harvesting of crops and rearing and management of livestock; tillage; husbandry; farming; in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of these products for man's use. In this broad use it includes farming, horticulture and *forestry*, together with such subjects as butter and cheese making, sugar making, and others. Unless restricted by the context, the words "agricultural purposes" have generally been given this comprehensive meaning by the courts of the country.

Business & Corporate Compliance > ... > Environmental Law > Land Use & Zoning > Agriculture & Farmland

HN4[2] Land Use & Zoning, Agriculture & Farmland

Whether an activity involving use of the land has an agricultural purpose is to be determined from the activity itself and not from such external considerations as the property owner's intent or other business activities.

Counsel: Puckett, Barnett, Larson, Mickey, Wilson & Ochsenschlager, of Aurora (Bernard K. Weiler and Joseph H. Barnett, of counsel), for appellants.

Dallas C. Ingemunson, State's Attorney, of Yorkville (William L. Browers, of State's Attorneys Appellate Prosecutor's Office, of counsel), for appellec.

Judges: JUSTICE HOPF delivered the opinion of the court.
LINDBERG, P.J., and DUNN, J., concur.

Opinion by: HOPF

Opinion

[*213] [**263] [****498] Defendants, Donald and Carol Hamman, are the beneficiaries of a land trust held by defendant Aurora National Bank. All of the defendants appeal from orders of the circuit court of Kendall County which temporarily and permanently enjoined them from conducting certain activities on property they own in unincorporated Kendall County. We reverse.

The parcel of land owned by defendants is zoned agricultural pursuant to the Kendall County zoning ordinance. Early in April of 1987 Donald Hamman planted sod on 90 acres of the 250-acre site at a cost of \$ 58,900. Hamman intended to excavate a portion of the property for the asserted purpose [***2] of creating a pond from which he could irrigate the sod. Before he could begin digging, however, the county sought both a preliminary and permanent injunction restraining defendants from excavating and/or removing sand from the premises. The county's complaint alleged essentially that the Hammans planned [*214] to mine sand on their property and that mining was prohibited in an agricultural zone.

At the hearings on the complaint, George Bell, the county zoning administrator, testified that he did not have jurisdiction over lands used to grow sod because the cultivation of sod is an agricultural use. He had never before exercised jurisdiction over a farmer digging a pond or creating a lake. [**264] [****499] Nor had he concerned himself with whether the materials removed from the ground in order to develop such ponds was sold or given away. The only reason he attempted to enforce the zoning regulations relative to the Hammans' pond was because he knew Donald Hamman owned and operated a sand and gravel mining business elsewhere in the county and Hamman had told him that he would probably sell the sand and gravel he planned to remove from the subject property. Bell was also aware that Hamman [***3] had previously applied to have the subject site rezoned from an agricultural classification to a mining classification. Pursuant to Hamman's request the application had been on hold for sometime, but it had not been withdrawn. Bell thought Hamman might be planning to mine,

rather than farm, the subject site.

The county elicited further testimony from Bell that was meant to show that ponds dug by other farmers in the county had involved the extraction of clay and dirt but not gravel or sand, and that the *zoning* ordinance regulated extraction of the latter but not the former. On cross-examination, however, it became evident the witness did not really know what was removed from the earth for other ponds because he had never concerned himself with such excavations.

Donald Hamman's testimony indicated that he had grown up on a farm and that he and his sons now farm about 900 acres, mostly in corn and soybeans. The Hammans' acreage is situated in several different locations. At one of these locations, other than the site involved in this suit, Donald Hamman operates a commercial sand and gravel quarry. The year before the hearing Hamman's sons had persuaded him to diversify crops. [***4] As a result he planted 100 acres of sod on the site of his sand and gravel quarry. Water from the gravel pit is used to water the sod. When questioning him as an adverse witness, the State's Attorney prompted testimony from Hamman to show that he had applied for a zoning change which would allow him to also put a sand and gravel quarry on the subject site but had changed his mind when he became aware that he probably could not get his rezoning application approved. The witness denied that was the reason for changing his mind about the use of his land and indicated that he might again seek rezoning at a future time. He reiterated that he now [*215] wished to plant sod on the subject site because of his sons' urging to diversify his farming operation. Hamman explained that the site has a subsurface of sand that goes down to 27 or 28 feet, at which point clay begins.

Much testimony was offered by witnesses from nurseries and sod farms regarding the need for irrigation for such farms, the methods used to irrigate, and the feasibility and pros and cons of the various methods. Expert testimony was offered by both parties regarding the size of the lake which would be needed to supply [***5] water for the 90 acres of sod planted by Hamman and the adequacy of the lake proposed by the defendants.

Following the first hearing the court entered an order temporarily restraining defendants from excavating or removing sand from the site. In the order the court found that the Hammans were planning to engage in mining activities in an agricultural zone and thus were in violation of the county zoning ordinance. Subsequently, a permanent injunction issued which set forth the same findings and restraints as had been recited in the temporary order. Both injunction orders were preceded by letter opinions from the trial judge in which

he enunciated the following reasons for his conclusion that the Hammans were mining their property rather than farming it: (1) Donald Hamman already operated a sand and gravel operation at another location in Kendall County; (2) Hamman had previously submitted and never withdrawn an application for a *zoning* change which would allow the mining of sand and gravel on the subject property; (3) construction of the pond would require removal of 2 1/2 feet to 3 feet of topsoil and 24 feet to 25 feet of sand; (4) Hamman intended to remove the sand from the [***6] subject site and probably would sell it commercially; (5) the pond proposed by defendant would be inadequate [**265] [****500] for the purpose of watering sod. The court concluded:

"The above facts indicate to the Court that the Defendant would not be making an economic or business decision after digging a pond to provide water for sod but was, in fact, intending to mine sand and gravel."

Subsequent to entry of the permanent injunction defendants filed this timely appeal.

It is not contested that defendants intend to excavate and remove sand and gravel from their site. Defendants argue, however, that their goal in such excavation is to create a pond to serve as a source of irrigation for the sod they have already planted. Creation of such a pond, defendants insist, is an agricultural use of the land which is exempt from county regulations. The county does not dispute that agricultural [*216] land uses are exempt from county regulation, or that generally the creation of a pond for watering sod is an agricultural use, or that the Hammans' activities on their property will result in a pond. Plaintiff is, however, adamant that the primary purpose of the excavation planned by the Hammans [***7] is not to construct an irrigation pond but rather to remove sand and gravel from the site as part of a mining operation. The pond is perceived by plaintiff as merely an incidental effect of mining activity. In fact, the entire sod operation is viewed by plaintiff as secondary to defendants' mining business. There is no disagreement that generally the mining of sand and gravel may be regulated by the county. Plaintiff concludes that since creation of the pond is a mining use of the property, it is subject to the county zoning regulations. After carefully reviewing the facts of this case and the controlling law, we are persuaded that defendant must prevail.

It is well established that <u>HNI[*]</u> agricultural land uses are controlled by the statutory provisions for county <u>zoning</u> (Ill. Rev. Stat. 1985, ch. 34, par. 3151) rather than by the county <u>zoning</u> ordinance. Section 1 of "An Act in relation to county <u>zoning</u>" indicates that a county may not exercise its <u>zoning</u> powers "so as to impose regulations or require permits with respect to land used or to be used for agricultural purposes **

* or with respect to * * * structures used or to be used for

agricultural purposes upon such land except [***8] that * * * structures for agricultural purposes may be required to conform to building or set back lines." (Ill. Rev. Stat. 1985, ch. 34, par. 3151.) Accordingly, other than setback lines, a county may not regulate land used for agricultural purposes. Thus, if the Hammans are pursuing an agricultural purpose, as they insist they are, the county may not restrict their activities, and the injunction must be dissolved. The issue in this case, then, is not whether the Hammans intend to mine the sand and gravel from their land, as the county would have us believe, but whether the excavation of sand and gravel in this particular instance constitutes use of the land for an agricultural purpose. We think it does.

That the Hammans' pond-building project necessarily involves certain activities which appear to be more characteristic of a sand and gravel mining operation than of farming is not determinative of the issue before us. HN2[*] In deciding if a challenged use is for an agricultural purpose the courts have not concerned themselves with the property owners' business activities or ultimate business objectives. Rather, the courts have focused on the nature of the specific activity in light [***9] of the definition of agriculture. We recognized and followed this approach in Tallee v. County of Kane (1979), 76 III. App. 3d 128, 394 N.E. 2d 896. The county in Tuftee attempted to restrain plaintiff from [*217] using her property to board and train show horses on grounds that such activities did not constitute an agricultural purpose. We examined the definition of "agricultural purpose" which had been set forth in People ex rel Pletcher v. City of Inlies (1926), 321 III, 385, 152 N.E. 159, and was based on Webster's definition of the word "agriculture." According to the City of Joliet court:

"'Agriculture' is defined as the 'art or science of cultivating the ground, including harvesting of crops and rearing and [**266] [****501] management of livestock; tillage; husbandry; farming; in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of these products for man's use. In this broad use it includes farming, horticulture and *forestry*, together with such subjects as butter and cheese making, sugar making, etc.' Unless restricted [***10] by the context, the words 'agricultural purposes' have generally been given this comprehensive meaning by the courts of the country." (*City of Joliet*, 321 Ill. App. at 388-89.)

In light of this definition we found that the feeding, training, and boarding of horses fell within the scope of the agricultural purpose of "rearing and management of livestock." We indicated that the purpose for which horses are raised should have no bearing on whether the activities involved in raising them constitutes "rearing and management of livestock."

In Tuffee, we also analyzed County of Grandy v. Sail Emichment Materials Comp. (1973), 9 III. App. 3d 746, 292 N.E.2d 755 (Soil Enrichment I), and a companion case, Soil Enrichment Materials Corp. v. Zoning Board of Appeals (1973), 15 III. App. 3d 432, 304 N.E.2d 521 (Soil Enrichment Both cases explored the scope of an "agricultural purpose." In Soil Enrichment I the county sought unsuccessfully to enjoin the spreading of sludge on farmland on the basis that the defendant was primarily in the business of contractual sludge disposal. Therefore, [***11] the county argued, defendant was not engaged in agriculture. In Soil Enrichment II the court refused to enjoin construction of a holding pit for storage of the digested sludge. In neither case was the court persuaded by the argument that the soil company's principal activities were not agricultural in nature. Rather, the court's inquiry was limited to the precise conduct being challenged. In Soil Enrichment I the spreading of sludge accomplished the fertilization of the land. In Soil Enrichment II the sludge that was stored ultimately became fertilizer. It is clear in the opinions that the court considered fertilizer and fertilization to be integral and beneficial aspects of agriculture. Therefore, it did not matter that the soil company's [*218] primary objective was not agricultural. As stated by the Soil Enrichment I court: "The issue is not what appellant's main business interest is but solely whether or not the application and use of digested sludge on farm lands is serving an agricultural purpose." County of Grandy 9 Ill. App. 3d or 753.

In Soil Enrichment II the court looked upon storage of the sludge as one [***12] part of a broader process. In the court's words: "[If] the spreading of digested sludge on farmland is in itself a use for an agricultural purpose, then the use of land to accommodate the immediate and necessary facilities by which sludge is transported to such farmlands is also for an agricultural purpose." (Sail Enrichment Materials Corp., 15 III. App. 3d at 434.) In sum, the cases teach that HNA[*] whether an activity involving use of the land has an agricultural purpose is to be determined from the activity itself and not from such external considerations as the property owner's intent or other business activities.

Applying the principles of *Tuftee* and the *Soil Enrichment* cases to the matter at hand, we find that the conduct challenged by the county constitutes use of the land for an agricultural purpose. It is undisputed that the Hammans have already planted sod on 90 acres of the subject property. The testimony from witnesses for both parties is totally consistent that, while sod will grow with only natural rainfall for irrigation, a supplementary water supply is essential for the optimum growth necessary to a financially sound sod farm. [***13] Wells, ponds, lakes, rivers, and other streams, or any combination thereof, are used by sod growers for

supplemental water. Apparently none of these water sources presently exists on the Hamman property. Donald Hamman testified that the pond he intended to create would be 7 to 10 acres in size.

On these facts we have no doubt that the water from the pond contemplated by defendants will serve as a supplementary water [**267] [****502] supply for the sod planted on defendants' property. As an essential part of the process of sod farming, the provision of supplemental water certainly falls within the scope of the City of Joliet definition of "agriculture" in that it is a necessary part of the "art or science of cultivating the ground" and of "the science and art of the production of plants and animals useful to man." (CIN of Jolist 321 III at 388.) Not unlike the storage pit for the sludge in Soil Enrichment II, the pond here will collect and store water until it is needed to irrigate defendants' sod. The storage of water, then, is just one facet of the broader cultivation process. It follows that creation of the pond for storage, including the necessary [***14] excavation of sand and gravel, is still another facet of that process. As such, even the removal of sand and [*219] gravel has an agricultural purpose and is beyond the county's zoning powers.

As we mentioned earlier the county does not dispute that cultivating sod or providing an irrigation pond for sod is an agricultural use. Instead, the plaintiff asks us to focus on defendants' intent and attempts to persuade us that defendants are creating the pond primarily for its value as a sand and gravel quarry and that its irrigation function will be carried on only to facilitate the quarry operation. We acknowledge the potential for the problem the county apparently envisions in a case like this. The precise activity we focus on is the removal of sand and gravel from defendants' property. Obviously, some sand and gravel must be taken out in order to create an adequate irrigation pond. However, extraction of great amounts of material could result in creation of a quarry, or pit, of the type associated with gravel mining, with the irrigation pond located at the bottom. Alternatively, sand and gravel could be removed to the extent that the acreage of the lake would be far greater [***15] than the acreage planted in sod. Either of these scenarios could effectively change the basic agricultural character of the sod operation while still retaining the pond for irrigation purposes. The question is, at what point, if ever, does excavation which results in an irrigation pond cease to constitute a use of the land for an agricultural purpose as that phrase is used in the statute? We believe, first of all, that such excavation can lose its protected status.

The statute exempts land used for agricultural purposes from the effect of the county zoning regulations. The language of the statute makes it quite clear that land used for agricultural purposes is the only land covered by the exemption. In the case at bar there is the potential for a de facto quarry operation to be carried on in violation of the Kendall County zoning ordinance. If defendants did start quarrying their land and the agricultural purpose exemption was found to be applicable, the county would be powerless to stop the improper use. To enforce the exemption under such circumstances would be to frustrate the obvious intent of the legislature to allow agriculture, and only agriculture, to be pursued [***16] without zoning restrictions. otherwise would be to allow the statutory exemption to be manipulated and twisted into a protection for virtually any use of the land as long as some agricultural activity was maintained on the property. The county's zoning power would thus be rendered meaningless. The legislature cannot have intended such a result when it created a protected status for land used for agricultural purposes.

The question of when a use for an agricultural purpose no longer [*220] warrants the protection of the statute will depend on the facts of each case. Here, the Hammans planted 90 acres, or more than one-third of their property, in sod at a cost close to \$ 60,000. The county did not show that 90 acres is insufficient for a successful sod farming operation. On the contrary, several witnesses testified that they grow sod commercially on similar acreage. The county attempted to show that a pond is not needed on the subject site since a well would be the more efficient and dependable and usual water source for the defendants to install for the benefit of their sod. But the evidence also indicated that ponds are used, both alone and in combination with other [***17] water sources, by Illinois sod farmers and [**268] [****503] that it would be considerably more economical for the Hammans to dig a pond than to install a well.

Conflicting expert testimony was offered as to the adequacy of the proposed pond for irrigating 90 acres of sod. Cross-examination, however, revealed that both parties based their calculations on the same 1979 soil borings and that both calculations suffered from similar weaknesses. Donald Hamman testified, and it was not disputed, that a seven- to eight-acre pond had been sufficient to water 100 acres of sod he had planted the previous fall in another location in Kendall County. He had no well on that site. The pond envisioned by Hamman for the subject site would be 7 to 10 acres in size or approximately one-twenty-fifth of the total site.

The evidence presented in this case persuades us that the pond the Hammans wish to dig will be used for agricultural purposes to an extent which brings their property within the exemption created by the statute. We are well aware that the use of the land is subject to change depending on what the defendants do on the site. Based on the evidence presented by the parties at the injunction hearings, however, [***18] the

170 III. App. 3d 212, *220; 524 N.E.2d 262, **268; 1988 III. App. LEXIS 791, ***18; 120 III. Dec. 497, ****503

pond need not be constructed in such a way as to change the basic agricultural nature of the present use of the land. We note in this regard Donald Hamman's testimony that he will dig an auxiliary well if it becomes necessary.

Since the excavation to be undertaken by the Hammans serves an agricultural purpose, we need look no further into their intent, or any of their other business activities, or their ultimate business objective. Despite the county's urging to the contrary, under the Soil Enrichment cases, as well as Tuftee, it does not matter that the pond excavation may resemble in some ways defendants' existing sand and gravel quarry operation or that defendants applied for rezoning to a mining classification. Nor does it matter whether defendants removed sand and gravel from their site as opposed to clay and dirt. Equally irrelevant [*221] is what defendants do with the sand and other materials they remove from the site. We believe the trial court was mistakenly persuaded to focus on the factors just listed rather than on whether or not defendants wish to use their land for an agricultural purpose.

In light of our determination that the proposed use of their [***19] land is for an agricultural purpose, we need not discuss the other issues raised by defendants. For the reasons set forth above, the order of the circuit court of Kendall County enjoining defendants from excavating and/or removing sand from their property is reversed, and this cause is remanded with direction to vacate said injunction.

Reversed and remanded with direction.

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User Name: Boyd Ingemunson

Date and Time: Tuesday, June 28, 2022 10:13:00 AM EDT

Job Number: 174147249

Document (1)

1. Tuftee v. County of Kane, 76 III. App. 3d 128

Client/Matter: -None-

Tuftee v. County of Kane

Appellate Court of Illinois, Second District September 10, 1979, Filed

No. 78-457

Reporter

76 Ill. App. 3d 128 *; 394 N.E.2d 896 **; 1979 Ill. App. LEXIS 3205 ***; 31 Ill. Dec. 694 ****

BETTY TUFTEE, Plaintiff-Appellee, v. THE COUNTY OF KANE, Defendant- Appellant

Prior History: [***1] Appeal from the Circuit Court of Kane County; the Hon. JOHN S. PAGE, Judge, presiding.

Disposition: Judgment affirmed.

Core Terms

agricultural purposes, agricultural, horses, zoning, training, acres, trial court, exemption, barn, rearing, building permit, livestock, animals, farm, zoning ordinance, sludge

Case Summary

Procedural Posture

Plaintiff landowner filed an action against defendant county for declarative and injunctive relief after the county denied the landowner's application for the construction of a horse barn. The county sought review of the order of the Circuit Court of Kane County (Illinois), which enjoined the county from interfering with the landowner's construction of the barn.

Overview

The landowner sought to erect a training barn for show horses on a seven-acre parcel of property. The county claimed that its zoning ordinance denied agricultural exemptions for property less than 15 acres and that the training of horses was not an agricultural purpose. The landowner claimed that the county had no authority to impose the 15-acre limitation on property that was entitled to a statutory agricultural exemption. The court affirmed the trial court's judgment. The court held that the county's power to regulate the landowner's property rights through zoning regulations was expressly limited by Ill. Rev. Stat. ch. 34, para. 3151 (1975), that the rearing of livestock was an agricultural purpose, that horses were livestock, that the landowner's use of the property was agricultural, and that the county had no authority to establish acreage minimums or to require the landowner to obtain

building and special use permits. The court also held that the county's zoning ordinance was invalid and that the care and training of horses for show was within the contemplation of para. 3151.

Outcome

The court affirmed the trial court's judgment enjoining the county from interfering with the landowner's construction of the barn.

LexisNexis® Headnotes

Business & Corporate Compliance > ... > Real Property Law > Zoning > Regional & State Planning

Governments > Local Governments > Duties & Powers

HN/[基] Zoning, Regional & State Planning

A municipal government may exercise only those powers conferred upon it by a state. The municipal government's right to restrain the use of private property is limited to properly promulgated enactments. No rights exist and no powers are conferred with respect to zoning except by statute.

Business & Corporate Compliance > ... > Real Property Law > Zoning > Ordinances

Governments > Local Governments > Duties & Powers

Business & Corporate Compliance > ... > Real Property Law > Zoning > Regional & State Planning

HNZ[1 Zoning, Ordinances

Ill. Rev. Stat. ch. 34, para. 3151 (1975) provides that zoning

powers shall not be exercised so as to deprive an owner of any existing property of its use or maintenance for the purpose to which it is then lawfully devoted. The powers shall not be exercised so as to impose regulations or require permits with respect to land used or to be used for agricultural purposes, or with respect to the erection, maintenance, repair, alteration, remodeling or extension of buildings or structures used or to be used for agricultural purposes upon such land, except that such buildings or structures for agricultural purposes may be required to conform to building or setback lines.

Governments > Legislation > Interpretation

HN3 Legislation, Interpretation

In the absence of a contrary definition, a word used in a statute is to be given its popularly understood meaning or commonly accepted dictionary definition.

Governments > Agriculture & Food > General Overview

HN [| Governments, Agriculture & Food

"Agriculture" is defined as the art or science of cultivating the ground, including harvesting of crops and rearing and management of livestock, tillage, husbandry, farming, and in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of these products for man's use. Unless restricted by the context, the words "agricultural purposes" are given this comprehensive meaning.

Business & Corporate Compliance > ... > Real Property Law > Zoning > Variances

Real Property Law > Zoning > General Overview

HN3[1 Zoning, Variances

In deciding whether a specific use of property constitutes an agricultural purpose, the courts relate the nature of the immediate activity to the definition of agriculture. If the use bears some relation to the "cultivation of ground" or the "rearing or management of livestock" or the "production of plants and animals useful to man," it falls within the meaning of "agricultural purpose." The courts do not rely on an analysis of the ultimate business objectives of the property owner.

Governments > Agriculture & Food > Animal Protection

IIN6 Agriculture & Food, Animal Protection

The rearing of livestock is an agricultural purpose. Horses are livestock. The purpose for which they are raised shall have no bearing on a determination of whether the activities of raising them fall within the scope of the definition of the rearing and management of livestock.

Civil Procedure > Appeals > Reviewability of Lower Court Decisions > Preservation for Review

HN7[2] Reviewability of Lower Court Decisions, Preservation for Review

The theory upon which a case is tried in the lower court cannot be changed on review. An issue not presented to or considered by a trial court cannot be raised for the first time on review. However, an appellee is permitted to defend a judgment on review by raising an issue not previously ruled upon by the trial court if the necessary factual basis for the determination of such point was contained in the record.

Civil Procedure > Appeals > Reviewability of Lower Court Decisions > Preservation for Review

HIVE Reviewability of Lower Court Decisions,

Where a litigant obtains the relief he has sought, he may rely upon any ground appearing in the record to support his judgment for purposes of defending an appeal.

Counsel: Gene Armentrout, State's Attorney, of Geneva (G. William Richards, Assistant State's Attorney, of counsel), for appellant.

Joseph H. Barnett and Bernard K. Weiler, both of Puckett, Barnett, Larson, Mickey, Wilson & Ochsenchlager, of Aurora, for appellee.

Judges: Justice Lindberg delivered the opinion of the court. Guild, P.J., and Rechenmacher, J., concur.

Opinion by: LINDBERG

Opinion

[*129] [**897] [****695] Defendant, County of Kane, appeals from an order of the Circuit Court of Kane County enjoining it from interfering with the operation of a public stable by the plaintiff, Betty Tuftee, for the care and training of 19 show horses. We affirm.

On January 15, 1976, the plaintiff entered into a contract for the sale of all but seven acres of her 76-acre tract. The plaintiff also entered into a contract with a construction company for the erection of the shell of a training barn on the seven acres calling for an expenditure of \$48,000. On or about April 23, 1976, plaintiff became aware that a building permit might be necessary for the erection of [***2] the barn. On that date her son-in-law, Thomas Hoish, who was to operate the stable, called upon the county's zoning office and talked with Stanley Henderson, the director. The testimony of Hoish was that Hoish advised Henderson of the characteristics of the barn and that the purpose of the barn was for the care and training for show of 19 horses.

Henderson advised Hoish that based upon the zoning maps and his knowledge of the 76 acres that no building permit was required and that upon the filing of an affidavit the plaintiff would be granted an agricultural exemption. The record further shows that the matter of the sale of all but seven acres was probably not discussed in detail if at all on April 23, 1976, nor was such a revelation required in the affidavit form provided by the zoning office nor was it disclosed by the plaintiff in the affidavit. Further, the record fails to disclose that the plaintiff knew that such information was relevant or that the information was purposely withheld.

On May 5, 1976, the plaintiff received from the zoning office a letter granting her an agricultural exemption for the construction of her horse barn. She then began construction of the shell [***3] of the barn pursuant to her earlier contract. By June 7, 1976, the construction of the shell of the barn was virtually completed, obligating the plaintiff to an expenditure of approximately \$ 48,000 of the anticipated total cost of \$ 100,0000.

June 7, 1976, the plaintiff received another letter from the zoning office that she would have to stop construction until she secured a building permit. The property was "red tagged" by a zoning official the same day. It appears that the zoning office learned of the contract for the sale of 69 of the original 76 acres and the plan to have the 69 acres annexed to North Aurora. The county zoning ordinance provides that agricultural exemptions are given only for property of not less than 15 acres in size.

The plaintiff stopped construction and was granted a building

permit on August 25, 1976, at which time she concluded the remaining construction, principally of the interior of the barn. However, the permit only authorized private use of the facility or, for commercial use, limited the [*130] number of horses to 10. The plaintiff then applied for a special use permit of the building to accommodate 19 horses. The hearing for the permit [***4] was held April 11, 1977. An adverse recommendation was rendered on June 7, and on June 14 the county board denied her application for a special use. Plaintiff thereafter filed a two-count complaint for declarative and injunctive relief. Count I alleged the relevant provisions of the zoning ordinance as applied to her property were unconstitutional. Count II sought injunctive relief on the basis of equitable estoppel. At the conclusion of the bench trial the trial court found for the [****696] [**898] plaintiff on grounds of equitable estoppel and granted the injunctive relief sought by the plaintiff. The trial court made no findings as to count I regarding the constitutional issue.

Defendant alleges that both the May 5, 1976, agricultural exemption and the August 25, 1976, building permit were invalidly issued by its zoning officer. This is because the zoning ordinance does not permit agricultural exemption of properties of less than 15 acres and, because building permits must be secured before and not after, construction has commenced and the special use procedure must be favorably concluded before a building permit can issue.

Defendant's theory on appeal is that ordinarily [***5] a governmental entity is not bound by the unauthorized conduct of its officials in issuing invalid building permits. Defendant maintains that since its ordinance denies agricultural exemptions to property of less than 15 acres, the seven acres that will eventually be retained by the plaintiff do not qualify for the exemption. Further, defendant argues that the use of the barn for the care and training of horses for show is not an agricultural purpose. Defendant acknowledges that under special circumstances equitable estoppel can be invoked to prevent the government entity from denying the validity of its acts. However since we affirm on other grounds we need not discuss the issue of equitable estoppel relied upon by the trial court

Plaintiff maintains that the care and training of horses for show is an agricultural purpose and she argues and, we believe convincingly, that a county has no authority to impose a 15-acre limitation as to property which is entitled to the statutory agricultural exemption.

1 HNI A municipal government may exercise only those powers conferred upon it by the State, and its right to restrain the use of private property is limited to properly promulgated [***6] enactments. (City of Chicago v. Rumpff

(1867), 45 III. 90; Village of LaGrange v. Leitch (1941). 377

III. 99, 35 N.E. 2d 346.) No rights exist and no powers are conferred with respect to zoning except by statute. (People v. Ferris (1958), 18 III. App. 2d 346, 152 N.E. 2d 183.) The only limitations which may be placed upon the use of plaintiff's property, therefore, are those which have been enacted within the [*131] authority granted by the General Assembly and circumscribed by statute.

Therefore, the central issue in this case is whether defendant county may properly restrain the plaintiff from using her seven acres to board and train 19 show horses. Defendant contends that it may do so by virtue of its ordinance. The power of the county to regulate the plaintiff's property rights, however, is expressly limited by the terms of the enabling acts under which its ordinances are authorized. This limitation as found in section 1 of "An Act in relation to county zoning" (III. Rev. Sat. 1975, ch. 34, par. 3151) is as follows:

"The powers by this Act given shall not be exercised so as to deprive the owner of any existing property of its use or maintenance for the purpose [***7] to which it is then lawfully devoted; nor shall they be exercised so as to impose regulations or require permits with respect to land used or to be used for agricultural purposes, or with respect to the erection, maintenance, repair, alteration, remodeling or extension of buildings or structures used or to be used for agricultural purposes upon such land except that such buildings or structures for agricultural purposes may be required to conform to building or setback lines; * * * *."

If, therefore, the erection and use of a barn for the boarding and training of fine harness horses is an agricultural purpose, the defendant has no authority to interfere with this endeavor through zoning regulations, and the relief which it sees must be denied.

The horses which plaintiff proposes to board and train are American Saddle breeds which are bred and trained to pull fine harness buggies as well as for show purposes. The process includes breaking a colt, training it, monitoring its development, and placing it in appropriate categories to maximize its development, and value. In addition [****697] [**899] to training, the plaintiff intends to feed, bed, clean, and otherwise care for [***8] the horses. Two of the 19 stalls in the barn are occupied by horses owned by the plaintiff. The remaining 17 stalls are to be occupied by horses owned by third parties.

The parties are in agreement that **HN3** in the absence of a contrary definition, a word used in a statute is to be given its popularly understood meaning or commonly accepted dictionary definition. (**Bowman & Armour & Co. 11959.** 17

Ill. 2d 43, 160 N.E.2d 753; Beck v. Board of Education (1975), 27 Ill. App. 3d 4, 325 N.E. 2d 640, affirmed (1976), 63 Ill. 2d 10, 344 N.E.2d 440.) The parties also agree that in applying this principle the supreme court in People ex. rel. Pletcher v. City of Joliet (1926), 321 Ill. 385, 152 N.E. 159, defined the term "agricultural purpose" as it was used in a portion of the annexation statute of June 20, 1921 (Ill. Rev. Stat. 1925, ch. 34, §370 (Smith-Hurd)), and that such definition should [*132] be considered by this court in construing section 1 of the county zoning statute. (County of Lake v. Cushman (1976), 40 Ill. App. 3d 1045, 353 N.E.2d 399.) This definition, which is based on Webster's definition of the word agriculture, is set out and discussed in City of 1***9] Joliet, at page 388. In that opinion the court said:

"Agriculture' is defined as the 'art or science of cultivating the ground, including harvesting of crops and rearing and management of livestock; tillage; husbandry; farming; in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of these products for man's use. In this broad use it includes farming, horticulture and forestry, together with such subjects as butter and cheese making, sugar making, etc" (321 III. 385, 388-89).

and,

"Unless restricted by the context, the words 'agricultural purposes' have generally been given this comprehensive meaning * * * ." 321 III. 385. 389.

"Livestock" is defined by Webster's New World Dictionary of the American Language (2d ed. 1973) as "domestic animals kept for use on a farm or raised for sale or profit." "Horse" is defined as a "domestic animal." "Rear" is defined "to grow or breed (animals or plants), to bring to maturity by educating, nourishing, etc." We agree with plaintiff that to exclude the feeding, training, and boarding of horses for show from the meaning of the phrase "rearing [***10] and management of livestock" strains the popular conception of that phrase.

Defendant argues that the courts of this State have interpreted "agricultural purpose" in such a way as to emphasize the aspect of "production or preparation of products for man's use." HNS[] In deciding whether a specific use constitutes an agricultural purpose, the courts have related the nature of the immediate activity to the definition of agriculture. Generally, if the use bears some relation to the "cultivation of ground" or the "rearing or management of livestock" or the "production

of plants and animals useful to man" it has been found to fall within the meaning of "agricultural purpose." The courts have not relied on an analysis of the ultimate business objectives of the property owner. For example, in County of Grandy v. Soil Envictment Materials Cosp. (1971), 9 III. App. 3d 746, 293 N E.2d 755, the county sought to enjoin the soil company from spreading raw sludge on farm land in violation of its zoning ordinances. The county argued that the soil company's principal business was the disposal of sludge pursuant to a contract with a local waste treatment plant, and as such was not engaged in agriculture. [***11] In rejecting this argument the court said:

"The fact that an organization may have many major objectives [*133] which have no agricultural connection would not operate to characterize the sale or gift of a fertilizer if, in fact, the fertilizer as applied has an agricultural purpose. The issue is not what appellant's main business interest is, but solely whether or not [****698] [**900] the application and use of digested sludge on farm lands is serving an agricultural purpose." 9 Ill. App. 3d 746, 753.

In a companion case, Sull Enrichment Materials Corp. of Zanume Board (1973). 15 th. App. 3d 432, 304 N.E.24 521, the court held that the construction of a 4-million-gallon holding pit for the purpose of storing digested sludge was an agricultural purpose. The court held that its storage and subsequent application to farm soil were agricultural purposes without making a distinction between the two. The rationale for the court's holding in Soil Enrichment Materials Corp. is simply that sooner or later the sludge became fertilizer, and fertilizer is clearly an element of agriculture. Its nature in that regard is unaffected by the objectives of those who [***12] deal with it.

2, 3 Likewise, HNO the rearing of livestock is an agricultural purpose. Horses are livestock. The purpose for which they are raised should have no bearing on a determination of whether the activities of raising them fall within the scope of the definition of "the rearing and management of livestock." The legislature elected to use the phrase "agricultural purpose" without expressly limiting the varied activities contemplated by its commonly accepted definition. In withholding from the county the authority to regulate the use of property dedicated to agricultural purposes, the legislature did not distinguish the rearing of animals for consumption from the rearing of animals for show. The legislative silence in this regard does not authorize the creation of such distinction by governmental entities.

Cushman (1976), 40 III. Apr. 3d 1045, 353 N.E. 2d 399.

4-6 We conclude that the purpose for which the plaintiff's property was to be used is agricultural. It follows, under our holding in *Cushman*, that the county has no authority to establish acreage minimums to which it will grant the statutory right of exemption from zoning regulations. Further [***13] the county has no zoning authority to require the plaintiff to obtain building and special use permits or to restrain her agricultural use of the property other than as to statutorily permitted building or set-back lines.

The defendant maintains that plaintiff's argument regarding the invalidity of the county's ordinance denying agricultural exemptions to properties with acreage of less than 15 acres was not contained in her complaint nor argued in the trial court. The defendant draws our attention to the language of Krayle V. Smith Marine Inc. (1975), 60 ill., 2d 141, 147, 324 N.E.Jd 417, 420, wherein the supreme court said:

"It has frequently been held that HNT[1] the theory upon which a case is [*134] tried in the lower court cannot be changed on review, and that an issue not presented to or considered by the trial court cannot be raised for the first time on review. [Citations.] A corollary to this rule permits an appellee to defend a judgment on review by raising an issue not previously ruled upon by the trial court if the necessary factual basis for the determination of such point was contained in the record."

However, defendant attempts to qualify this rule by [***14] suggesting that the corollary rule of Kravis is available only to appellees who were defendants in the trial court. While defendant cites no authority for this restriction on the rule referred to in Kravis, we note an earlier supreme court case wherein, affirming judgment for the appellee who was the plaintiff in the trial court, the court held HNS[] "here a litigant obtains the relief he has sought, he may rely upon any ground appearing in the record to support his judgment. [Citations.]" (La Salle National Bank v. Village of Grayslake (1963), 29 III. 2d 489, 492, 194 N.E.2d 250, 252.) Similarly, and after Kravis, the appellate court in Harris Trust & Saviors Bank v. Joanna-Western Mills (1977), 53 Ill. App. 3d 342 368 N.E.2d 629, held that the plaintiffappellee could urge any point on appeal in support of its judgment though not raised in the trial court, but where the facts to support the point were before the trial court. (53 Ill App. 3d 542 554.) [****699] [**901] We find no distinction exists as between plaintiff or defendant

76 III. App. 3d 128, *134-994 N.E.2d 896, **901-4979 III. App. LEXIS 3205, ***14-91 III. Dec. 694, ****699

appellees for the application of the general rule.

In sum, the plaintiff- appellee may raise for the first [***15] time on appeal any legal issue to defend her judgment for which there was a factual basis in the trial court. The defendant's zoning ordinance denying plaintiff the statutorily authorized agricultural exemption from zoning because the property would eventually consist of less than 15 acres is invalid, as are the requirements that she qualify for building or special use permits. The care and training of horses for show is an agricultural purpose within the contemplation of section 1 of "An Act in relation to county zoning." Ill. Rev. Stat. 1975, ch. 34, par. 3151.

For these reasons we affirm the judgment of the Circuit Court of Kane County.

Affirmed.

End of Document

Law Offices of

Daniel J. Kramer

Daniel J. Kramer

1107A S. Bridge Street Yorkville, Illinois 60560 630-553-9500 Fax: 630-553-5764 dkramer@dankramerlaw.com

Kelly A. Helland D.J. Kramer

June 29, 2022

Matt Asselmeier Kendall County Planning, Building, & Zoning masselmeier@co.kendall.il.us

RE: Forestry Issue

Dear Matt:

I have reviewed the proposed Agenda for this evening and in particular the item referencing discussion of Forestry, Tree Farm, and related text Amendments.

I have spoken with Attorney Boyd Ingemunson in regard to the same since apparently he has a Client going through that process currently.

I like he question the wisdom of adopting the Ordinance that is proposed with the language contained in the same. Illinois has long had an Enactment in a Counties Act, stating that Governmental bodies shall pass no law limiting Agriculture in the State of Illinois other than front road setbacks for safety purposes. In the preamble to the Act it relates Agricultural Uses and Zoning to being a prime Industry in the State of Illinois and one that should be encouraged and not subject to Government restriction in terms of Zoning.

Although I think you are making an honest attempt to adopt language from a totally different Act, I do not believe as a Non-home Rule County; that you have legal authority to make a definition that is tighter than the existing State Law in Illinois. In other words I believe the State Regulation through the Illinois Department of Agriculture pre-empts any limiting of activities that the County would have jurisdiction to impose in relation to Agriculture.

When you read the definition that they have in the Illinois Act as far as Forestry; Tree Farming it talks about end products arrived therefrom and is covered under the State Act.

I have an existing client that predates the proposed change I the Ordinance so in any event I do not believe it would be applicable to that Client given that they are a legal

existing use. However I wanted to make sure our position is noted and in in the comments that Attorney Ingemunson has given the Committee as well.

Very truly yours

Daniel J. Kramer

Daniel J. Kramer Attorney at Law

DJK:rg

GRANT AGREEMENT



BETWEEN THE STATE OF ILLINOIS, Department of Natural Resources AND Kendall County

The Department of Natural Resources (Grantor), with its principal office at One Natural Resources Way, Springfield Illinois 62702-1271, and Kendall County (Grantee), with its principal office at 111 W. Fox Street, Yorkville, Illinois 60560, and payment address (if different than principal office) at 111 W. Fox Street, Yorkville, Illinois 60560, hereby enter into this Grant Agreement (Agreement). Grantor and Grantee are collectively referred to herein as "Parties" or individually as a "Party."

PART ONE – THE UNIFORM TERMS RECITALS

WHEREAS, it is the intent of the Parties to perform consistent with all Exhibits and attachments hereto and pursuant to the duties and responsibilities imposed by Grantor under the laws of the state of Illinois and in accordance with the terms, conditions and provisions hereof.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements contained herein, and for other good and valuable consideration, the value, receipt and sufficiency of which are acknowledged, the Parties hereto agree as follows:

ARTICLE I AWARD AND GRANTEE-SPECIFIC INFORMATION AND CERTIFICATION

1.1	. DUNS Number; SAM Registration; Nat	ure of Entity. Under penalties of perjury, Grantee certifies
that	is Grantee's correct DUNS Number, th	is Grantee's correct UEI, if applicable,
that	is Grantee's correct FEIN or Social Sec	curity Number, and that Grantee has an active State
registration	and SAM registration. Grantee is doing but	siness as a (check one):
Individual		Pharmacy-Non Corporate
Sole Proprietorship		Pharmacy/Funeral Home/Cemetery Corp.
P.	artnership	☐ Tax Exempt
\Box C	orporation (includes Not For Profit)	Limited Liability Company (select
	Nedical Corporation	applicable tax classification)
Governmental Unit		☐ P = partnership
E:	state or Trust	☐ C = corporation
	s not received a payment from the state of this Agreement.	f Illinois in the last two years, Grantee must submit a W-9
1.2 \$29,750_		check one) \blacksquare shall not exceed or \square are estimated to be ds. Grantee agrees to accept Grantor's payment as

State of Illinois GRANT AGREEMENT FISCAL YEAR 2022 / 3/4/21 Page 1 of 39

specified in the Exhibits and attachments incorporated h	erein as part of this Agreement.
n/a, the federal awarding agency isn/a If applicable, the Assistance Listing P Program and Assistance Listing Number is The State Award Identification Number	rogram Title is Certified Local Governments Grant, The Catalog of State Financial Assistance (CSFA) Number
are true and correct and (2) all Grant Funds awarded pur purpose(s) described herein. Grantee acknowledges that any false statements, misrepresentations, or material on this Agreement and repayment of all Grant Funds.	t the Award is made solely upon this certification and that
[GRANTOR NAME]	[GRANTEE NAME]
Ву:	Ву:
Signature of [Head of Grantor], [Title]	Signature of Authorized Representative
Ву:	Date:
Signature of Designee Date:	Printed Name:
Printed Name:Colleen Callahan	Printed Title:
Printed Title:Director	E-mail:
Designee Designee	
Ву:	
Signature of First Other Approver, if Applicable	
Date:	
Printed Name:	
Printed Title:	
Other Approver	
Ву:	
Signature of Second Other Approver, if Applicable	
Date:	
Printed Name:	
Printed Title:	
Second Other Approver	

ARTICLE II REQUIRED REPRESENTATIONS

- 2.1. <u>Standing and Authority</u>. Grantee warrants that:
- (a) Grantee is duly organized, validly existing and in good standing, if applicable, under the laws of the state in which it was incorporated or organized.
- (b) Grantee has the requisite power and authority to execute and deliver this Agreement and all documents to be executed by it in connection with this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby.
- (c) If Grantee is organized under the laws of another jurisdiction, Grantee warrants that it is also duly qualified to do business in Illinois and, if applicable, is in good standing with the Illinois Secretary of State.
- (d) The execution and delivery of this Agreement, and the other documents to be executed by Grantee in connection with this Agreement, and the performance by Grantee of its obligations hereunder have been duly authorized by all necessary entity action.
- (e) This Agreement and all other documents related to this Agreement, including the Uniform Grant Application, the Exhibits and attachments to which Grantee is a party constitute the legal, valid and binding obligations of Grantee enforceable against Grantee in accordance with their respective terms.
- 2.2. <u>Compliance with Internal Revenue Code</u>. Grantee certifies that it does and will comply with all provisions of the federal Internal Revenue Code (26 USC 1), the Illinois Income Tax Act (35 ILCS 5), and all rules promulgated thereunder, including withholding provisions and timely deposits of employee taxes and unemployment insurance taxes.
- 2.3. Compliance with Federal Funding Accountability and Transparency Act of 2006. Grantee certifies that it does and will comply with the reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (P.L. 109-282) (FFATA) with respect to Federal Awards greater than or equal to \$30,000. A FFATA sub-award report must be filed by the end of the month following the month in which the award was made.
- 2.4. Compliance with Uniform Grant Rules (2 CFR Part 200). Grantee certifies that it shall adhere to the applicable Uniform Administrative Requirements, Cost Principles, and Audit Requirements, which are published in Title 2, Part 200 of the Code of Federal Regulations, and are incorporated herein by reference. *See* 44 Ill. Admin. Code 7000.40(c)(1)(A).
- 2.5. <u>Compliance with Registration Requirements</u>. Grantee certifies that it: (i) is registered with the federal SAM; (ii) is in good standing with the Illinois Secretary of State, if applicable; (iii) have a valid DUNS Number; (iv) have a valid UEI, if applicable; and (v) have successfully completed the annual registration and prequalification through the Grantee Portal. It is Grantee's responsibility to remain current with these registrations and requirements. If Grantee's status with regard to any of these requirements change, or the certifications made in and information provided in the Uniform Grant Application changes, Grantee must notify the Grantor in accordance with ARTICLE XVIII.

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ARTICLE III DEFINITIONS

3.1. <u>Definitions</u>. Capitalized words and phrases used in this Agreement have the following meanings:

"2 CFR Part 200" means the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards published in Title 2, Part 200 of the Code of Federal Regulations.

"Agreement" or "Grant Agreement" has the same meaning as in 44 III. Admin. Code 7000.30.

"Allocable Costs" means costs allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship. Costs allocable to a specific Program may not be shifted to other Programs in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by the terms of this Agreement, or for other reasons of convenience.

"Allowable Costs" has the same meaning as in 44 III. Admin. Code 7000.30.

"Assistance Listings" has the same meaning as in 2 CFR 200.1.

"Assistance Listing Number" has the same meaning as in 2 CFR 200.1

"Assistance Listing Program Title" has the same meaning as in 2 CFR 200.1.

"Award" has the same meaning as in 44 III. Admin. Code 7000.30.

"Budget" has the same meaning as in 44 III. Admin. Code 7000.30.

"Budget Period" has the same meaning as in 2 CFR 200.1.

"Catalog of State Financial Assistance" or "CSFA" has the same meaning as in 44 III. Admin. Code 7000.30.

"Close-out Report" means a report from the Grantee allowing the Grantor to determine whether all applicable administrative actions and required work have been completed, and therefore closeout actions can commence.

"Conflict of Interest" has the same meaning as in 44 III. Admin. Code 7000.30.

"Consolidated Year-End Financial Report" or "CYEFR" means a financial information presentation in which the assets, equity, liabilities, and operating accounts of an entity and its subsidiaries are combined (after eliminating all inter-entity transactions) and shown as belonging to a single reporting entity.

"Cost Allocation Plan" has the same meaning as in 44 Ill. Admin. Code 7000.30.

"Direct Costs" has the same meaning as in 44 III. Admin. Code 7000.30.

"Disallowed Costs" has the same meaning as in 44 III. Admin. Code 7000.30.

"DUNS Number" means a unique nine-digit identification number provided by Dun & Bradstreet for each

State of Illinois GRANT AGREEMENT FISCAL YEAR 2022 / 3/4/21 Page 4 of 39 physical location of Grantee's organization.

"FAIN" means the Federal Award Identification Number.

"FFATA" or "Federal Funding Accountability and Transparency Act" has the same meaning as in 31 USC 6101; P.L. 110-252.

"Financial Assistance" has the same meaning as in 44 III. Admin. Code 7000.30.

"Fixed-Rate" has the same meaning as in 44 III. Admin. Code 7000.30. "Fixed-Rate" is in contrast to fee-for-service, 44 III. Admin. Code 7000.30.

"GATU" means the Grant Accountability and Transparency Unit of GOMB.

"Generally Accepted Accounting Principles" or "GAAP" has the same meaning as in 2 CFR 200.1.

"GOMB" means the Illinois Governor's Office of Management and Budget.

"Grant Funds" means the Financial Assistance made available to Grantee through this Agreement.

"Grantee Portal" has the same meaning as in 44 Ill. Admin. Code 7000.30.

"Improper Payment" has the same meaning as in 2 CFR 200.1.

"Indirect Costs" has the same meaning as in 44 III. Admin. Code 7000.30.

"Indirect Cost Rate" means a device for determining in a reasonable manner the proportion of indirect costs each Program should bear. It is a ratio (expressed as a percentage) of the Indirect Costs to a Direct Cost base. If reimbursement of Indirect Costs is allowable under an Award, Grantor will not reimburse those Indirect Costs unless Grantee has established an Indirect Cost Rate covering the applicable activities and period of time, unless Indirect Costs are reimbursed at a fixed rate.

"Indirect Cost Rate Proposal" has the same meaning as in 44 III. Admin. Code 7000.30.

"Net Revenue" means an entity's total revenue less its operating expenses, interest paid, depreciation, and taxes. "Net Revenue" is synonymous with "Profit."

"Nonprofit Organization" has the same meaning as in 2 CFR 200.1.

"Notice of Award" has the same meaning as in 44 III. Admin. Code 7000.30.

"OMB" has the same meaning as in 44 III. Admin. Code 7000.30.

"Obligations" has the same meaning as in 44 III. Admin. Code 7000.30.

"Period of Performance" has the same meaning as in 2 CFR 200.1.

"Prior Approval" has the same meaning as in 44 III. Admin. Code 7000.30.

State of Illinois GRANT AGREEMENT FISCAL YEAR 2022 / 3/4/21 Page 5 of 39 "Profit" means an entity's total revenue less its operating expenses, interest paid, depreciation, and taxes. "Profit" is synonymous with "Net Revenue."

"Program" means the services to be provided pursuant to this Agreement.

"Program Costs" means all Allowable Costs incurred by Grantee and the value of the contributions made by third parties in accomplishing the objectives of the Award during the Term of this Agreement.

"Related Parties" has the meaning set forth in Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 850-10-20.

"SAM" means the federal System for Award Management (SAM); which is the federal repository into which an entity must provide information required for the conduct of business as a recipient. 2 CFR 25 Appendix A (1)(C)(1).

"State" means the State of Illinois.

"Term" has the meaning set forth in Paragraph 1.4.

"Unallowable Costs" has the same meaning as in 44 III. Admin. Code 7000.30.

"Unique Entity Identifier" or "UEI" means the unique identifier assigned to the Grantee or to subrecipients by SAM.

ARTICLE IV PAYMENT

- 4.1. Availability of Appropriation; Sufficiency of Funds. This Agreement is contingent upon and subject to the availability of sufficient funds. Grantor may terminate or suspend this Agreement, in whole or in part, without penalty or further payment being required, if (i) sufficient funds for this Agreement have not been appropriated or otherwise made available to the Grantor by the State or the federal funding source, (ii) the Governor or Grantor reserves funds, or (iii) the Governor or Grantor determines that funds will not or may not be available for payment. Grantor shall provide notice, in writing, to Grantee of any such funding failure and its election to terminate or suspend this Agreement as soon as practicable. Any suspension or termination pursuant to this Section will be effective upon the date of the written notice unless otherwise indicated.
- 4.2. <u>Pre-Award Costs.</u> Pre-award costs are not permitted unless specifically authorized by the Grantor in <u>Exhibit A</u>, <u>PART TWO</u> or <u>PART THREE</u> of this Agreement. If they are authorized, pre-award costs must be charged to the initial Budget Period of the Award, unless otherwise specified by the Grantor. 2 CFR 200.458.
- 4.3. Return of Grant Funds. Any Grant Funds remaining that are not expended or legally obligated by Grantee, including those funds obligated pursuant to ARTICLE XVII, at the end of the Agreement period, or in the case of capital improvement Awards at the end of the time period Grant Funds are available for expenditure or obligation, shall be returned to Grantor within forty-five (45) days. A Grantee who is required to reimburse Grant Funds and who enters into a deferred payment plan for the purpose of satisfying a past due debt, shall be required to pay interest on such debt as required by Section 10.2 of the Illinois State Collection Act of 1986. 30 ILCS 210; 44 III. Admin. Code 7000.450(c). In addition, as required by 44 III. Admin. Code 7000.440(b)(2), unless granted a written extension, Grantee must liquidate all obligations incurred under the Award at the end of the

State of Illinois GRANT AGREEMENT FISCAL YEAR 2022 / 3/4/21 Page 6 of 39 period of performance.

- 4.4. <u>Cash Management Improvement Act of 1990</u>. Unless notified otherwise in <u>PART TWO</u> or <u>PART THREE</u>, federal funds received under this Agreement shall be managed in accordance with the Cash Management Improvement Act of 1990 (31 USC 6501 *et seq.*) and any other applicable federal laws or regulations. See 2 CFR 200.305; 44 III. Admin. Code 7000.120.
- 4.5. <u>Payments to Third Parties</u>. Grantee agrees to hold harmless Grantor when Grantor acts in good faith to redirect all or a portion of any Grantee payment to a third party. Grantor will be deemed to have acted in good faith if it is in possession of information that indicates Grantee authorized Grantor to intercept or redirect payments to a third party or when so ordered by a court of competent jurisdiction.
- 4.6. Modifications to Estimated Amount. If the Agreement amount is established on an estimated basis, then it may be increased by mutual agreement at any time during the Term. Grantor may decrease the estimated amount of this Agreement at any time during the Term if (i) Grantor believes Grantee will not use the funds during the Term, (ii) Grantor believes Grantee has used funds in a manner that was not authorized by this Agreement, (iii) sufficient funds for this Agreement have not been appropriated or otherwise made available to the Grantor by the State or the federal funding source, (iv) the Governor or Grantor reserves funds, or (v) the Governor or Grantor determines that funds will or may not be available for payment. Grantee will be notified, in writing, of any adjustment of the estimated amount of this Agreement. In the event of such reduction, services provided by Grantee under Exhibit A may be reduced accordingly. Grantee shall be paid for work satisfactorily performed prior to the date of the notice regarding adjustment. 2 CFR 200.308.

4.7. Interest.

- (a) All interest earned on Grant Funds held by a Grantee shall be treated in accordance with 2 CFR 200.305(b)(9), unless otherwise provided in **PART TWO** or **PART THREE**. Any amount due shall be remitted annually in accordance with 2 CFR 200.305(b)(9) or to the Grantor, as applicable.
- (b) Grant Funds shall be placed in an insured account, whenever possible, that bears interest, unless exempted under 2 CFR 200.305(b)(8).
- 4.8. <u>Timely Billing Required</u>. Grantee must submit any payment request to Grantor within fifteen (15) days of the end of the quarter, unless another billing schedule is specified in <u>PART TWO</u>, <u>PART THREE</u> or <u>Exhibit</u> <u>C</u>. Failure to submit such payment request timely will render the amounts billed an unallowable cost which Grantor cannot reimburse. In the event that Grantee is unable, for good cause, to submit its payment request timely, Grantee shall timely notify Grantor and may request an extension of time to submit the payment request. Grantor's approval of Grantee's request for an extension shall not be unreasonably withheld.
- 4.9. <u>Certification</u>. Pursuant to 2 CFR 200.415, each invoice and report submitted by Grantee (or subgrantee) must contain the following certification by an official authorized to legally bind the Grantee (or subgrantee):

By signing this report [or payment request or both], I certify to the best of my knowledge and belief that the report [or payment request] is true, complete, and accurate; that the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the State or federal pass-through award; and that supporting documentation has been submitted as required by the grant agreement. I acknowledge that approval for

State of Illinois GRANT AGREEMENT FISCAL YEAR 2022 / 3/4/21 Page 7 of 39 any other expenditure described herein shall be considered conditional subject to further review and verification in accordance with the monitoring and records retention provisions of the grant agreement. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812; 30 ILCS 708/120).

ARTICLE V SCOPE OF GRANT ACTIVITIES/PURPOSE OF GRANT

- 5.1. Scope of Grant Activities/Purpose of Grant. Grantee will conduct the Grant Activities or provide the services as described in the Exhibits and attachments, including Exhibit A (Project Description) and Exhibit B (Deliverables), incorporated herein and in accordance with all terms and conditions set forth herein and all applicable administrative rules. In addition, the State's Notice of Award is incorporated herein by reference. All Grantor-specific provisions and programmatic reporting required under this Agreement are described in PART TWO (The Grantor-Specific Terms). All Project-specific provisions and reporting required under this Agreement are described in PART THREE.
- 5.2. <u>Scope Revisions</u>. Grantee shall obtain Prior Approval from Grantor whenever a Scope revision is necessary for one or more of the reasons enumerated in 2 CFR 200.308. All requests for Scope revisions that require Grantor approval shall be signed by Grantee's authorized representative and submitted to Grantor for approval. Expenditure of funds under a requested revision is prohibited and will not be reimbursed if expended before Grantor gives written approval. *See* 2 CFR 200.308.
- 5.3. <u>Specific Conditions</u>. If applicable, specific conditions required after a risk assessment will be included in **Exhibit G**. Grantee shall adhere to the specific conditions listed therein.

ARTICLE VI BUDGET

- 6.1. <u>Budget</u>. The Budget is a schedule of anticipated grant expenditures that is approved by Grantor for carrying out the purposes of the Award. When Grantee or third parties support a portion of expenses associated with the Award, the Budget includes the non-federal as well as the federal share (and State share if applicable) of grant expenses. The Budget submitted by Grantee at application, or a revised Budget subsequently submitted and approved by Grantor, is considered final and is incorporated herein by reference.
- 6.2. <u>Budget Revisions</u>. Grantee shall obtain Prior Approval from Grantor whenever a Budget revision is necessary for one or more of the reasons enumerated in 2 CFR 200.308 or 44 III. Admin. Code 7000.370(b). All requests for Budget revisions that require Grantor approval shall be signed by Grantee's authorized representative and submitted to Grantor for approval. Expenditure of funds under a requested revision is prohibited and will not be reimbursed if expended before Grantor gives written approval.
- 6.3. <u>Discretionary and Non-discretionary Line Item Transfers</u>. Discretionary and non-discretionary line item transfers may only be made in accordance with 2 CFR 200.308 and 44 Ill. Admin. Code 7000.370. Neither discretionary nor non-discretionary line item transfers may result in an increase to the total amount of Grant Funds in the Budget unless Prior Approval is obtained from Grantor.

State of Illinois GRANT AGREEMENT FISCAL YEAR 2022 / 3/4/21 Page 8 of 39 6.4. <u>Notification</u>. Within thirty (30) calendar days from the date of receipt of the request for Budget revisions, Grantor will review the request and notify Grantee whether the Budget revision has been approved, denied, or the date upon which a decision will be reached.

ARTICLE VII ALLOWABLE COSTS

7.1. Allowability of Costs; Cost Allocation Methods. The allowability of costs and cost allocation methods for work performed under this Agreement shall be determined in accordance with 2 CFR 200 Subpart E and Appendices III, IV, and V.

7.2. Indirect Cost Rate Submission.

- (a) All Grantees must make an Indirect Cost Rate election in the Grantee Portal, even grantees that do not charge or expect to charge Indirect Costs. 44 III. Admin. Code 7000.420(d).
 - (i) Waived and de minimis Indirect Cost Rate elections will remain in effect until the Grantee elects a different option.
- (b) A Grantee must submit an Indirect Cost Rate Proposal in accordance with federal regulations, in a format prescribed by Grantor. For Grantees who have never negotiated an Indirect Cost Rate before, the Indirect Cost Rate Proposal must be submitted for approval no later than three months after the effective date of the Award. For Grantees who have previously negotiated an Indirect Cost Rate, the Indirect Cost Rate Proposal must be submitted for approval within 180 days of the Grantee's fiscal year end, as dictated in the applicable appendices, such as:
 - (i) Appendix V and VII to 2 CFR Part 200 governs Indirect Cost Rate Proposals for state and local governments,
 - (ii) Appendix III to 2 CFR Part 200 governs Indirect Cost Rate Proposals for public and private institutions of higher education,
 - (iii) Appendix IV to 2 CFR Part 200 governs Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations, and
 - (iv) Appendix V to 2 CFR Part 200 governs state/Local Governmentwide Central Service Cost Allocation Plans.
- (c) A Grantee who has a current, applicable rate negotiated by a cognizant federal agency shall provide to Grantor a copy of its Indirect Cost Rate acceptance letter from the federal government and a copy of all documentation regarding the allocation methodology for costs used to negotiate that rate, e.g., without limitation, the cost policy statement or disclosure narrative statement. Grantor will accept that Indirect Cost Rate, up to any statutory, rule-based or programmatic limit.
- (d) A Grantee who does not have a current negotiated rate, may elect to charge a de minimis rate of 10% of modified total direct costs which may be used indefinitely. No documentation is required to justify the 10% de minimis Indirect Cost Rate. 2 CFR 200.414(f).
- 7.3. <u>Transfer of Costs</u>. Cost transfers between Grants, whether as a means to compensate for cost overruns or for other reasons, are unallowable. *See* 2 CFR 200.451.

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- 7.4. <u>Higher Education Cost Principles</u>. The federal cost principles that apply to public and private institutions of higher education are set forth in 2 CFR 200 Subpart E and Appendix III.
- 7.5. <u>Nonprofit Organizations Cost Principles</u>. The federal cost principles that apply to Nonprofit Organizations that are not institutions of higher education are set forth in 2 CFR 200 Subpart E, unless exempt under 2 CFR 200 Appendix VIII.
- 7.6. <u>Government Cost Principles</u>. The federal cost principles that apply to state, local and federally-recognized Indian tribal governments are set forth in 2 CFR Part 200 Subpart E, Appendix V, and Appendix VII.
- 7.7. <u>Commercial Organization Cost Principles</u>. The federal cost principles and procedures for cost analysis and the determination, negotiation and allowance of costs that apply to commercial organizations are set forth in 48 CFR Part 31.
- 7.8. <u>Financial Management Standards</u>. The financial management systems of Grantee must meet the following standards:
 - (a) Accounting System. Grantee organizations must have an accounting system that provides accurate, current, and complete disclosure of all financial transactions related to each state- and federally-funded Program. Accounting records must contain information pertaining to state and federal pass-through awards, authorizations, obligations, unobligated balances, assets, outlays, and income. These records must be maintained on a current basis and balanced at least quarterly. Cash contributions to the Program from third parties must be accounted for in the general ledger with other Grant Funds. Third party in-kind (non-cash) contributions are not required to be recorded in the general ledger, but must be under accounting control, possibly through the use of a memorandum ledger. To comply with 2 CFR 200.305(b)(7)(i) and 30 ILCS 708/520, Grantee shall use reasonable efforts to ensure that funding streams are delineated within Grantee's accounting system. See 2 CFR 200.302.
 - (b) **Source Documentation**. Accounting records must be supported by such source documentation as canceled checks, bank statements, invoices, paid bills, donor letters, time and attendance records, activity reports, travel reports, contractual and consultant agreements, and subaward documentation. All supporting documentation should be clearly identified with the Award and general ledger accounts which are to be charged or credited.
 - (i) The documentation standards for salary charges to grants are prescribed by 2 CFR 200.430, and in the cost principles applicable to the entity's organization (Paragraphs 7.4 through 7.7).
 - (ii) If records do not meet the standards in 2 CFR 200.430, then Grantor may notify Grantee in <u>PART TWO</u>, <u>PART THREE</u> or <u>Exhibit G</u> of the requirement to submit Personnel activity reports. *See* 2 CFR 200.430(i)(8). Personnel activity reports shall account on an after-the-fact basis for one hundred percent (100%) of the employee's actual time, separately indicating the time spent on the grant, other grants or projects, vacation or sick leave, and administrative time, if applicable. The reports must be signed by the employee, approved by the appropriate official, and coincide with a pay period. These time records should be used to record the distribution of salary costs to the appropriate accounts no less frequently than quarterly.
 - (iii) Formal agreements with independent contractors, such as consultants, must include a description of the services to be performed, the period of performance, the fee and method of payment, an itemization of travel and other costs which are chargeable to the

State of Illinois GRANT AGREEMENT FISCAL YEAR 2022 / 3/4/21 Page 10 of 39 agreement, and the signatures of both the contractor and an appropriate official of Grantee.

- (iv) If third party in-kind (non-cash) contributions are used for Grant purposes, the valuation of these contributions must be supported with adequate documentation.
- (c) **Internal Control**. Effective control and accountability must be maintained for all cash, real and personal property, and other assets. Grantee must adequately safeguard all such property and must provide assurance that it is used solely for authorized purposes. Grantee must also have systems in place that provide reasonable assurance that the information is accurate, allowable, and compliant with the terms and conditions of this Agreement. 2 CFR 200.303.
- (d) **Budget Control**. Records of expenditures must be maintained for each Award by the cost categories of the approved Budget (including indirect costs that are charged to the Award), and actual expenditures are to be compared with Budgeted amounts at least quarterly.
- (e) **Cash Management**. Requests for advance payment shall be limited to Grantee's immediate cash needs. Grantee must have written procedures to minimize the time elapsing between the receipt and the disbursement of Grant Funds to avoid having excess funds on hand. 2 CFR 200.305.
- 7.9. <u>Federal Requirements</u>. All Awards, whether funded in whole or in part with either federal or State funds, are subject to federal requirements and regulations, including but not limited to 2 CFR Part 200, 44 Ill. Admin. Code 7000.30(b) and the Financial Management Standards in Paragraph 7.8.
- 7.10. <u>Profits</u>. It is not permitted for any person or entity to earn a Profit from an Award. *See, e.g.*, 2 CFR 200.400(g); *see also* 30 ILCS 708/60(a)(7).
- 7.11. <u>Management of Program Income</u>. Grantee is encouraged to earn income to defray program costs where appropriate, subject to 2 CFR 200.307.

ARTICLE VIII REQUIRED CERTIFICATIONS

- 8.1. <u>Certifications</u>. Grantee, its officers, and directors shall be responsible for compliance with the enumerated certifications to the extent that the certifications apply to Grantee.
 - (a) **Bribery.** Grantee certifies that it has not been convicted of bribery or attempting to bribe an officer or employee of the state of Illinois, nor made an admission of guilt of such conduct which is a matter of record (30 ILCS 500/50-5).
 - (b) **Bid Rigging.** Grantee certifies that it has not been barred from contracting with a unit of state or local government as a result of a violation of Paragraph 33E-3 or 33E-4 of the Criminal Code of 1961 (720 ILCS 5/33E-3 or 720 ILCS 5/33E-4, respectively).
 - (c) **Debt to State.** Grantee certifies that neither it, nor its affiliate(s), is/are barred from receiving an Award because Grantee, or its affiliate(s), is/are delinquent in the payment of any debt to the State, unless Grantee, or its affiliate(s), has/have entered into a deferred payment plan to pay off the debt, and Grantee acknowledges Grantor may declare the Agreement void if the certification is false (30 ILCS 500/50-11).

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- (d) **Educational Loan.** Grantee certifies that it is not barred from receiving State agreements as a result of default on an educational loan (5 ILCS 385/1 *et seq.*).
- (e) **International Boycott.** Grantee certifies that neither it nor any substantially owned affiliated company is participating or shall participate in an international boycott in violation of the provision of the U.S. Export Administration Act of 1979 (50 USC Appendix 2401 *et seq.*) or the regulations of the U.S. Department of Commerce promulgated under that Act (15 CFR Parts 730 through 774).
- (f) **Dues and Fees.** Grantee certifies that it is not prohibited from receiving an Award because it pays dues or fees on behalf of its employees or agents, or subsidizes or otherwise reimburses them for payment of their dues or fees to any club which unlawfully discriminates (775 ILCS 25/1 *et seq.*).
- (g) **Pro-Children Act.** Grantee certifies that it is in compliance with the Pro-Children Act of 2001 in that it prohibits smoking in any portion of its facility used for the provision of health, day care, early childhood development services, education or library services to children under the age of eighteen (18), which services are supported by federal or state government assistance (except such portions of the facilities which are used for inpatient substance abuse treatment) (20 USC 7181-7184).
- (h) **Drug-Free Work Place.** If Grantee is not an individual, Grantee certifies it will provide a drug free workplace pursuant to the Drug Free Workplace Act. 30 ILCS 580/3. If Grantee is an individual and this Agreement is valued at more than \$5,000, Grantee certifies it shall not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance during the performance of the Agreement. 30 ILCS 580/4. Grantee further certifies that it is in compliance with the government-wide requirements for a drug-free workplace as set forth in 41 USC 8102.
- (i) **Motor Voter Law.** Grantee certifies that it is in full compliance with the terms and provisions of the National Voter Registration Act of 1993 (52 USC 20501 *et seq.*).
- (j) Clean Air Act and Clean Water Act. Grantee certifies that it is in compliance with all applicable standards, order or regulations issued pursuant to the Clean Air Act (42 USC §7401 et seq.) and the Federal Water Pollution Control Act, as amended (33 USC 1251 et seq.).
- (k) **Debarment.** Grantee certifies that it is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any federal department or agency 2 CFR 200.205(a), or by the State (See 30 ILCS 708/25(6)(G)).
- (I) **Non-procurement Debarment and Suspension.** Grantee certifies that it is in compliance with Subpart C of 2 CFR Part 180 as supplemented by 2 CFR Part 376, Subpart C.
- (m) **Grant for the Construction of Fixed Works.** Grantee certifies that all Programs for the construction of fixed works which are financed in whole or in part with funds provided by this Agreement shall be subject to the Prevailing Wage Act (820 ILCS 130/0.01 et seq.) unless the provisions of that Act exempt its application. In the construction of the Program, Grantee shall comply with the requirements of the Prevailing Wage Act including, but not limited to, inserting into all contracts for such construction a stipulation to the effect that not less than the prevailing rate of wages as applicable to the Program shall be paid to all laborers, workers, and mechanics performing work under the Award and requiring all bonds of contractors to include a provision as will guarantee the faithful performance of such prevailing wage clause as provided by contract.

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- (n) Health Insurance Portability and Accountability Act. Grantee certifies that it is in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law No. 104-191, 45 CFR Parts 160, 162 and 164, and the Social Security Act, 42 USC 1320d-2 through 1320d-7, in that it may not use or disclose protected health information other than as permitted or required by law and agrees to use appropriate safeguards to prevent use or disclosure of the protected health information. Grantee shall maintain, for a minimum of six (6) years, all protected health information.
- (o) **Criminal Convictions.** Grantee certifies that neither it nor any officer, director, partner or other managerial agent of Grantee has been convicted of a felony under the Sarbanes-Oxley Act of 2002, nor a Class 3 or Class 2 felony under Illinois Securities Law of 1953, or that at least five (5) years have passed since the date of the conviction. Grantee further certifies that it is not barred from receiving an Award under 30 ILCS 500/50-10.5, and acknowledges that Grantor shall declare the Agreement void if this certification is false (30 ILCS 500/50-10.5).
- (p) **Forced Labor Act.** Grantee certifies that it complies with the State Prohibition of Goods from Forced Labor Act, and certifies that no foreign-made equipment, materials, or supplies furnished to the State under this Agreement have been or will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction (30 ILCS 583).
- (q) **Illinois Use Tax.** Grantee certifies in accordance with 30 ILCS 500/50-12 that it is not barred from receiving an Award under this Paragraph. Grantee acknowledges that this Agreement may be declared void if this certification is false.
- (r) **Environmental Protection Act Violations.** Grantee certifies in accordance with 30 ILCS 500/50-14 that it is not barred from receiving an Award under this Paragraph. Grantee acknowledges that this Agreement may be declared void if this certification is false.
- (s) Goods from Child Labor Act. Grantee certifies that no foreign-made equipment, materials, or supplies furnished to the State under this Agreement have been produced in whole or in part by the labor of any child under the age of twelve (12) (30 ILCS 584).
- (t) **Federal Funding Accountability and Transparency Act of 2006.** Grantee certifies that it is in compliance with the terms and requirements of 31 USC 6101.
- (u) Illinois Works Review Panel. For Awards made for public works projects, as defined in the Illinois Works Jobs Program Act, Grantee certifies that it and any contractor(s) or sub-contractor(s) that performs work using funds from this Award, shall, upon reasonable notice, appear before and respond to requests for information from the Illinois Works Review Panel. 30 ILCS 559/20-25(d).

ARTICLE IX CRIMINAL DISCLOSURE

9.1. <u>Mandatory Criminal Disclosures</u>. Grantee shall continue to disclose to Grantor all violations of criminal law involving fraud, bribery or gratuity violations potentially affecting this Award. *See* 30 ILCS 708/40. Additionally, if Grantee receives over \$10 million in total Financial Assistance, funded by either State or federal funds, during the period of this Award, Grantee must maintain the currency of information reported to SAM regarding civil, criminal or administrative proceedings as required by 2 CFR 200.113 and Appendix XII of 2 CFR

State of Illinois GRANT AGREEMENT FISCAL YEAR 2022 / 3/4/21 Page 13 of 39 Part 200, and 30 ILCS 708/40.

ARTICLE X UNLAWFUL DISCRIMINATION

- 10.1. <u>Compliance with Nondiscrimination Laws</u>. Grantee, its employees and subcontractors under subcontract made pursuant to this Agreement, shall comply with all applicable provisions of state and federal laws and regulations pertaining to nondiscrimination, sexual harassment and equal employment opportunity including, but not limited to, the following laws and regulations and all subsequent amendments thereto:
 - (a) The Illinois Human Rights Act (775 ILCS 5/1-101 *et seq.*), including, without limitation, 44 Ill. Admin. Code Part 750, which is incorporated herein;
 - (b) The Public Works Employment Discrimination Act (775 ILCS 10/1 et seq.);
 - (c) The United States Civil Rights Act of 1964 (as amended) (42 USC 2000a- and 2000h-6). (See also guidelines to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons [Federal Register: February 18, 2002 (Volume 67, Number 13, Pages 2671-2685)]);
 - (d) Section 504 of the Rehabilitation Act of 1973 (29 USC 794);
 - (e) The Americans with Disabilities Act of 1990 (as amended) (42 USC 12101 et seq.); and
 - (f) The Age Discrimination Act (42 USC 6101 et seq.).

ARTICLE XI LOBBYING

- 11.1. Improper Influence. Grantee certifies that no Grant Funds have been paid or will be paid by or on behalf of Grantee to any person for influencing or attempting to influence an officer or employee of any government agency, a member of Congress or Illinois General Assembly, an officer or employee of Congress or Illinois General Assembly, or an employee of a member of Congress or Illinois General Assembly in connection with the awarding of any agreement, the making of any grant, the making of any loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment or modification of any agreement, grant, loan or cooperative agreement. 31 USC 1352. Additionally, Grantee certifies that it has filed the required certification under the Byrd Anti-Lobbying Amendment (31 USC 1352), if applicable.
- 11.2. <u>Federal Form LLL</u>. If any funds, other than federally-appropriated funds, were paid or will be paid to any person for influencing or attempting to influence any of the above persons in connection with this Agreement, the undersigned must also complete and submit Federal Form LLL, Disclosure of Lobbying Activities Form, in accordance with its instructions.
- 11.3. <u>Lobbying Costs</u>. Grantee certifies that it is in compliance with the restrictions on lobbying set forth in 2 CFR 200.450. For any Indirect Costs associated with this Agreement, total lobbying costs shall be separately identified in the Program Budget, and thereafter treated as other Unallowable Costs.

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- 11.4. Procurement Lobbying. Grantee warrants and certifies that it and, to the best of its knowledge, its sub-grantees have complied and will comply with Executive Order No. 1 (2007) (EO 1-2007). EO 1-2007 generally prohibits Grantees and subcontractors from hiring the then-serving Governor's family members to lobby procurement activities of the State, or any other unit of government in Illinois including local governments, if that procurement may result in a contract valued at over \$25,000. This prohibition also applies to hiring for that same purpose any former State employee who had procurement authority at any time during the one-year period preceding the procurement lobbying activity.
- 11.5. <u>Subawards</u>. Grantee must include the language of this ARTICLE XI in the award documents for any subawards made pursuant to this Award at all tiers. All sub-awardees are also subject to certification and disclosure. Pursuant to Appendix II(I) to 2 CFR Part 200, Grantee shall forward all disclosures by contractors regarding this certification to Grantor.
- 11.6. <u>Certification</u>. This certification is a material representation of fact upon which reliance was placed to enter into this transaction and is a prerequisite for this transaction, pursuant to 31 USC 1352. Any person who fails to file the required certifications shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

ARTICLE XII MAINTENANCE AND ACCESSIBILITY OF RECORDS; MONITORING

- 12.1. Records Retention. Grantee shall maintain for three (3) years from the date of submission of the final expenditure report, adequate books, all financial records and, supporting documents, statistical records, and all other records pertinent to this Award, adequate to comply with 2 CFR 200.334, unless a different retention period is specified in 2 CFR 200.334 or 44 Ill. Admin. Code 7000.430(a) and (b). If any litigation, claim or audit is started before the expiration of the retention period, the records must be retained until all litigation, claims or audit exceptions involving the records have been resolved and final action taken.
- 12.2. Accessibility of Records. Grantee, in compliance with 2 CFR 200.337 and 44 Ill. Admin. Code 7000.430(e), shall make books, records, related papers, supporting documentation and personnel relevant to this Agreement available to authorized Grantor representatives, the Illinois Auditor General, Illinois Attorney General, any Executive Inspector General, the Grantor's Inspector General, federal authorities, any person identified in 2 CFR 200.337, and any other person as may be authorized by Grantor (including auditors), by the state of Illinois or by federal statute. Grantee shall cooperate fully in any such audit or inquiry.
- 12.3. <u>Failure to Maintain Books and Records</u>. Failure to maintain books, records and supporting documentation, as described in this ARTICLE XII, shall establish a presumption in favor of the State for the recovery of any funds paid by the State under this Agreement for which adequate books, records and supporting documentation are not available to support disbursement.
- 12.4. Monitoring and Access to Information. Grantee must monitor its activities to assure compliance with applicable state and federal requirements and to assure its performance expectations are being achieved. Grantor shall monitor the activities of Grantee to assure compliance with all requirements and performance expectations of the award. Grantee shall timely submit all financial and performance reports, and shall supply, upon Grantor's request, documents and information relevant to the Award. Grantor may make site visits as warranted by program needs. See 2 CFR 200.329 and 200.332. Additional monitoring requirements may be in PART TWO or PART THREE.

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ARTICLE XIII FINANCIAL REPORTING REQUIREMENTS

13.1. Required Periodic Financial Reports. Grantee agrees to submit financial reports as requested and in the format required by Grantor. Grantee shall file quarterly reports with Grantor describing the expenditure(s) of the funds related thereto, unless more frequent reporting is required by the Grantee pursuant to specific award conditions. 2 CFR 200.208. Unless so specified, the first of such reports shall cover the first three months after the Award begins, and reports must be submitted no later than the due date(s) specified in PART TWO or PART THREE, unless additional information regarding required financial reports is set forth in Exhibit G. Failure to submit the required financial reports may cause a delay or suspension of funding. 30 ILCS 705/1 et seq.; 2 CFR 208(b)(3) and 200.328. Any report required by 30 ILCS 708/125 may be detailed in PART TWO or PART THREE.

13.2. Close-out Reports.

- (a) Grantee shall submit a Close-out Report no later than the due date specified in <u>PART TWO</u> or <u>PART THREE</u> following the end of the period of performance for this Agreement or Agreement termination. The format of this Close-out Report shall follow a format prescribed by Grantor. 2 CFR 200.344; 44 Ill. Admin. Code 7000.440(b).
- (b) If an audit or review of Grantee occurs and results in adjustments after Grantee submits a Close-out Report, Grantee will submit a new Close-out Report based on audit adjustments, and immediately submit a refund to Grantor, if applicable. 2 CFR 200.345.
- 13.3. Effect of Failure to Comply. Failure to comply with reporting requirements shall result in the withholding of funds, the return of Improper Payments or Unallowable Costs, will be considered a material breach of this Agreement and may be the basis to recover Grant Funds. Grantee's failure to comply with this ARTICLE XIII, ARTICLE XIV, or ARTICLE XV shall be considered prima facie evidence of a breach and may be admitted as such, without further proof, into evidence in an administrative proceeding before Grantor, or in any other legal proceeding. Grantee should refer to the State of Illinois Grantee Compliance Enforcement System for policy and consequences for failure to comply. 44 Ill. Admin. Code 7000.80.

ARTICLE XIV PERFORMANCE REPORTING REQUIREMENTS

14.1. Required Periodic Performance Reports. Grantee agrees to submit Performance Reports as requested and in the format required by Grantor. Performance Measures listed in Exhibit E must be reported quarterly, unless otherwise specified in PART TWO, PART THREE or Exhibit G. Unless so specified, the first of such reports shall cover the first three months after the Award begins. If Grantee is not required to report performance quarterly, then Grantee must submit a Performance Report at least annually. Pursuant to 2 CFR 200.208, specific conditions may be imposed requiring Grantee to report more frequently based on the risk assessment or the merit-based review of the application. In such cases, Grantor shall notify Grantee of same in Exhibit G. Pursuant to 2 CFR 200.329 and 44 Ill. Admin. Code 7000.410(b)(2), periodic Performance Reports shall be submitted no later than the due date(s) specified in PART TWO or PART THREE. For certain construction-related Awards, such reports may be exempted as identified in PART TWO or PART THREE. 2 CFR 200.329. Failure to submit such required Performance Reports may cause a delay or suspension of funding. 30 ILCS 705/1 et seq.

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- 14.2. <u>Close-out Performance Reports</u>. Grantee agrees to submit a Close-out Performance Report, in the format required by Grantor, no later than the due date specified in <u>PART TWO</u> or <u>PART THREE</u> following the end of the period of performance or Agreement termination. *See* 2 CFR 200.344; 44 III. Admin. Code 7000.440(b)(1).
- 14.3. Content of Performance Reports. Pursuant to 2 CFR 200.329(b) and (c), all Performance Reports must relate the financial data and accomplishments to the performance goals and objectives of this Award and also include the following: a comparison of actual accomplishments to the objectives of the award established for the period; where the accomplishments can be quantified, a computation of the cost and demonstration of cost effective practices (e.g., through unit cost data); performance trend data and analysis if required; and reasons why established goals were not met, if appropriate. Appendices may be used to include additional supportive documentation. Additional content and format guidelines for the Performance Reports will be determined by Grantor contingent on the Award's statutory, regulatory and administrative requirements, and are included in PART TWO or PART THREE of this Agreement.
- 14.4. <u>Performance Standards</u>. Grantee shall perform in accordance with the Performance Standards set forth in <u>Exhibit F</u>. See 2 CFR 200.301 and 200.210.

ARTICLE XV AUDIT REQUIREMENTS

- 15.1. <u>Audits</u>. Grantee shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 USC 7501-7507) and Subpart F of 2 CFR Part 200, and the audit rules and policies set forth by the Governor's Office of Management and Budget. *See* 30 ILCS 708/65(c); 44 Ill. Admin. Code 7000.90.
- 15.2. <u>Consolidated Year-End Financial Reports (CYEFR)</u>. All grantees are required to complete and submit a CYEFR through the Grantee Portal. The CYEFR is a required schedule in the Grantee's audit report if the Grantee is required to complete and submit an audit report as set forth herein.
 - (a) This Paragraph 15.2 applies to all Grantees, unless exempted pursuant to a federal or state statute or regulation, which is identified in **PART TWO** or **PART THREE**.
 - (b) The CYEFR must cover the same period as the Audited Financial Statements, if required, and must be submitted in accordance with the audit schedule at 44 Ill. Admin. Code 7000.90. If Audited Financial Statements are not required, however, then the CYEFR must cover the Grantee's fiscal year and must be submitted within 6 months of the Grantee's fiscal year-end.
 - (c) CYEFRs must include an in relation to opinion from the auditor of the financial statements included in the CYEFR.
 - (d) CYEFRs shall follow a format prescribed by Grantor.
 - 15.3. Entities That Are Not "For-Profit".
 - (a) This Paragraph applies to Grantees that are not "for-profit" entities.
 - (b) <u>Single and Program-Specific Audits</u>. If, during its fiscal year, Grantee expends \$750,000 or more in Federal Awards (direct federal and federal pass-through awards combined), Grantee must

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- (c) <u>Financial Statement Audit</u>. If, during its fiscal year, Grantee expends less than \$750,000 in Federal Awards, Grantee is subject to the following audit requirements:
 - (i) If, during its fiscal year, Grantee expends \$500,000 or more in Federal and state Awards, singularly or in any combination, from all sources, Grantee must have a financial statement audit conducted in accordance with the Generally Accepted Government Auditing Standards (GAGAS). Grantee may be subject to additional requirements in PART THREE or Exhibit G based on the Grantee's risk profile.
 - (ii) If, during its fiscal year, Grantee expends less than \$500,000 in Federal and state Awards, singularly or in any combination, from all sources, but expends \$300,000 or more in Federal and state Awards, singularly or in any combination, from all sources, Grantee must have a financial statement audit conducted in accordance with the Generally Accepted Auditing Standards (GAAS).
 - (iii) If Grantee is a Local Education Agency (as defined in 34 CFR 77.1), Grantee shall have a financial statement audit conducted in accordance with GAGAS, as required by 23 III. Admin. Code 100.110, regardless of the dollar amount of expenditures of Federal and state Awards.
 - (iv) If Grantee does not meet the requirements in subsections 15.3(b) and 15.3(c)(i-iii) but is required to have a financial statement audit conducted based on other regulatory requirements, Grantee must submit those audits for review.
 - (v) Grantee must submit its financial statement audit report packet, as set forth in 44 III. Admin. Code 7000.90(h)(2) and the current GATA audit manual, to the Grantee Portal within the earlier of (i) 30 calendar days after receipt of the auditor's report(s) or (ii) 6 months after the end of the Grantee's audit period.

15.4. <u>"For-Profit" Entities</u>.

- (a) This Paragraph applies to Grantees that are "for-profit" entities.
- (b) <u>Program-Specific Audit</u>. If, during its fiscal year, Grantee expends \$750,000 or more in Federal Awards (direct federal and federal pass-through awards), from all sources, Grantee is required to have a program-specific audit conducted in accordance with 2 CFR 200.507. The auditor must audit Federal programs with Federal Awards expended that, in the aggregate, cover at least 50 percent (0.50) of total Federal Awards expended. The audit report packet must be completed as described in 2 CFR 200.507 (program-specific audit), 44 III. Admin. Code 7000.90 and the current GATA audit manual, and must be submitted to the Grantee Portal. The due date of all required submissions set forth in this Paragraph is the earlier of (i) 30 calendar days after receipt of the auditor's report(s) or (ii) nine (9) months after the end of the Grantee's audit period.

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- (c) <u>Financial Statement Audit</u>. If, during its fiscal year, Grantee expends less than \$750,000 in Federal Awards and state Awards, singularly or in any combination, from all sources, Grantee must follow all of the audit requirements in Paragraphs 15.3(c)(i)-(v), above.
- (d) <u>Publicly-Traded Entities</u>. If Grantee is a publicly-traded company, Grantee is not subject to the single audit or program-specific audit requirements, but is required to submit its annual audit conducted in accordance with its regulatory requirements.
- 15.5. Performance of Audits. For those organizations required to submit an independent audit report, the audit is to be conducted by a Certified Public Accountant or Certified Public Accounting Firm licensed in the state of Illinois or in accordance with Section 5.2 of the Illinois Public Accounting Act (225 ILCS 450/5.2). For all audits required to be performed subject to Generally Accepted Government Auditing standards or Generally Accepted Auditing standards, Grantee shall request and maintain on file a copy of the auditor's most recent peer review report and acceptance letter. Grantee shall follow procedures prescribed by Grantor for the preparation and submission of audit reports and any related documents.
- 15.6. <u>Delinquent Reports</u>. Grantee should refer to the State of Illinois Grantee Compliance Enforcement System for the policy and consequences for late reporting. 44 Ill. Admin. Code 7000.80.

ARTICLE XVI TERMINATION; SUSPENSION; NON-COMPLIANCE

16.1. Termination.

- (a) This Agreement may be terminated, in whole or in part, by either Party for any or no reason upon thirty (30) calendar days' prior written notice to the other Party. If terminated by the Grantee, Grantee must include the reasons for such termination, the effective date, and, in the case of a partial termination, the portion to be terminated. If Grantor determines in the case of a partial termination that the reduced or modified portion of the Award will not accomplish the purposes for which the Award was made, Grantor may terminate the Agreement in its entirety. 2 CFR 200.340(a)(4).
- (b) This Agreement may be terminated, in whole or in part, by Grantor without advance notice:
 - (i) Pursuant to a funding failure under Paragraph 4.1;
 - (ii) If Grantee fails to comply with the terms and conditions of this or any Award, application or proposal, including any applicable rules or regulations, or has made a false representation in connection with the receipt of this or any Grant;
 - (iii) If the Award no longer effectuates the program goals or agency priorities as set forth in **Exhibit A, PART TWO** or **PART THREE**; or
 - (iv) If Grantee breaches this Agreement and either (1) fails to cure such breach within 15 calendar days' written notice thereof, or (2) if such cure would require longer than 15 calendar days and the Grantee has failed to commence such cure within 15 calendar days' written notice thereof. In the event that Grantor terminates this Agreement as a result of the breach of the Agreement by Grantee, Grantee shall be paid for work satisfactorily performed

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- 16.2. <u>Suspension</u>. Grantor may suspend this Agreement, in whole or in part, pursuant to a funding failure under Paragraph 4.1 or if the Grantee fails to comply with terms and conditions of this or any Award. If suspension is due to Grantee's failure to comply, Grantor may withhold further payment and prohibit Grantee from incurring additional obligations pending corrective action by Grantee or a decision to terminate this Agreement by Grantor. Grantor may determine to allow necessary and proper costs that Grantee could not reasonably avoid during the period of suspension.
- 16.3. Non-compliance. If Grantee fails to comply with the U.S. Constitution, applicable statutes, regulations or the terms and conditions of this or any Award, Grantor may impose additional conditions on Grantee, as described in 2 CFR 200.208. If Grantor determines that non-compliance cannot be remedied by imposing additional conditions, Grantor may take one or more of the actions described in 2 CFR 200.339. The Parties shall follow all Grantor policies and procedures regarding non-compliance, including, but not limited to, the procedures set forth in the State of Illinois Grantee Compliance Enforcement System. 44 Ill. Admin. Code 7000.80 and 7000.260.
- 16.4. <u>Objection</u>. If Grantor suspends or terminates this Agreement, in whole or in part, for cause, or takes any other action in response to Grantee's non-compliance, Grantee may avail itself of any opportunities to object and challenge such suspension, termination or other action by Grantor in accordance with any applicable processes and procedures, including, but not limited to, the procedures set forth in the State of Illinois Grantee Compliance Enforcement System. 2 CFR 200.342; 44 Ill. Admin. Code 7000.80 and 7000.260.

16.5. Effects of Suspension and Termination.

- (a) Grantor may credit Grantee for expenditures incurred in the performance of authorized services under this Agreement prior to the effective date of a suspension or termination.
- (b) Grantee shall not incur any costs or obligations that require the use of these Grant Funds after the effective date of a suspension or termination, and shall cancel as many outstanding obligations as possible.
- (c) Costs to Grantee resulting from obligations incurred by Grantee during a suspension or after termination of the Agreement are not allowable unless:
 - (i) Grantor expressly authorizes them in the notice of suspension or termination; and
 - (ii) The costs result from obligations properly incurred before the effective date of suspension or termination, are not in anticipation of the suspension or termination, and the costs would be allowable if the Agreement was not suspended or terminated. 2 CFR 200.343.
- 16.6. <u>Close-out of Terminated Agreements</u>. If this Agreement is terminated, in whole or in part, the Parties shall comply with all close-out and post-termination requirements of this Agreement. 2 CFR 200.340(d).

ARTICLE XVII SUBCONTRACTS/SUB-GRANTS

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- 17.1. <u>Sub-recipients/Delegation</u>. Grantee may not subcontract nor sub-grant any portion of this Agreement nor delegate any duties hereunder without Prior Approval of Grantor. The requirement for Prior Approval is satisfied if the subcontractor or sub-grantee has been identified in the Uniform Grant Application, such as, without limitation, a Project Description, and Grantor has approved. Grantee must notify any potential sub-recipient that the sub-recipient shall obtain and provide to the Grantee a Unique Entity Identifier prior to receiving a subaward. 2 CFR 25.300.
- 17.2. Application of Terms. Grantee shall advise any sub-grantee of funds awarded through this Agreement of the requirements imposed on them by federal and state laws and regulations, and the provisions of this Agreement. The terms of this Agreement shall apply to all subawards authorized in accordance with Paragraph 17.1. 2 CFR 200.101(b)(2).
- 17.3. <u>Liability as Guaranty</u>. Grantee shall be liable as guarantor for any Grant Funds it obligates to a sub-grantee or sub-contractor pursuant to Paragraph 17.1 in the event the Grantor determines the funds were either misspent or are being improperly held and the sub-grantee or sub-contractor is insolvent or otherwise fails to return the funds. 2 CFR 200.345; 30 ILCS 705/6; 44 Ill. Admin. Code 7000.450(a).

ARTICLE XVIII NOTICE OF CHANGE

- 18.1. <u>Notice of Change</u>. Grantee shall notify the Grantor if there is a change in Grantee's legal status, federal employer identification number (FEIN), DUNS Number, UEI, SAM registration status, Related Parties, senior management or address. *See* 30 ILCS 708/60(a). If the change is anticipated, Grantee shall give thirty (30) days' prior written notice to Grantor. If the change is unanticipated, Grantee shall give notice as soon as practicable thereafter. Grantor reserves the right to take any and all appropriate action as a result of such change(s).
- 18.2. <u>Failure to Provide Notification</u>. Grantee shall hold harmless Grantor for any acts or omissions of Grantor resulting from Grantee's failure to notify Grantor of these changes.
- 18.3. <u>Notice of Impact</u>. Grantee shall immediately notify Grantor of any event that may have a material impact on Grantee's ability to perform this Agreement.
- 18.4. <u>Circumstances Affecting Performance; Notice</u>. In the event Grantee becomes a party to any litigation, investigation or transaction that may reasonably be considered to have a material impact on Grantee's ability to perform under this Agreement, Grantee shall notify Grantor, in writing, within five (5) calendar days of determining such litigation or transaction may reasonably be considered to have a material impact on the Grantee's ability to perform under this Agreement.
- 18.5. <u>Effect of Failure to Provide Notice</u>. Failure to provide the notice described in Paragraph 18.4 shall be grounds for immediate termination of this Agreement and any costs incurred after notice should have been given shall be disallowed.

ARTICLE XIX STRUCTURAL REORGANIZATION AND RECONSTITUTION OF BOARD MEMBERSHIP

19.1. <u>Effect of Reorganization</u>. Grantee acknowledges that this Agreement is made by and between

State of Illinois GRANT AGREEMENT FISCAL YEAR 2022 / 3/4/21 Page 21 of 39 Grantor and Grantee, as Grantee is currently organized and constituted. No promise or undertaking made hereunder is an assurance that Grantor agrees to continue this Agreement, or any license related thereto, should Grantee significantly reorganize or otherwise substantially change the character of its corporate structure, business structure or governance structure. Grantee agrees that it will give Grantor prior notice of any such action or changes significantly affecting its overall structure or management makeup (for example, a merger or a corporate restructuring), and will provide any and all reasonable documentation necessary for Grantor to review the proposed transaction including financial records and corporate and shareholder minutes of any corporation which may be involved. This ARTICLE XIX does not require Grantee to report on minor changes in the makeup of its board membership. Nevertheless, <u>PART TWO</u> or <u>PART THREE</u> may impose further restrictions. Failure to comply with this ARTICLE XIX shall constitute a material breach of this Agreement.

ARTICLE XX AGREEMENTS WITH OTHER STATE AGENCIES

20.1. <u>Copies upon Request</u>. Grantee shall, upon request by Grantor, provide Grantor with copies of contracts or other agreements to which Grantee is a party with any other State agency.

ARTICLE XXI CONFLICT OF INTEREST

- 21.1. <u>Required Disclosures</u>. Grantee must immediately disclose in writing any potential or actual Conflict of Interest to the Grantor. 2 CFR 200.113 and 30 ILCS 708/35.
- 21.2. <u>Prohibited Payments</u>. Grantee agrees that payments made by Grantor under this Agreement will not be used to compensate, directly or indirectly, any person: (1) currently holding an elective office in this State including, but not limited to, a seat in the General Assembly, or (2) employed by an office or agency of the state of Illinois whose annual compensation is in excess of sixty percent (60%) of the Governor's annual salary, or \$106,447.20 (30 ILCS 500/50-13).
- 21.3. Request for Exemption. Grantee may request written approval from Grantor for an exemption from Paragraph 21.2. Grantee acknowledges that Grantor is under no obligation to provide such exemption and that Grantor may, if an exemption is granted, grant such exemption subject to such additional terms and conditions as Grantor may require.

ARTICLE XXII EQUIPMENT OR PROPERTY

- 22.1. <u>Transfer of Equipment</u>. Grantor shall have the right to require that Grantee transfer to Grantor any equipment, including title thereto, purchased in whole or in part with Grantor funds, if Grantor determines that Grantee has not met the conditions of 2 CFR 200.439. Grantor shall notify Grantee in writing should Grantor require the transfer of such equipment. Upon such notification by Grantor, and upon receipt or delivery of such equipment by Grantor, Grantee will be deemed to have transferred the equipment to Grantor as if Grantee had executed a bill of sale therefor.
- 22.2. <u>Prohibition against Disposition/Encumbrance</u>. The Grantee is prohibited from, and may not sell, transfer, encumber (other than original financing) or otherwise dispose of said equipment, material, or real

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- 22.3. Equipment and Procurement. Grantee must comply with the uniform standards set forth in 2 CFR 200.310–200.316 governing the management and disposition of property which cost was supported by Grant Funds. Any waiver from such compliance must be granted by either the President's Office of Management and Budget, the Governor's Office of Management and Budget, or both, depending on the source of the Grant Funds used. Additionally, Grantee must comply with the standards set forth in 2 CFR 200.317-200.326 for use in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Grant Funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable federal and state statutes and executive orders.
- 22.4. Equipment Instructions. Grantee must obtain disposition instructions from Grantor when equipment, purchased in whole or in part with Grant Funds, are no longer needed for their original purpose. Notwithstanding anything to the contrary contained within this Agreement, Grantor may require transfer of any equipment to Grantor or a third party for any reason, including, without limitation, if Grantor terminates the Award or Grantee no longer conducts Award activities. The Grantee shall properly maintain, track, use, store and insure the equipment according to applicable best practices, manufacturer's guidelines, federal and state laws or rules, and Grantor requirements stated herein.
- 22.5. <u>Domestic Preferences for Procurements</u>. In accordance with 2 CFR 200.322, as appropriate and to the extent consistent with law, the Grantee should, to the greatest extent practicable under this Award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this paragraph must be included in all subawards and in all contracts and purchase orders for work or products under this Award.

ARTICLE XXIII PROMOTIONAL MATERIALS; PRIOR NOTIFICATION

- 23.1. <u>Publications, Announcements, etc.</u> Use of Grant Funds for promotions is subject to the prohibitions for advertising or public relations costs in 2 CFR 200.421(e). In the event that Grantor funds are used in whole or in part to produce any written publications, announcements, reports, flyers, brochures or other written materials, Grantee shall obtain Prior Approval for the use of those funds (2 CFR 200.467) and agrees to include in these publications, announcements, reports, flyers, brochures and all other such material, the phrase "Funding provided in whole or in part by the [Grantor]." Exceptions to this requirement must be requested, in writing, from Grantor and will be considered authorized only upon written notice thereof to Grantee.
- 23.2. <u>Prior Notification/Release of Information</u>. Grantee agrees to notify Grantor ten (10) days prior to issuing public announcements or press releases concerning work performed pursuant to this Agreement, or funded in whole or in part by this Agreement, and to cooperate with Grantor in joint or coordinated releases of information.

ARTICLE XXIV INSURANCE

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- 24.1. <u>Purchase and Maintenance of Insurance</u>. Grantee shall maintain in full force and effect during the Term of this Agreement casualty and bodily injury insurance, as well as insurance sufficient to cover the replacement cost of any and all real or personal property, or both, purchased or, otherwise acquired, or improved in whole or in part, with funds disbursed pursuant to this Agreement. 2 CFR 200.310. Additional insurance requirements may be detailed in <u>PART TWO</u> or <u>PART THREE</u>.
- 24.2. <u>Claims</u>. If a claim is submitted for real or personal property, or both, purchased in whole with funds from this Agreement and such claim results in the recovery of money, such money recovered shall be surrendered to Grantor.

ARTICLE XXV LAWSUITS AND INDEMNIFICATION

- 25.1. <u>Independent Contractor</u>. Grantee is an independent contractor under this Agreement and neither Grantee nor any employee or agent of Grantee is an employee of Grantor and do not acquire any employment rights with Grantor or the state of Illinois by virtue of this Agreement. Grantee will provide the agreed services and achieve the specified results free from the direction or control of Grantor as to the means and methods of performance. Grantee will be required to provide its own equipment and supplies necessary to conduct its business; provided, however, that in the event, for its convenience or otherwise, Grantor makes any such equipment or supplies available to Grantee, Grantee's use of such equipment or supplies provided by Grantor pursuant to this Agreement shall be strictly limited to official Grantor or state of Illinois business and not for any other purpose, including any personal benefit or gain.
- 25.2. <u>Indemnification</u>. To the extent permitted by law, Grantee agrees to hold harmless Grantor against any and all liability, loss, damage, cost or expenses, including attorneys' fees, arising from the intentional torts, negligence or breach of contract of Grantee, with the exception of acts performed in conformance with an explicit, written directive of Grantor. Indemnification by Grantor will be governed by the State Employee Indemnification Act (5 ILCS 350/1 *et seq.*) as interpreted by the Illinois Attorney General. Grantor makes no representation that Grantee, an independent contractor, will qualify or be eligible for indemnification under said Act.

ARTICLE XXVI MISCELLANEOUS

- 26.1. <u>Gift Ban</u>. Grantee is prohibited from giving gifts to State employees pursuant to the State Officials and Employees Ethics Act (5 ILCS 430/10-10) and Executive Order 15-09.
- 26.2. Access to Internet. Grantee must have Internet access. Internet access may be either dial-up or high-speed. Grantee must maintain, at a minimum, one business e-mail address that will be the primary receiving point for all e-mail correspondence from Grantor. Grantee may list additional e-mail addresses at any time during the Term of this Agreement. The additional addresses may be for a specific department or division of Grantee or for specific employees of Grantee. Grantee must notify Grantor of any e-mail address changes within five (5) business days from the effective date of the change.
- 26.3. <u>Exhibits and Attachments</u>. <u>Exhibits A</u> through <u>G</u>, <u>PART TWO</u>, <u>PART THREE</u>, if applicable, and all other exhibits and attachments hereto are incorporated herein in their entirety.

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- 26.4. <u>Assignment Prohibited</u>. Grantee acknowledges that this Agreement may not be sold, assigned, or transferred in any manner by Grantee, to include an assignment of Grantee's rights to receive payment hereunder, and that any actual or attempted sale, assignment, or transfer by Grantee without the Prior Approval of Grantor in writing shall render this Agreement null, void and of no further effect.
- 26.5. <u>Amendments</u>. This Agreement may be modified or amended at any time during its Term by mutual consent of the Parties, expressed in writing and signed by the Parties.
- 26.6. <u>Severability</u>. If any provision of this Agreement is declared invalid, its other provisions shall not be affected thereby.
- 26.7. <u>No Waiver</u>. No failure of Grantor to assert any right or remedy hereunder will act as a waiver of right to assert such right or remedy at a later time or constitute a course of business upon which Grantee may rely for the purpose of denial of such a right or remedy to Grantor.
- 26.8. <u>Applicable Law; Claims</u>. This Agreement and all subsequent amendments thereto, if any, shall be governed and construed in accordance with the laws of the state of Illinois. Any claim against Grantor arising out of this Agreement must be filed exclusively with the Illinois Court of Claims. 705 ILCS 505/1 *et seq*. Grantor does not waive sovereign immunity by entering into this Agreement.
- 26.9. <u>Compliance with Law</u>. This Agreement and Grantee's obligations and services hereunder are hereby made and must be performed in compliance with all applicable federal and State laws, including, without limitation, federal regulations, State administrative rules, including 44 III. Admin. Code 7000, and any and all license requirements or professional certification provisions.
- 26.10. <u>Compliance with Confidentiality Laws</u>. If applicable, Grantee shall comply with applicable state and federal statutes, federal regulations and Grantor administrative rules regarding confidential records or other information obtained by Grantee concerning persons served under this Agreement. The records and information shall be protected by Grantee from unauthorized disclosure.
- 26.11. <u>Compliance with Freedom of Information Act</u>. Upon request, Grantee shall make available to Grantor all documents in its possession that Grantor deems necessary to comply with requests made under the Freedom of Information Act. (5 ILCS 140/7(2)).

26.12. Precedence.

- (a) Except as set forth in subparagraph (b), below, the following rules of precedence are controlling for this Agreement: In the event there is a conflict between this Agreement and any of the exhibits or attachments hereto, this Agreement shall control. In the event there is a conflict between PART TWO or PART THREE of this Agreement, PART TWO shall control. In the event there is a conflict between this Agreement and relevant statute(s) or rule(s), the relevant statute(s) or rule(s) shall control.
- (b) Notwithstanding the provisions in subparagraph (a), above, if a relevant federal or state statute(s) or rule(s) requires an exception to this Agreement's provisions, or an exception to a requirement in this Agreement is granted by GATU, such exceptions must be noted in PART THREE, and in such cases, those requirements control.

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- 26.13. <u>Illinois Grant Funds Recovery Act</u>. In the event of a conflict between the Illinois Grant Funds Recovery Act and the Grant Accountability and Transparency Act, the provisions of the Grant Accountability and Transparency Act shall control. 30 ILCS 708/80.
- 26.14. <u>Headings</u>. Article and other headings contained in this Agreement are for reference purposes only and are not intended to define or limit the scope, extent or intent of this Agreement or any provision hereof.
- 26.15. <u>Entire Agreement</u>. Grantee and Grantor acknowledge that this Agreement constitutes the entire agreement between them and that no promises, terms, or conditions not recited, incorporated or referenced herein, including prior agreements or oral discussions, shall be binding upon either Grantee or Grantor.
- 26.16. <u>Counterparts</u>. This Agreement may be executed in one or more counterparts, each of which shall be considered to be one and the same agreement, binding on all Parties hereto, notwithstanding that all Parties are not signatories to the same counterpart. Duplicated signatures, signatures transmitted via facsimile, or signatures contained in a Portable Document Format (PDF) document shall be deemed original for all purposes.
- 26.17. Attorney Fees and Costs. If Grantor prevails in any proceeding to enforce the terms of this Agreement, including any administrative hearing pursuant to the Grant Funds Recovery Act or the Grant Accountability and Transparency Act, the Grantor has the right to recover reasonable attorneys' fees, costs and expenses associated with such proceedings.
- 26.18. Continuing Responsibilities. The termination or expiration of this Agreement does not affect: (a) the right of the Grantor to disallow costs and recover funds based on a later audit or other review; (b) the obligation of the Grantee to return any funds due as a result of later refunds, corrections or other transactions, including, without limitation, final Indirect Cost Rate adjustments and those funds obligated pursuant to ARTICLE XVII; (c) the Consolidated Year-End Financial Report; (d) audit requirements established in ARTICLE XV; (e) property management and disposition requirements established in 2 CFR 200.310 through 2 CFR 200.316 and ARTICLE XXII; or (f) records related requirements pursuant to ARTICLE XII. 44 III. Admin. Code 7000.450.

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EXHIBIT A

PROJECT DESCRIPTION

The Certified Local Government (CLG) matching grants program provides funding for participating city and county governments in Illinois to develop and sustain effective local preservation programs and projects that are critical to preserving local historic resources. The Illinois Department of Natural Resources (IDNR) is required to subgrant at least ten percent (10%) of Illinois' annual federal allocation of National Park Service (NPS) Historic Preservation Fund (HPF) to participating CLGs. Currently, there are 81 CLGs in Illinois. Contingent on resolution of the federal budget for its fiscal year 2021 and finalization of a federal award, IDNR anticipates that approximately \$140,340 will be available – on a competitive basis – for this round of grants. All grant proposals submitted should reflect a minimum of 30% matching funds. State Historic Preservation Office (SHPO; federal) Share = 70%; Matching (local) Share = 30%.

Funded project types include the following:

- Survey Projects;
- National Register Nomination and Listing Revision Projects;
- Planning Projects;
- Public Education Projects, including Materials Publication.

Applicants must develop projects in accordance with the Secretary of Interior's Standard for Historic Preservation and must identify a qualified project manager who meets the professional qualification standards in <u>36 CFR Part 61</u>. CLG grants are reimbursement grants, requiring grantees to expend local funds and submit documentation for reimbursement.

The Kendall County Historic Preservation Commission seeks to conduct an intensive-level historical and architectural survey of Kendall and Bristol Townships, two of the nine townships within Kendall County. By ordinance, the Commission has purview over the unincorporated portions of the county. Therefore, a survey of the incorporated City of Yorkville is not included.

The work of this survey project will be divided between an outside consulting firm engaged by the county and volunteers recruited by the commission. The survey project will be led and organized by Kenneth Itle of Wiss, Janney, Elstner Associates. The field survey work will be conducted by two-person teams, typically one WJE professional architectural history staff person and one volunteer. Historical research will mainly be conducted by volunteers. The data compilation and report writing will be performed by WJE.

EXHIBIT B

DELIVERABLES OR MILESTONES

The goals of the Kendall County Historic Preservation Commission are:

- To educate
- To promote the use of historic landmarks
- To protect and enhance the County's attractions for tourists and visitors
- To strengthen the economy of the County
- To foster civic pride in the beauty and noble accomplishments of the past
- To safeguard the County's historic, aesthetic, and cultural heritage

The proposed survey project will further these goals. The survey project will document the history of the county and these two townships, providing a reference that can be used in education and fostering civic pride. The survey will document and identify potentially significant properties, allowing the commission to meet its goal of safeguarding the County's cultural heritage. Once significant properties are identified, the commission will be able to promote preservation and adaptive reuse of the properties, strengthening the economy of the county and protecting and enhancing its appeal for tourists and visitors.

EXHIBIT C

PAYMENT

Grantee shall receive \$29,750 under this Agreement. Match shall be \$12,750.

Enter specific terms of payment here:

Grant Reimbursement

Admin Code 4110.20

(f) Claims for reimbursement must be submitted to the Department of Conservation by the sponsors of approved projects. Each project is assigned a project period by the Heritage Conservation and Recreation Service during which all claims for reimbursement must be submitted to the Department of Conservation. Claims for costs incurred prior to, or after the project period, are not eligible for reimbursement. The following is information which must be submitted with a claim for reimbursement:

- 1) One copy of each invoice (bill) received for work accomplished and one copy of each canceled check as evidence of payment attached to the completed billing summary form.
- For all material purchases, purchase orders and/or invoices and corresponding canceled checks shall be submitted.

(30 ILCS 708/520)

Sec. 520. Separate accounts for State grant funds.

Notwithstanding any provision of law to the contrary, all grants made and any grant agreement entered into, renewed, or extended on or after the effective date of this amendatory Act of the 100th General Assembly, between a State grant-making agency and a nonprofit organization, shall require the nonprofit organization receiving grant funds to maintain those funds in an account which is separate and distinct from any account holding non-grant funds. Except as otherwise provided in an agreement between a State grant-making agency and a nonprofit organization, the grant funds held in a separate account by a nonprofit organization shall not be used for non-grant-related activities, and any unused grant funds shall be returned to the State grant-making agency. (Source: P.A. 100-997, eff. 8-20-18.)

EXHIBIT D

CONTACT INFORMATION

CONTACT FOR NOTIFICATION:

Unless specified elsewhere, all notices required or desired to be sent by either Party shall be sent to the persons listed below.

GRANTOR CONTACT	GRANTEE CONTACT
Name:Susan Duke	Name: _Matthew Asselmeier
Title:Grant Administrator	Title:Senior Planner
Address: One Natural Resources Way, Springfield	
<u>Illinois 62702-1271</u>	Address: 111 W. Fox Street, Yorkville, Illinois 60560
Phone:217-785-4416	Phone:630-553-4139
TTY#:	TTY #:
Fax#: <u>217-785-2438</u>	Fax #:
E-mail Address: _susan.duke@illinois.gov	E-mail: masselmeier@kendallcountyil.gov
	Additional Information:

EXHIBIT E

PERFORMANCE MEASURES

At the completion of the Project, grantees must submit a copy of the updating Historic Preservation Plan (on one searchable PDF) with photographs, saved on a jump drive, CD or DVD.

EXHIBIT F

PERFORMANCE STANDARDS

This is a reimbursement grant. Terms for reimbursement are enumerated in the Certified Local Government Program Matching Grants and Application Guidelines (FFY2021) and include the submittal of the completed project, progress reports, fiscal forms, and Completion Report. The CLG Grant Completion Report has both a Narrative and a Financial Portion. Prior to the end of the Project Period (June 30, 2023), the Grantee shall email the report to DNR.Grants@illinois.gov.

The Narrative Portion is comprised of:

- Complete description of the Project and its components;
- Assessment of the degree of success achieved by the Project;
- Description of all promotional and publicity activities involved in the Project, if any. Include relevant newspaper articles, handouts, news releases, etc.;
- Resumes for the principal individuals engaged in the Project;
- Discussion of any problems encountered in the implementation of the Project and their resolutions;
- Digital files of Project publications, including brochures, guidebooks, newsletters, planning documents, video recordings, etc. For Survey Projects, follow the submission requirements in the Guidelines.

The Financial Portion consists of:

- Completed and signed Forms 1 through 5 (See grant manual attachment)
- Relevant documentation that supports each form, as required, such as payroll statements and donor valuations;

EXHIBIT G

SPECIFIC CONDITIONS

Grantor may remove (or reduce) a Specific Condition included in this **Exhibit G** by providing written notice to the Grantee, in accordance with established procedures for removing a Specific Condition.

ICQ Section: 03-Financial and Programmatic

Conditions: Requires development of a plan to correct deficiencies identified in the risk assessment. The

state agency may request to review documentation of the plan at its discretion.

Risk Explanation: Medium to high risk increases the likelihood that grant revenues and expenditures will be

inaccurate that could result in misreporting, and an abusive environment.

How to Fix: Grantee must submit documentation of implementation of new or enhanced accounting system,

mitigating controls or a combination of both.

Timeframe: One year.

PART TWO - THE GRANTOR-SPECIFIC TERMS

In addition to the uniform requirements in **PART ONE**, the Grantor has the following additional requirements for its Grantee:

27.1 The Project Period begins when the Grantee and IDNR sign the Grant Agreement and ends June 30, 2023. The Project must begin within a reasonable time after the signed Grant Agreement, not to exceed six months after the proposed start date, unless good cause precludes this requirement. All CLG Grant funded work must be completed, and all funds expended by the end date of the Project Period.

27.2 DRAFT SUBMISSION FOR REVIEW AND COMMENT

All Projects receiving CLG Grant funding must be periodically submitted to the SHPO for review and comment.

For instance, drafts of brochure text, survey contexts, planning documents, etc., must be submitted for comment at reasonable benchmarks along their development. Final draft of all Project publications must receive SHPO approval before they are printed. Failure to submit for review in a timely manner may result in non-payment of the CLG Grant.

27.3 PROGRAM STANDARDS AND PROFESSIONAL QUALIFICATIONS

As mentioned in the "Preparing to Apply" section of this manual, grant Projects must conform to the Secretary of the Interior's Standards for Historic Preservation.

27.4 36 CFR Part 61, Professional Qualifications Standards

In the following definitions, a year of full-time professional experience need not consist of a continuous year of full-time work but may be made up of discontinuous periods of full-time or part-time work adding up to the equivalent of a year of full-time experience.

- A. **History**. Minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:
 - 1. At least two years of full-time experience in research, writing, teaching, interpretation or other demonstrable professional activity with an academic institution, historical organization or agency, museum, or other professional institution; or
 - 2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.
- B. **Archaeology**. Minimum professional qualifications in archaeology are a graduate degree in archaeology, anthropology, or closely related field plus:
 - 1. At least one year of full-time professional experience or equivalent specialized training in archaeological research, administration or management.
 - 2. At least four months of supervised field and analytic experience in general North American archaeology; and
 - 3. Demonstrated ability to carry research to completion. In addition, to these minimum qualifications, a professional in prehistoric archaeology shall have at least one year of full-time professional experience at a supervisory level in the study of archaeological resources of the prehistoric period. A professional in historic archaeology shall have at least one year of full-time professional experience at a supervisory level in the study of archaeological resources of the historic period.

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- C. **Architectural history**. Minimum professional qualifications in architectural history are graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history; or a bachelor's degree in the above specialties or closely related field plus one of the following:
 - 1. At least two years of full-time experience in research, writing, or teaching in America architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or
 - 2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.
 - D. **Architecture.** Minimum professional qualifications in architecture are a professional degree in architecture plus at least two years of full-time professional experience in architecture; or a state license to practice architecture.
 - E. **Historic Architecture**. Minimum professional qualifications in historic architecture are a professional degree in architecture of State license to practice architecture, plus one of the following:
 - 1. At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or
 - 2. At least one year of full-time professional experience on historic preservation projects. Such graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specification for preservation projects.
- 27.5 To have received a CLG Grant, your Project Manager must have met these criteria. If the Project Manager changes during the Project, the new Manager must meet these same qualifications. Consultants hired for the Project must meet the National Park Service's Professional Qualifications Standards. Consultants and changes in Project-Manager status must be approved by the SHPO in writing. Email resumes of consultants under consideration to DNR.Grants@illinois.gov, and the SHPO staff will review and respond. The Grantee must conform to their municipal or county procedures for procurement or sub-contracts.

27.6 CONFLICT OF INTEREST

Members of the CLG staff and its Historic Preservation Commission must not have a financial interest in any contracts associated with the Grant.

27.7 REIMBURSABLE EXPENSES

The following costs can be reimbursed by IDNR SHPO if they are incurred during the Project Period and essential to and directly benefit the Project:

- The Grantee's own cash spent on the Project, including money spent on contracts, consultants, goods, and materials;
- CLG overhead costs, including material and equipment used for the Project, such as the costs of
 computer time, phone, electricity, and wear and tear on copier/printer/fax. This is generally called
 Force-Account overhead.
- CLG staff time inclusive of benefits and exclusive of overhead

27.8 NON-REIMBURSABLE EXPENSES

The following costs are non-reimbursable under this grant and must be considered as part of the 30% local match:

- Catering (i.e., food and beverage) for meetings and workshops
- Purchase of durable equipment;
- Donated or contributed cash given to the CLG by non-federal third parties, including other public
- agencies, institutions, and private organizations and individuals.

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- Any goods, services, or non-expendable personal property donated by non-federal third parties, including
- public agencies, institutions, private organizations and individuals.
- Any volunteer time.

27.9 ELIGIBLE MATCHING EXPENSES

Although only the reimbursable expense described above can be claimed as part of the 70% federal share, all reimbursable and non-reimbursable expenses described above may be counted as match if they are incurred during the Project Period and essential to and directly benefit the Project. When a Grantee's reimbursable expenses exceed the Grant Amount and the Project has not incurred enough matching expenses to meet the 30% threshold, a portion of the Grantee's reimbursable expenses may be switched to matching. Form 5 will calculate this automatically. Donated cash or in-kind contributions that are considered part of the 30% matching share must be:

- Verifiable from the Grantee's records;
- Not included as matching contributions for any other federally-assisted program or any contract;
- Necessary and reasonable for proper and efficient accomplishment of approved Project objectives;
- Allowable under the applicable federal cost principles (See OMB Circular A-87);
- Not paid by the federal government directly or indirectly under another assistance agreement unless
- authorized under the other agreement and the laws and regulations to which the other agreement is subject;
- Specified in the approved Grant Agreement between IDNR SHPO and Grantee; and
- Fairly valued and of such nature that, if the federal share had been used to pay for the contributions,
 the
- Grantee would have incurred an allowable cost.

27.10 INELIGIBLE MATCHING EXPENSES

The following specific items cannot be counted towards the local match and are also non-reimbursable.

- Cash originating from federal sources, **except** for Community Development Block Grant Program funds, as applicable;
- Materials donated by the federal government or purchased with federal funds;
- Donated goods and services that have already been counted by the Grantee towards the local match of another of the Grantee's federally-assisted undertakings.

27.11 GRANT REPORTING, COMPLETION REPORT, AND REIMBURSEMENT QUARTERLY PROGRESS REPORT

A Quarterly Progress Report summarizing Project progress in a 3-month period must be emailed to DNR.grants@illinois.gov every quarter from the signing of the Grant Agreement until the Project is fully completed and the Grant is closed. If no Project action has occurred in a particular quarter, a Quarterly Progress Report stating such must be submitted. Quarterly reporting is mandatory, and poor performance can affect future grant funding. Project managers may request monthly reports.

27.12 BID TABULATION

If, as a part of the Project, the Grantee will enter into a contract for goods or services that exceeds \$25,000 or a contract for professional services that exceeds \$20,000, the Grantee must email a completed Bid Tabulation, Requests for Proposals, and Requests for Bids to email address DNR.Grants@illinois.gov. The Grantee must include the name of its preferred contractor/consultant. The SHPO must approve the contractor or consultant in writing. The resulting signed contract must be emailed to DNR.Grants@illinois.gov.

27.13 REIMBURSEMENT

State of Illinois GRANT AGREEMENT FISCAL YEAR 2022 / 3/4/21 Page 35 of 39 This program is a reimbursement program, which means that after the date of the signed Grant Agreement, the Grantee will incur eligible costs and pay them. Once the Project is completed, the Grantee will request reimbursement by submitting the Completion Report, as described below. Grantees cannot request partial reimbursement before the Project is completed. Reimbursement should not be expected for a minimum of 6 weeks after the required documentation is submitted and approved by the SHPO.

27.14 COMPLETION REPORT

The CLG Grant Completion Report has both a Narrative and a Financial Portion. The Narrative Portion fully describes the work accomplished and is a record for future historic-preservation practitioners. Special techniques or preservation procedures that have proven especially satisfactory (or unsatisfactory) may be made available to future Grantees and preservationists with similar Projects. The Financial Portion certifies Project costs and requests reimbursement. Prior to the end of the Project Period (June 30, 2023), the Grantee shall email both portions simultaneously to DNR.Grants@illinois.gov. The two portions cannot be reviewed or approved independently.

A. The **Narrative Portion** is comprised of:

- Complete description of the Project and its components;
- Assessment of the degree of success achieved by the Project;
- Description of all promotional and publicity activities involved in the Project, if any. Include relevant newspaper articles, handouts, news releases, etc.;
- Resumes for the principal individuals engaged in the Project;
- Discussion of any problems encountered in the implementation of the Project and their resolutions;
- Digital files of Project publications, including NRHP nominations, brochures, guidebooks, newsletters, planning documents, video recordings, etc. For Survey Projects, the submission requirements given on page 11 (or those already coordinated with Survey staff) must be followed.

B. The **Financial Portion** consists of:

Completed and signed forms as indicated in the manual on the CLG website and Relevant documentation that supports each form, as required, such as payroll statements and donor valuations; Forms include:

- Form 1: Grantee Contracts, Purchases and Force-Account Items (not including Force-Account labor) Form 1 documents payments for Grant-related materials and contracts that were paid with the Grantee's own money and documents Force-Account overhead costs, to the extent that the Grantee wishes to document them for reimbursement. These expenses are reimbursable as part of the 70% state/federal share. Copies of proof of payment for cash purchases and contracts and a certification by the Project Manager for the value of Force-Account items (like overhead, telephone calls, computer usage, office supplies, etc., paid for from the CLG's operating expenditures) claimed for reimbursement must accompany Form 1 in the Financial Portion of the Completion Report. When using a Grantee's vehicle, mileage reimbursement must be calculated at the current federal rate of 58 cents per mile. You may enter more eligible reimbursable expenditures than the Grant Amount may require because Form 5 will calculate the correct final Reimbursement Amount.
- Form 2: Donated Cash and Materials (non-reimbursable, counted towards local 30% match)
 Form 2 documents payments and donations for Project-related materials that were donated or purchased with donated funds. Donated items and cash are non-reimbursable and will be counted towards the 30% local match. For items purchased with donated cash, proof of payment

State of Illinois GRANT AGREEMENT FISCAL YEAR 2022 / 3/4/21 Page 36 of 39 (i.e., purchase orders, invoices, paid receipts, canceled checks) must accompany Form 2 in the Financial Portion of the Completion Report. For items that were donated to the Project, letters from donors showing the basis for determining the value of donations must accompany Form2. Values assigned to donated material shall not exceed fair market values at the time the donation is assigned to the Project. Records showing the basis for determining the value of donated material assigned to the Project shall be submitted by the Grantee with the Financial Completion Report as described below. When using a Volunteer's vehicle, mileage must be calculated at the current federal rate of 58 cents per mile.

- Form 3A: Force-Account Employee Salary and Time Form 3A certifies the pay rate inclusive of benefits and exclusive of overhead for a single Force-Account employee, such as the Project Manager or another CLG staff person, and it documents the number of hours that particular Force-Account employee worked on the Project. Force-Account labor is reimbursable as part of the state/federal 70% share. Each CLG staff person working on the Project requires his or her own Form 3A. Proof of the employee's salary including benefits (i.e., copies of paystub, official payroll document) must accompany Form 3A in the Financial Portion of the Completion Report. If an employee has a pay-rate change during the Project Period, proof of new salary must accompany Form 3A. Both the Force-Account employee's and the Project Manager's signatures are required on Form 3A; however, when the Force-Account employee is also the Project Manager, the supervisor of the Project Manager must certify his or her subordinate's time. You may enter more Force Account labor expenses than the Grant Amount may require because Form 5 will calculate the correct final Reimbursement Amount.
- Form 3B: Force-Account Employee Time Summary Form 3B summarizes multiple Forms 3A and is needed only when multiple Force-Account employees work on the Project, and their time is being submitted for reimbursement. If the hours of only one Force-Account Employee are being submitted, then Form 3B is not needed.
- Form 4A: Volunteer Time (non-reimbursable, counted towards local 30% match) Form 4A certifies the pay rate for a single Volunteer, and it documents the hours, dates, and the specific duties that particular Volunteer worked on the Project. Volunteer services are non-reimbursable and will be counted towards the 30% local match. Each Volunteer working on the Project whose hours are being counted towards the local match requires his or her own Form 4A. All volunteer services credited toward local match must be certified by both the Volunteer and the Project Manager. If an employer, other than the Grantee or a university, furnishes the services of an employee, these services will be valued at the employee's regular rate of pay (exclusive of fringe benefits and overhead costs), provided these services are in the same profession in which the Volunteer is employed. Proof of salary (i.e., paystub) must be submitted with Form 4A in the Financial Completion Report. Per NPS guidance for FY 18, the maximum allowable rate for Volunteers is \$77.58/hour and \$620.64/day, which is the rate for a GS-15, Step 10 federal employee in Illinois (per the US Office of Personnel Management). When a Volunteer performs services outside his or her profession or trade, his or her time must be valued at the State's minimum wage rate for FY 2019 of \$8.25 per hour. You can enter more local match values than the Grant Amount may require because Form 5 will calculate the correct final Reimbursement Amount.
- Form 4B: Volunteer Time Summary (counted towards local 30% match) Form 4B summarizes multiple Forms 4A and is needed only when multiple Volunteers work on a Project. If the hours of only one Volunteer are being counted towards the match, then Form 4B is not needed.
- Form 5: Reimbursement Request This final form has been completely revised this year. It is an Excel spreadsheet that must be downloaded (See Grants Manual) Form 5 allows you to enter only your Grant Amount and the four totals from Forms 1, 2, 3A or 3B, and 4A or 4B. It will automatically total the reimbursable expenses (Forms 1 and 3) and non-reimbursable expenses

State of Illinois GRANT AGREEMENT FISCAL YEAR 2022 / 3/4/21 Page 37 of 39 (Forms 2 and 4) and calculate the amount you are able to request for reimbursement, based on your totals and the 70%/30% match. After you type in your totals, please print it out, fill and sign the signature block, scan it, and digitally submit it with the rest of your Completion Report.

27.15 TERMINATION OF PROJECTS

Once initiated, a Project financed with funds from this program shall not be terminated by a Grantee prior to satisfactory completion without SHPO approval. Requests for premature termination must explain fully the reasons for the action and detail the proposed disposition of the incomplete Project.

27.16 ADDITIONAL PROJECT FUNDING

Once a Project has received CLG Grant assistance, no further funds shall be made available to it unless the Grantee satisfactorily assures the State that subsequent Project undertakings shall in no way duplicate work that was or should have been accomplished through the original funding.

27.17 INCOME AND COSTS DERIVED FROM THE PROJECT

Admission Fees: Reasonable non-discriminatory admission fees that will not discourage visitation and that are compatible with fees charged at similar facilities in the area may be collected at Grant-assisted properties, after Project completion.

Federal Income: "Tax Liability on Recipients of Historic Preservation Fund Grants" Section 102(a)(6) of the National Historic Preservation Act, as amended, states, "Notwithstanding any other provision of law, no grant made pursuant to this Act shall be treated as taxable income for purposes of the Internal Revenue Code of 1954."

Publication Fees: A reasonable fee may be charged for publications after the Project is completed. **Registration Fees**: A fee may be charged for workshops, as long as there is no profit. The income from fees must be applied toward the funding of the grant.

Legal Notice Costs: If you are required by your local grant procurement rules to publish a Request for Proposal (RFP) or bid in the local paper or the state newspaper, be sure to include this cost in the Project budget.

27.18 RECORDS AND AUDITS

The SHPO and Project Managers must ensure that all records are retained for audit for 5 years following the completion of all Project work.

If any litigation, claim, or audit is started before the expiration of the 5-year period, the records must be retained until all litigations, claims, or audit findings involving the records have been resolved. Records for nonexpendable property acquired with federal funds must be retained for 5 years after the final disposition of the property.

In addition, contractors will maintain all required records for 5 years after the final payments are made and all other pending matters are closed.

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PART THREE - THE PROJECT-SPECIFIC TERMS

In addition to the uniform requirements in <u>PART ONE</u> and the Grantor-Specific Terms in <u>PART TWO</u>, the Grantor has the following additional requirements for this Project:

28.1	The Grants manual, a copy of which the IDNR previously provided to the Grantee, is hereby incorporated
	herein by reference, and made a material and binding part of this Agreement. The undersigned
	acknowledges that he or she (1) has reviewed the Grants manual and (2) agrees to comply with the same.
	(initials of signator).

Kendall County Certified Local Government Historic Structure Survey Bid Tab Sheet Open [100 4m]

DATE	COMPANY	TELEPHONE	BID AMOUNT
6/30/2022	Wiss Janney, Elster Associates, I	£ 847-753-6465	\$42,500



June 23, 2022

Matthew H. Asselmeier, AICP, CFM Senior Planner Kendall County Planning, Building & Zoning 111 West Fox Street Yorkville, Illinois 60560-1498

Historical Survey - Kendall and Bristol Townships

ITB Number PBZ202201 WJE No. 2021.5052

Dear Mr. Asselmeier:

At your request, Wiss, Janney, Elstner Associates, Inc. (WJE) is pleased to provide this proposal to conduct a historical and architectural survey of Kendall and Bristol Townships, two of the nine townships within Kendall County. The townships were selected by the Kendall County Historic Preservation Commission (Commission). Based on past correspondence with you and the ITB dated June 14, 2022, it is our understanding that Kendall County has been awarded a Certified Local Government (CLG) Grant from the Illinois State Historic Preservation Office to support the survey work. Additionally, local volunteers recruited by the Commission will be available to participate in the project work.

The intent of these surveys will be to identify historically and architecturally significant properties and/or sites over 50 years of age, which will result in recommendations of the most noteworthy properties for listing in the National Register of Historic Places or designation as a Local Landmark. As part of the survey, the present condition, integrity, architectural style and features, construction date, and any additions or alterations would be identified for the most significant properties.

SCOPE OF WORK

The Kendall County Historic Preservation Commission seeks to conduct an intensive-level historical and architectural survey of unincorporated areas of Kendall Township (excluding Helmar) and Bristol Township in Kendall County. Based on an initial review of 1930s aerial photography as compared to present-day aerial photography, we estimate that there are approximately 160 existing properties in Kendall Township and 80 existing properties in Bristol Township that should be included in the survey.

To perform the tasks involved with the completion of an intensive-level survey, we understand that members of the Kendall County Historic Preservation Commission will volunteer their time to support the field survey work and historical research.

Based on our understanding of the project, we propose the following scope of work:



- Orientation Meeting. Attend a meeting with the Kendall County Historic Preservation Commission to discuss the survey, clarify the scope of work and methodology, and establish plans for the implementation of the work.
- Sample Report and Survey Form. Provide a sample of the typical survey form to be used for the project.
- 3. **Field Survey**. Perform a survey of farmsteads, cemeteries, and rural churches identified in Kendall and Bristol Townships. Each survey team will typically include one WJE staff member and one Kendall County volunteer. Volunteers will be trained by WJE staff prior to commencement of the field survey.
- 4. **Photographic Documentation**. Prepare documentary photographs using digital photography in accordance with the National Register Photo Policy Factsheet of May 2013.
- 5. **Map**. Prepare a base map of the survey area, showing approximate location of survey sites. The map will be prepared using GIS software. We assume that Kendall County will provide baseline GIS data such as parcel boundaries.
- 6. **Determinations of Eligibility.** Field survey information and research materials collected by volunteers will be reviewed, and landmark status eligibility evaluations will be made for all inventoried sites
- 7. Database Development. The survey data will be compiled using Microsoft Access.
- 8. **Draft Report**. Prepare summary draft reports for Kendall and Bristol Townships, with a discussion and evaluation of the Kendall County region, including the following:
 - Executive Summary
 - Survey methodology
 - A description and context history of the township and the surrounding region, including the growth of businesses, agriculture, and development (it is assumed volunteers coordinated by the county will conduct research and WJE will prepare the historical narrative)
 - List of structures within the survey area, with approximate construction date, architectural style, and the level of significance of each structure
 - Tabulated results from the survey area, including the acres surveyed, total properties extant at time of survey, and number of properties meriting further historical research
 - Map of the survey area
 - Map of potential historic districts, if applicable
 - Map locating noteworthy properties considered eligible for individual landmark status
 - A brief description of significant and relevant surveys previously undertaken in the survey area
 - Identification of any difficulties or limitations in the survey
 - A discussion of recommended strategies for identifying and protecting significant historic properties in the survey area
 - Bibliography of previous surveys and sources referenced



The draft report will be submitted electronically for review.

- 9. **Final Report and Deliverables**. Based on comments received on the draft report, revise and finalize the summary report. The final survey forms, photography, database, mapping, and report files will be provided electronically on CD-ROM. No printed hard copy deliverables are included at this time.
- 10. **Public Meetings.** Attend up to two scheduled meetings with the Kendall County Historic Preservation Commission during the project. Meetings are assumed to be held at the Kendall County office in Yorkville.

As noted above, we anticipate each survey team will typically include one WJE staff member and one Kendall County volunteer. Kendall County will coordinate volunteers to be available to accompany WJE staff during the field survey work.

Additionally, volunteers coordinated by the county will conduct research into the history and development of Kendall and Bristol Townships in area historical societies (supported by knowledgeable members), as well as local libraries. Scans or photocopies of research materials will be provided to WJE, who will develop the context history as described above.

SCHEDULE

Following contracting, WJE will develop a schedule with Kendall County to complete the tasks described in the Scope of Work to meet any submittal requirements indicated by the Illinois State Historic Preservation Office.

BUDGET

To perform the above described Scope of Work, we propose a budget of forty-two thousand, five hundred dollars (\$42,500) to complete both surveys and associated tasks, inclusive of all expenses. All WJE services will be provided in accordance with the *Terms and Conditions* set forth in Section Four of the ITB document.

The budget presented above is for WJE time and expenses only. The budget does not include time from volunteers coordinated by Kendall County to conduct research and assist with the field survey work or other expenses incurred by Kendall County during the project (e.g., printing of hard copies of the final report). It is anticipated that volunteer time and other expenses will provide the local match required as part of the grant program.

WJE is fully licensed to conduct business in the State of Illinois. Resumes of team members with prior experience conducting historic structure surveys in rural, unincorporated locations within Illinois are attached in Appendix A. If you have any questions, or would like to discuss anything regarding this proposal, please let us know.



Sincerely,

WISS, JANNEY, ELSTNER ASSOCIATES, INC.



Kenneth M. Itle Associate Principal

Matthew H. Asselmeier, AICP, CFM Kendall County Planning, Building & Zoning June 23, 2022



APPENDIX A. RESUMES



Kenneth M. Itle | Associate Principal



EDUCATION

- University of Illinois at Urbana-Champaign
 - Bachelor of Science, Architectural Studies, 1998
 - Master of Architecture, Preservation, 2000

PRACTICE AREAS

- Architectural Historical Surveys
- Building Maintenance Plans
- Construction Observation
- Historic Preservation
- Historic Structures Reports
- Leakage Investigation
- National Register Nominations

REGISTRATIONS

- Architect in Illinois and Texas
- National Council of Architectural Registration Boards

PROFESSIONAL AFFILIATIONS

- American Institute of Architects (AIA)
- Association for Preservation Technology International (APT)
- U.S. Committee, International Council of Monuments and Sites (US/ICOMOS)
- U.S. Green Building Council, LEED™ Accredited Professional

CONTACT

kitle@wje.com 847.272.7400 www.wje.com

EXPERIENCE

Kenneth Itle specializes in architectural preservation. His experience includes condition surveys, preparation of repair drawings and specifications, and construction observation for brick and stone masonry, roofing, plaster, windows, and plaza systems.

In addition to his historic preservation work, Mr. Itle has experience in the investigation and repair of water leakage in the building envelope. His work includes water infiltration testing of masonry, curtain wall, and metal panel systems. Mr. Itle has also served on the City of Evanston Preservation Commission.

REPRESENTATIVE PROJECTS

Historic Surveys, National Register, and HABS

- Momence Township Survey Momence, Illinois: Architectural and historical survey of city and township of Momence
- Kankakee County Preservation Master Plan and Survey of Pilot Township - Kankakee County, Illinois: Development of countywide master plan to define goals for preservation commission, including six public meetings in different local communities; detailed survey of Pilot Township (Herscher, Illinois)
- Will County Rural Structures Survey Will County, Illinois: Architectural and historical survey, research report writing, mapping. Surveyed 24 individual townships for multiple projects across 15 years
- Village of Plainfield Rural Structures and Farmsteads Survey - Plainfield, Illinois: Survey of unincorporated areas within the village's planning boundary
- Nebraska Statewide Historic Buildings
 Survey Nebraska: Field work and database development for survey of stateowned historic buildings
- Blue Ridge Parkway North Carolina and Virginia: Field survey, database development, and assessment of significance of buildings, bridges, and tunnels

- Oak Park Madison Street and Lake Street Corridor Surveys - Oak Park, Illinois: Architectural and historical survey of commercial districts
- Town of Normal South Side Survey -Normal, Illinois: Architectural and historical survey of residential districts
- Flat Top Estate Blowing Rock, North Carolina: National Register nomination
- Isabella Stewart Gardner Museum Boston,
 Massachusetts: HABS documentation
- St. Elizabeths Hospital West Campus -Washington, D.C.: HABS documentation of 69 buildings

Historic Structure Reports

- Illinois and Michigan Canal Commissioner's Office - Lockport, Illinois: Field survey, documentation, and historic research
- Illinois State Capitol Springfield, Illinois: Field investigation and historic chronology
- St. Elizabeths Hospital West Campus -Washington, D.C.: Research and report writing for HSRs for 69 buildings; exterior restoration design for 10 buildings
- Fort Pulaski National Monument Georgia: Research, field investigation, and report writing
- Gulf Islands National Seashore Florida: Research, field investigation, and report writing for reports on four historic structures
- Charles Pinckney National Historic Site -Mount Pleasant, South Carolina: Research, field investigation, and report writing for Snee Farm HSR
- Gateway Arch, Jefferson National Expansion Memorial - St. Louis, Missouri -Field investigation, research, and report writing
- Old Courthouse, St. Louis, Missouri Field investigation, research, and report writing for historic study
- Tangier American Legation Museum -Tangier, Morocco: Field investigation, research, and report writing





Michael J. Ford | Senior Associate



EDUCATION

- University of Iowa
 - Bachelor of Science, Geography/Geology, 1996
- University of Illinois at Urbana-Champaign
 - Master of Architecture, Preservation, 2005

PRACTICE AREAS

- Historic Preservation
- Historic Structures Studies
- Condition Assessment
- Repair and Rehabilitation Design
- Roofing and Waterproofing
- Construction Observation
- Facade Assessment

REGISTRATIONS

Architect in IL

PROFESSIONAL AFFILIATIONS

- American Institute of Architects (AIA)
- The Association for Preservation Technology (APT)
- National Trust for Historic Preservation
- Construction History Society of America

CONTACT

mford@wje.com 847.272.7400 www.wje.com

EXPERIENCE

Michael Ford has been involved in numerous architectural preservation and repair projects since joining WJE in 2008. He contributes to projects by performing condition surveys, investigating distress conditions, and preparing repair drawings and specifications for a wide range of historic and modern materials. He also has extensive experience in the research for and preparation of Historic Structures Reports, Cultural Landscape Inventories, Historic American Building Surveys, and National Register Nominations, as well as experience in performing architectural historical surveys of rural and urban districts.

In addition to his historic preservation experience, Mr. Ford has participated in and directed a number of stone cladding, roofing and waterproofing, and exterior envelope investigations, prepared construction documents for their repair, and performed construction observation services during implementation.

REPRESENTATIVE PROJECTS

Architectural Surveys

- Hellman Street Craftsman Historic District -Long Beach, CA: Architectural survey of approximately 450 single-family properties; archival research and documentation; assessment of significance and integrity; database development; and development of GIS mapping
- Joint Base Pearl Harbor/Hickam Honolulu,
 HI: Architectural historical survey of over
 2,000 military structures, bridges, and
 facilities at the joint Navy and Air Force base
- Blue Ridge Parkway Asheville, NC: Architectural historical survey of over 1,100 bridges, tunnels, overlooks, and structures along the parkway; documentation, assessment of significance and integrity, and database development
- Rural Structures Survey Will County, IL:
 Architectural historical surveys of over
 1,000 farmsteads and 5,000 farm-related
 structures; archival research and
 documentation; assessment of significance
 and integrity; and database development

Historic Structures Studies

- San Juan National Historic Site San Juan, Puerto Rico: Building investigation and assessment, writing of Historic Structure Report, and development of drawings for the Historic American Building Survey for an early-nineteenth-century residence.
- Everglades National Park Flamingo and Homestead, FL: Archival research, investigation and assessment, concrete and roofing investigation, and writing of Historic Structures Reports for the Mission 66 Flamingo Developed Area and Cold War-era HM-69 Nike Missile Site
- East Freedom Library St. Paul, MN:
 Building investigation and assessment,
 archival research, and writing of Historic
 Structure Report on the landmark Carnegie
 library in the Arlington Hills neighborhood
 of St. Paul
- Mammoth Cave National Park Mammoth Cave, KY: Building assessment, archival research, oral histories, and writing of Cultural Landscape Report for the Core Visitor Services Area and Historic Structure Report for the Superintendent's Residence
- Rotunda Building Oak Lawn, IL: Building assessment and documentation, archival research, and writing for National Register Determination of Eligibility for mid-century modern medical office building
- Chadwell Gap, Cumberland Gap National Historic Park - Middlesboro, KY: Archival research, writing, documentation, and mapping for National Register Determination of Eligibility for historic coal mining site
- St. Elizabeths Hospital West Campus -Washington, D.C: Archival research, documentation, and writing of architectural history narratives for Historic Structures Reports and Historic American Building Survey for seventy buildings on historic mental institution campus
- Isabella Stewart Gardner- Boston, MA:
 Writing of architectural and narrative
 history and preparation of record drawings
 for Historic American Building Survey
 documentation of historic house museum





Timothy M. Penich | Senior Associate



EDUCATION

- University of Illinois at Urbana-Champaign
 - Bachelor of Science, Architectural Studies, 2007
 - Master of Architecture, 2009

PRACTICE AREAS

- Historic Preservation
- Historic Structure Reports
- HABS and HAER Documentation
- National Register Nominations
- Repair and Rehabilitation Design

REGISTRATIONS

- Architect in Georgia and Illinois
- NCARB certified

PROFESSIONAL AFFILIATIONS

- American Institute of Architects (AIA)
- Association for Preservation Technology International
- National Trust for Historic Preservation
- Society of Architectural Historians (SAH)

CONTACT

tpenich@wje.com 847.272.7400 www.wje.com

EXPERIENCE

Timothy Penich has been involved in numerous historic preservation and building investigation and repair projects since joining WJE. His historic preservation experience includes Historic Structure Reports, Cultural Landscape Reports, Historic American Building Surveys (HABS), National Register nominations, and architectural historical surveys of rural and urban structures and districts. This work has required him to perform surveys of historic buildings, conduct archival research, and write historical and descriptive narratives.

REPRESENTATIVE PROJECTS

Historic Preservation Surveys

- Blue Ridge Parkway North Carolina and Virginia: Assessment and inventory of 1,100 buildings, structures, bridges, and tunnels.
- Rural Structures Survey Will County, IL:
 Architectural historical survey of farmsteads and related sites.

Historic Structure Reports

- Auburn, Natchez, MS: Building investigation and assessment, and writing of Historic Structure Report for historic estate.
- Everglades National Park, FL: Building investigation and assessment, and writing of Historic Structures Reports for the Flamingo Development Area, HM-69 Nike Missile Site, and Shark Valley Tower.
- Fort Pulaski National Monument, GA:
 Building investigation and assessment, and writing of Historic Structure Report for Battery Hambright, Visitor Center and Fort Pulaski.
- Georgia State Parks and Historic Sites, GA: Investigation and assessment, and writing of condition assessment reports for buildings at four parks and historic sites.
- Gulf Islands National Seashore, FL: Building investigation and assessment, and writing of Historic Structures Reports for the Fort Pickens Mine Support Structures, Battery Cullum-Sevier, Battery Langdon, and Battery 234 CRF/BCS Tower.
- Henry Bollman House, Los Angeles, CA:
 Building investigation and assessment, and writing of Historic Structure Report.

- Mammoth Cave National Park, KY: Building investigation and assessment, and writing of Historic Structure Report, for the CCC-era Superintendent's Residence.
- Martin Luther King, Jr., National Historical Park, Atlanta, GA: Building investigation and assessment, and writing of Historic Structure Reports, for nine buildings.
- Peter Strauss Ranch, Santa Monica
 Mountains National Recreation Area, CA:
 Archival research, investigation and
 assessment, and writing of Historic
 Structures Report for residential complex
- St. Elizabeths Hospital West Campus -Washington, D.C.: Archival research and writing for Historic Structure Reports for seventy buildings

HABS and HAER Documentation

- Church of the Resurrection West Chicago, IL: Historic American Building Survey drawings and narrative.
- Eames House Los Angeles, CA: Historic American Building Survey drawings.
- Isabella Stewart Gardner Museum Boston, MA: Historic American Building Survey drawings and narrative.
- St. Elizabeths Hospital West Campus -Washington, D.C.: Historic American Building Survey narrative and measured drawings for seventy buildings.
- St. James School Arlington Heights, IL: Historic American Building Survey drawings and narrative.

National Register Nominations

- Flat Top Estate Historic District (Moses H. Cone National Memorial Park), Blue Ridge Parkway, Virginia: National Register nomination.
- Kingsley Plantation Timucuan Ecological and Historic Preserve, FL: National Register nomination.
- Mammoth Cave National Park, Kentucky: National Register Additional Documentation.
- Pensacola Harbor Defense Project (Fort Pickens) - Gulf Islands National Seashore, FL: National Register nomination.
- White Wolf Lodge, Yosemite National Park, CA: National Register Determination of Eligibility.





Deborah Slaton | Principal



EDUCATION

- Northwestern University
- Bachelor of Arts, 1975
- University of Illinois at Chicago
 - Master of Arts, English, Program for Writers, 1976
- University of Illinois at Urbana-Champaign
 - Master of Architecture, Architectural Engineering (with coursework in Architectural History), 1982

PRACTICE AREAS

- Architectural Conservation
- Cultural Landscape Reports
- HABS Documentation
- Historic Preservation
- Historical Research
- Historic Structures Reports
- Materials Conservation
- National Register nominations

PROFESSIONAL AFFILIATIONS

- Association for Preservation
 Technology International, Fellow
- American Institute for Conservation of Historic and Artistic Works
- Historic Preservation Education Foundation, Director
- Society of Architectural Historians

CONTACT

dslaton@wje.com 847.272.7400 www.wje.com

EXPERIENCE

Ms. Slaton specializes in historic preservation and materials conservation. She has served as project historian and principal investigator for numerous historic structures, sites, monuments, museums, and other institutions, including historical and technical research, development of preservation and repair documents, and problem-solving for archaic and modern materials. She has served as principal author of numerous investigation and preservation reports, conservation studies, Historic Structures Reports, Cultural Landscape Reports, and HABS/HAER documentation projects for numerous National Register-listed properties and National Historic Landmarks, and as author or co-author of numerous National Register nominations and related documentation projects. She meets the Secretary of the Interior's Professional Qualifications Standards for architectural history and history. Ms. Slaton has published and lectured extensively on preservation technology, materials conservation, and architectural history. She is the editor of the proceedings of several national preservation conferences, the author of National Park Service Preservation Brief No. 43: Preparation and Use of Historic Structure Reports, and coauthor of the second edition of Preservation Brief No. 15: Preservation of Historic Concrete.

REPRESENTATIVE PROJECTS

- Blue Ridge Parkway, North Carolina and Virginia: Historic Resource Survey and Assessment, Cultural Landscape Reports for Peaks of Otter and Humpback Rocks Developed Areas
- Chadwell Gap Coal Company Historic District, Cumberland Gap National Historical Park, Virginia: Determination of Eligibility
- Dry Tortugas National Park, Florida: National Register nomination
- Everglades National Park, Florida: National Register nomination for Mission 66 resources park-wide; Historic Structures Reports; Cultural Landscape Inventories
- Flat Top Estate (Moses H. Cone Memorial Park), Blowing Rock, North Carolina: National Register nomination, Cultural Landscape Report Update, and Cultural Landscape Inventory

- Forest Preserve District of DuPage County, DuPage County, Illinois: Cultural resource evaluations for six historic structures
- , Georgia: Historic Structure Reports
- Horseshoe Bend National Military Park, Horseshoe Bend, Alabama: Historic Resource Study and National Register nomination
- Kingsley Plantation, Timucuan Ecological and Historic Preserve, Florida: National Register nomination additional documentation
- Long Beach Historic District Survey, Long Beach, California: Historic district survey and assessment
- Mammoth Cave National Park, Kentucky: Historic Structure Report, Cultural Landscape Reports, National Register Additional Documentation
- Martin Luther King, Jr., National Historical Park, Atlanta, Georgia: Historic Structure Reports, Cultural Landscape Report
- Pensacola Harbor Defense Project, Gulf Islands National Seashore, Florida: National Register nomination, Historic Structure Reports (various structures)
- Shiloh National Military Park, Shiloh, Tennessee, and Corinth, Mississippi: Administrative History
- University of Georgia, statewide: Historic Preservation Master Plan for University historic resources and sites statewide
- Will County Rural Historic Structures Survey,
 Will County, Illinois: Surveys of rural historic structures county-wide

AWARDS

- Excellence in Preservation Service Award, University of Georgia Historic Preservation Master Plan, The Georgia Trust for Historic Preservation, 2020
- Society of Architectural Historians Award for Preservation Advocacy and Stewardship of the Building Environment, 2018
- Preservation Design Award, "Salk Institute for Biological Studies Conservation Management Plan," California Preservation Foundation, October 2017
- Award of Merit, "Blue Ridge Parkway Historic Resource Survey," Virginia Chapter ASLA, 2015



EXHIBIT A — BID SUBMISSION COVER SHEET

ITB Nu	mber & Name	PBZ202	201 Historic Structi	are Survey in Unincorp	oora	ted Bristol and Kendall Townships
Bidder	Name (printed):	Wiss, Ja	anney, Elster Assoc	ciates, Inc.		
Address	330 Pfingsten	Road		_City, State, Zip:	orth	brook, IL 60062
Bid Cla	rification Contact	Person:	Ken Itle, RA	Telephon	ie:	847-753-6465
Email:	kitle@wje.com					
State of	Incorporation:	Illinois		Entity Type	: <u>_</u>	orporation
Federal	Employer Identifi	ication Nu	mber (FEIN):			
Any in	dividual signing	g below h	ereby certifies t	hey are an authori	zed	representative of Bidder and that:
1. 2. 3.	Bidder agrees to Bidder acknowl Bidder certifies Documents), an independently fi	be boundedges received all contended this life in the life in all of the life in the life	d by all requirem ceipt of any and a nts of the Bid (in Bid Submission ther Bidders, and	ents and terms and ll Addenda to this I cluding any other fo Cover Sheet are without collusion,	con TB. orm truth frau	all Bidding Documents. By submitting a Bidditions set forth in the Bidding Documents. s or documentation, if required under the Bidding and accurate and have been prepared d, or other dishonesty. ty Board, the Bidder acknowledges that by
		Bid offer	and signing in th			der is contractually obligated to comply with
	Authorized S	ignature		Da	te	06/23/22
<u> </u> Le	Printed Nam	/He e and Tit	ASSOCIAL Le PANCID	kitle		rje.com Address

EXHIBIT B - Bid Form

BIDDER'S NAME: Wiss, Janney, Elstner Associates, Inc.

KENDALL COUNTY ITB NUMBER: PBZ202201

ITB PROJECT NAME: Historic Structure Survey in Unincorporated Bristol and Kendall Townships

1. <u>COST OF WORK:</u> The undersigned Bidder having familiarized themselves with the conditions affecting the cost of the work and its performance and having carefully examined and fully understood the Bidding Documents, hereby affirms and agrees to enter into a contract with Kendall County, Illinois to provide all supervision, labor, material, equipment, and all other expense items to perform completely the entire work covered by all specifications for the entire work

FOR THE LUMP SUM OF FORTY-TWO THOUSAND FIVE HUNDRED Dollars (\$ 42,500).

[Please include a breakdown of unit and total prices for items as required as an attachment to this Bid Form.]

- 2. <u>COSTS</u>: The undersigned hereby affirms and states that the prices quoted herein constitute the total cost to Kendall County, Illinois for all work involved in the respective items and that this cost also includes all insurance, royalties, transportation charges, use of all tools and equipment, overhead expense, all profits, and all other work, services, and conditions necessarily involved in the work to be done and materials to be furnished in accordance with the requirements of the Bidding Documents.
- 3. <u>PROFESSIONAL REFERENCES</u>: The undersigned shall provide at least three (3) professional references that can provide Kendall County, Illinois with information regarding the bidder's experience with this type of project, and these professional references are attached to this Bid Form.
- **4.** <u>COMPLIANCE CERTIFICATIONS</u>: By initialing below, the undersigned hereby certifies all of the following in accordance with applicable state and federal law:
 - A. COMPLIANCE WITH ILLINOIS DRUG FREE WORKPLACE ACT: The undersigned, having 25 or more employees, does hereby certify pursuant to section 3 of the Illinois Drug Free Workplace Act (30 ILCS 580/3) that it shall provide a drug-free workplace for all employees engaged in the performance of the work under the contract by complying with the requirements of the Illinois Drug-Free Workplace Act and, further certifies, that it is not ineligible for award of this contract by reason of debarment for a violation of the Illinois Drug-Free Workplace Act.

(Initials)

B. COMPLIANCE WITH THE ILLINOIS HUMAN RIGHTS ACT: The undersigned does hereby certify pursuant to Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105) that it has a written sexual harassment policy that includes, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment, utilizing examples; (iv) an internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Illinois Department of Human Rights and Human Rights Commission; (vi) direction on how to contact the Illinois Department of Human Rights and Human Rights Commission; and (vii) protection against retaliation.

The undersigned also further certifies that, pursuant to Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105), it has a written equal employment opportunity policy that is in compliance with all terms and conditions of the Equal Employment Opportunity provisions of the Illinois Human Rights Act.

	ĺ
	(Initials)
-	(minais)

C. CERTIFICATION REGARDING BIDDER ELIGIBILITY: The undersigned does hereby certify that it has not been barred from bidding on a public contract as a result of a violation of either Section 33E-3 (Bid-rigging) or Section 33E-4 (Bid rotating) of the Illinois Criminal Code, contained in Chapter 38 of the Illinois Revised Statues.



D. NON-COLLUSION AFFIDAVIT: The undersigned's completed Non-Collusion Affidavit is attached to this Bid Form.

Mailing Addre	ess: 330 Pfingsten Road Northbrook, Il	60062
Telephone Nu	mber: 847-272-7400	Facsimile Number: 847-480-9534
Email Address	s: kitle@wje.com	Website: wje.com
Type of Busin	ess Organization: (Check the box that	t applies)
	Sole Proprietor	
\boxtimes	Corporation	
	LLC	
	Partnership	
	Limited Partnership	
	Other:	
Signature of A	authorized Representative:	Comment of the second s
Printed Name	Kenneth M. Ithe	Title: Associate Principal
Attested by:	1	Title: Adminstrative Associate

NON-COLLUSION AFFIDAVIT (Complete and Submit with Bid Form)

STATE OF IL)			
COUNTY OF Cook)			
Kenneth M. Itle member of firm (sole owner, member of firm, corpor		, being duly sworn, says that he/sho of, being duly sworn, says that he/sho	_
	ten agreement with an	the/she, in the preparation of the Bid estimates, has my of the other bidders or their agents for the spec- me firm he/she represents.	
or employee of the State of Illinois, admission of guilt of such conduct	or any unit of governm which is a matter of a npted bribery on beh	on convicted of bribery or attempting to bribe an offinent in the State of Illinois, nor has the Bidder made record, nor has an official, agent, or employee of half of the Bidder and pursuant to the direction	an the
The undersigned Bidder further ce conviction for the violation of state		parred from bidding on this contract as a result of igging or bid-rotating.	of a
	Printed Name:	Kennery M. /He	
	Title:	Associate Principal	
	Signature:	· · · · · · · · · · · · · · · · · · ·	_
Subscribed and sworn to me this	23 day of <u>Ju</u>	ne_, 2022.	
2	1		
Notary Public (seal)	No.	MONICA KOSZAREK OFFICIAL SEAL otary Public, State of Illinois My Commission Expires November 06, 2023	

Bidder's Professional References

As part of their Bid package, the Bidder must provide at least three (3) professional/client references for services the Bidder has performed within the past five (5) years that are similar in size, scope, and type of

Reference #1:	
Professional Reference Name: Will County, Illinois	
Contact Person's Name: Lisa Napoles, Development	t Analyst I
Telephone Number: (815) 774-7905	Facsimile Number:
Mailing Address: 58 E. Clinton St., Suite 100 Joliet, IL 60432	Email: Inapoles@willcountylanduse.com
Description and date(s) of services: Will County Run	ral Historic Structures Surveys, 2003-2005
Reference #2:	
Professional Reference Name: Kankakee County, III	
Contact Person's Name: Jane Johnson, Secretary, Ka	ankakee County Historic Preservation Commission
Telephone Number: (815) 936-5555	Facsimile Number: (815) 937-2974
Mailing Address: Kankakee, IL 60901	⊞ Email:
Description and date(s) of services: Kankakee Coun	nty Preservation Plan and Surveys, 2014-2016
Reference #3:	
Professional Reference Name: Vinci Hamp	
Contact Person's Name: Phil Hamp, Architect & Prin	ncipal
Telephone Number: (312) 733-7744	Facsimile Number: (312) 733-4276
Mailing Address: 1147 W. Ohio St. 6th Floor Chicago, IL 60622	Email: phamp@vinci-hamp.com
Description and date(s) of services: Illinois State Ca	pitol HABS Narrative: 2009-Present

2022 VIOLATIONS

Address Subdivision 20 Shore Ct. Marina Village 44 Briarcliff Rd. Boulder Hill 16 Winrock Rd. Boulder Hill 54 Springdale Rd. Boulder Hill 235 Fernwood Rd. Boulder Hill 1539 Collins Rd. 1539 Collins Rd. 7796 Madeline Dr. FOFC	on Name	Aguilar	Jones	V22-003 Cabrera 03-0	Lemaster	Johnson	Haehlen	Joaquin	Bilek	VOID	Faulkner	Amstadt											
Subdivision Marina Village Boulder Hill Boulder Hill Boulder Hill d. Boulder Hill Rd POFC Dr. FOFC	_	03-07-277-001	03-05-279-020	03-04-306-027			03-04-277-011	27-377-015	34-300-008		03-26-100-004	\rightarrow											
a Village er Hill er Hill er Hill	Address	20 Shore Ct.	44 Briarcliff Rd.	44 Hampton Rd.	16 Winrock Rd.	54 Springdale Rd.	235 Fernwood Rd.	2543 Simons Rd	14824 Millhurst Rd		1539 Collins Rd.	2											
Description Parking on Lawn Illegal fence height Multiple Violations Inoperable Vehicles Trailer parking RV parking Banquet facility Air B&B Multiple Violations RV parking		Marina Village Parking on Lawn							Air B&B														
	Opened	11/9/2021	8/6/2021	8/3/2021	8/18/2021	11/22/2021	11/24/2021	11/15/2021	1/3/2022		7/13/2021	5/24/2022	7 = 7										
Opened 11/9/2021 8/6/2021 8/3/2021 8/18/2021 11/22/2021 11/15/2021 11/15/2021 1/3/2022 7/13/2021 5/24/2022	Follow up	1/23/2022	1/23/2022	1/23/2022	1/23/2022	1/23/2022	1/23/2022		3/11/2022		8/4/2021	6/24/2022	0,1										
Б	PBZ																						
Follow up 1/23/2022 1/23/2022 1/23/2022 1/23/2022 1/23/2022 1/23/2022 3/11/2022 8/4/2021 6/24/2022	SAO							5/16/2022															
Follow up PBZ 1/23/2022 1/23/2022 1/23/2022 1/23/2022 1/23/2022 1/23/2022 3/11/2022 8/4/2021 6/24/2022	Closed	2/9/2022	4/27/2022	5/9/2022		4/22/2022	2/24/2022																

str.

2020 VIOLATIONS

1/14/2021		200000	0/11/000	Drobibited Trailer parking	Roulder Hi	3 Wembley Ro	103-04-456-001	NP2	120-041
			10/22/2020	Landscape Bus/Commercial Vehicle inR-6	Boulder Hill	13 Durango Rd	03-05-432-007	Martinez	20-040
1/11/2021		1/15/2021	10/22/2020	Trucking Business in A-1 zoning		13039 McKanna Rd	09-09-100-002	Moreno, Luis & Cesario	20-039
12/3/2020		11/22/2020	10/22/2020	Multiple Zoning Violations		Wheeler Rd	06-23-200-004	Plainfield Board of Education	20-038
12/14/2020		11/19/2020	10/20/2020	Multiple Zoning Violations	see V20-027	192 Route 52	09-13-200-006	Briscoe	20-037
12/10/2020		10/21/2020	10/7/2020	Driveway - No Permit	Boulder Hill	10 Ashlawn Ave	03-08-253-007	Marmolejo	20-036
11/19/2020		11/13/2020	9/21/2020	Stormwater Violation			02-21-200-028	Wieschhaus	20-035
10/16/2020		10/19/2020	9/16/2020	Stormwater Violation		9155 Kennedy Rd	02-21-200-014	Staudacher Family Trust	20-034
9/28/2020		9/28/2020	8/26/2020		Red Hawk Landing	Lot 22	03-26-300-007	Oliver/Balog	20-033
1/21/2021		10/19/2020	8/20/2020	Possible Landscaping Business	Bakers	9000 Route 34	02-27-151-003	Gates / Cox Landscaping	20-032
10/20/2020		10/23/2020	8/20/2020	Deck - No permit		1152 Route 126	06-14-200-003	Ramirez	20-031
9/2/2020		9/3/2020	7/24/2020	Pool - No permit	Boulder Hill	38 Old Post Rd	03-08-230-005	Braves%Jarrett Realty	20-030
8/28/2020		8/29/2020	7/30/2020	Sign - No permit		3195 Plainfield Rd	03-27-301-002	Anicich	20-029
8/28/2020		8/22/2020	7/22/2020	Fence Violation	Boulder Hill	43 Saugatuck Rd	03-04-378-039	King	20-028
10/21/2020		9/22/2020	7/17/2020	Multiple Violations		195 Route 52	09-13-200-002	Hansel Ridge, LLC	20-027
7/31/2020		7/20/2020	6/18/2020	Stormwater/Culvert built	Plattville	94 Pletcher Dr	08-02-402-002	Niles	20-026
TW 1 (1) W)		12/31/2020	6/15/2020		Fox Lawn	14 Maple Street	05-05-103-002	Sec of Veteran Affairs	20-025
8/25/2020		5/29/2020	4/28/2020	Stormwater & J	Sugarbrook Estate	84 Woodland Dr	01-20-352-018	Velasquez	20-024
6/10/2020		4/2/2020	3/19/2020	Prohibited semi tractor parking	Boulder Hill	106 Tealwood Rd	03-04-408-003	Kubica Wieslaw	20-023
6/10/2020		4/2/2020	3/19/2020	Junk & Debris	Boulder Hill	80 Springdale Rd	03-04-477-038	Wargo	20-022
6/10/2₩20		4/2/2020	3/19/2020	Inoperable Vehicle	Boulder Hill	134 Heathgate Rd	03-04-278-035	Evans	20-021
3/25/2030		4/2/2020	3/19/2020	Inoperable Vehicle	Boulder Hill	42 Circle Dr. E	03-04-303-008	Ortiz	20-020
6/10/2020		4/2/2020	3/19/2020	Inoperable Vehicle	Boulder Hill	29 Circle Dr. E	03-05-428-002	Stukas	20-019
10/29/2020		4/1/2020	3/18/2020	Inoperable Vehicle	Boulder Hill	114 Boulder Hill Pass	03-05-404-007	Fox Valley Homes LLC	20-018
6/11/2020		4/24/2020	3/18/2020	Inoperable Vehicle	Boulder Hill	16 Cebold Dr.	03-08-280-008	Henn	20-017
6/10/2020		3/26/2020	3/3/2020	Prohibited Trailer parking	Shore Heights	117 Dolores St.	03-08-303-001	Campos	20-016
5/6/2020			3/6/2020	Multiple Zoning Violations		276 Route 52	09-13-400-006	ERB Properties LLC	20-015
8/5/2020		3/18/2020	3/4/2020	Prohibited Storage Business		16388 Galena Rd	01-05-203-003	Crisci	20-014
3/11/2020		3/5/2020	2/20/2020	Prohibited Commercial Vehicle	Boulder Hill	251 Fernwood Rd	03-04-277-019	Robles	20-013
2/4/2020		2/14/2020	1/31/2020	Prohibited Trailer parking	Boulder Hill	3 Creve Ct.	03-05-454-028	Chamberlain	20-012
3/11/2020		2/29/2020	1/31/2020	Prohibited Commercial truck	Boulder Hill		03-04-408-003	Kubica Wieslaw	20-011
12/3/2020			1/28/2020	Operating Business in R-2	Highpoint Hills	oint Rd	05-18-300-005	Drake	20-010
7/6/2020		2/27/2020	11/26/2019	Multiple Violations		1026 Harvey Rd	03-12-100-002	Navarro	20-009
2/25/2020		2/18/2020	12/26/2019	Prohibited Boat parking	Boulder Hill	14 Scarsdale Rd.	03-05-454-027	Franzen	20-008
1/30/2020		1/31/2020	12/17/2019	Prohibited Trailer parking	Boulder Hill	54 Springdale Rd.	03-04-477-025	Johnson	20-007
3/16/2020		2/1/2020	12/11/2019	Prohibited Sign	FOFC	Fields Dr	02-35-301-007	Municipal Bank%Besiri Adil	20-006
3/16/2020		2/1/2020	12/11/2019	Prohibited Sign	FOFC	Audrey & Gilda Ct	02-35-413-014	Municipal Bank%Besiri Adil	20-005
12/30/2019		12/25/2019	12/11/2019	Prohibited Banner Sign	Boulder Hill	140 Saugatuck Rd	03-03-352-004	Cadena	20-004
12/24/2019		12/23/2019	12/4/2019	Prohibited RV/trailer parking	Boulder Hill	14 Ridgefield Rd.	03-09-152-019	Gonzalez	20-003
12/17/2019		12/16/2019	12/3/2019	Zoning Setback violations		9312 Millbrook Rd	04-22-300-005	Graves	20-002
3/9/2020		1/13/2020	11/7/2019	Multiple Violations - No permits		9923 Walker Rd	05-21-300-002	JK Property,% Calder	20-001
O Closed	PBZ SAO	Follow up	Opened	Description	Subdivision	Address	Parcel #	Name	Violation

2019 VIOLATIONS

8/23/2019	8/25/2019	7/18/2019	Junk & Debris	Boulder Hill	W Aldon Ct	() 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	(Jamhino	
7/24/2019	7/25/2019	7/11/2019	Multiple Violations	Boulder Hill	135 Saugatuck Rd.	03-03-351-009	Diaz	19-090
7/24/2019	7/25/2019	7/11/2019	RV on non approved surface	Boulder Hill	53 Sonora Dr	03-04-431-002	Urbanova	19-089
12/16/2019	7/20/2020	7/10/2019	Prohibited RV Parking	Boulder Hill	18 Ridgefield Rd	03-09-152-021	Greenslade	19-088
8/5/2019	8/5/2019	7/3/2019	Site work without permit	Light Rd Ind Park	Lot 6-8 Commerce Rd	02-12-428-001	Majey Concrete, Inc.	19-087
7/1/2019	7/10/2019	6/26/2019	Business in R6 zoning	Boulder Hill	67 Stratford Rd.	03-04-452-007	Wollwert	19-086
7/10/2019	7/10/2019	6/26/2019	Prohibited trailer parking	FOFC	5727 Fields Dr	02-35-380-005	Whaley	19-085
7/10/2019	7/5/2019	6/21/2019	Prohibited Boat Parking	FOFC	7715 Madeline Dr	02-35-384-001	Netzel	19-084
7/10/2019	7/5/2019	6/21/2019	Prohibited Trailer parking	FOFC	7747 Madeline Dr	02-35-310-006	Forbes	19-083
7/24/2019	7/24/2019	6/12/2019	Boat parket in required front yard	Boulder Hill	51 Old Post Rd	03-09-103-008	Cerny/Grzetic	19-082
9/11/2019	9/9/2019	6/12/2019	Inoperable Vehicles	Boulder Hill	18 Greenfield Rd.	03-05-429-008	Braves Realty/Jarrett	19-081
7/23/2019	7/20/2019	6/12/2019	Prohibited Trailer parking	Boulder Hill	13 Circle Drive East	03-05-429-016	Ramirez	19-080
7/10/2019	7/11/2019	6/10/2019	Prohibited Trailer parking	Boulder Hill	35 Old Post Rd	03-08-227-042	Gervias	19-079
7/30/2019	7/26/2019	6/10/2019	Multiple Violations	Boulder Hill	53 Sheffield Rd	03-04-476-002	Smith	19-078
7/2/2019	7/11/2019	6/10/2019	Prohibited trailer parking	Boulder Hill	6 Pembrooke Rd	03-04-155-004	Gossett	19-077
6/27/2019	6/24/2019	6/10/2019	Prohibited trailer parking	Boulder Hill	5 Pendleton Pl	03-04-281-003	Gallegos	19-076
6/11/2019	7/15/2019	6/5/2019	Inoperable Vehicle	Boulder Hill	16 Ingleshire Rd	03-04-177-023	Brooks	19-075
7/23/2019	7/26/2019	6/4/2019	Trucking Business Prohibited	Langeland's	14625 Jughandle Rd	09-15-300-008	Weder	19-074
6/28/2019	6/27/2019	6/3/2019	Inoperable Vehicle/Junk & Debris		522 Dickson Rd	02-03-400-005	Porter/Fischer	19-073
7/1/2019	6/30/2019	6/3/2019	3 Inoperable Vehicles	Boulder Hill	131 Circle Dr W	03-09-155-005	Persons	19-072
6/28/2019	6/28/2019	5/29/2019	Junk & Debris	Boulder Hill	51 Springdale Rd	03-04-478-005	Garcia	19-071
9/11/2019	9/19/2019	5/29/2019	Junk & Debris	Boulder Hill	55 Longbeach Rd	03-04-379-002	Akers	19-070
6/5/2019	6/4/2019	5/21/2019	Prohibited Boat Parking	FOFC	5896 Fields Dr.	02-35-381-006	CT&T# 133412	19-069
6/5/2 99 9	6/4/2019	5/21/2019	Inoperable Vehicle	Boulder Hill	17 Fieldpoint Rd.	03-08-277-024	Lamberty	19-068
							Void	19-067
6/3/2019	5/31/2019	5/17/2019	Prohibited Trailer Parking	Boulder Hill	31 Whitney Way	03-04-329-012	Machado	19-066
6/19/2019	6/17/2019	5/16/2019	Prohibited RV & Boat parking	Boulder Hill	29 Guilford Rd	03-08-202-015	Lazaroski	19-065
6/19/2019	6/15/2019	5/16/2019	Prohibited RV Parking	Boulder Hill	8 Pickford Rd	03-08-279-002	Yates	19-064
6/10/2019	6/10/2019	5/16/2019	Prohibited RV Parking	Boulder Hill	13 Pickford Rd.	03-08-278-017	Reinert	19-063
8/28/2019	8/19/2019	5/16/2019	Prohibited Boat parking	Boulder Hill	54 Marnel Rd.	03-04-326-006	Valenzuela/Ibarra	19-062
6/3/2019	5/30/2019	5/16/2019	Inoperable Vehicle	Boulder Hill	102 Circle Drive W	03-08-278-010	Fecarotta	19-061
6/3/2019	5/30/2019	5/16/2019	Inoperable Vehicle	Boulder Hill	9 Fieldpoint Rd.	03-08-277-020	Myles	19-060
6/3/2019	5/30/2019	5/16/2019	Prohibited Boat parking	Boulder Hill	7 Fieldcrest Dr	03-08-280-029	Stiles	19-059
6/3/2019	5/29/2019	5/15/2019	Inoperable Vehicle	Boulder Hill	45 Whitney Way	03-04-329-019	Castillo	19-058
7/1/2019	6/27/2019	5/15/2019	Prohibited Trailer Parking	Boulder Hill	36 Circle Dr W	03-05-454-008	Avila, Munoz, Rubio	19-057
6/12/2019	6/12/2019	5/15/2019	Prohibited RV Parking	Boulder Hill	6 Crescent Ct.	03-04-376-037	Casner	19-056
5/29/2019	5/29/2019	5/15/2019	Inoperable Vehicle	Boulder Hill	16 Cebold Dr	03-08-280-008	Henn	19-055
5/23/2019	5/29/2019	5/15/2019	Shed - no permit	Boulder Hill	44 Winrock Rd	03-04-405-017	Tierney	19-054
6/17/2019	6/16/2019	5/15/2019	Prohibited Boat parking	Boulder Hill	3 Cebold Dr	03-08-253-016	Rudow/Andrews	19-053
6/3/2019	5/29/2019	5/15/2019	Inoperable Vehicle	Boulder Hill	67 Old Post Rd	03-09-104-011	Arenas	19-052
6/3/2019	5/29/2019	5/15/2019	Inoperable Vehicle	Boulder Hill	22 Fieldpoint Rd	03-08-278-002	Likar	19-051
11/3/2021 50 3/	8/1/2019	5/13/2019	Multiple Violations		1038 Harvey Rd	03-12-100-004	Martinez	19-049
10/22/2019	10/15/2019	5/15/2019	Junk & Debris		1551 Cherry Rd	06-02-177-007	Ring	19-048
6/21/2019	5/28/2019	5/14/2019	Prohibited Trailer Parking	FOFC	324 Austin Ct	05-02-101-002	Johnson	19-047
7/30/2019	8/1/2019	5/9/2019	Multiple Violations		14674 Brisbin Rd	09-18-300-016	Muniz	19-046
		0101000	INIUITIPIE VIOIGIIOIIS		2400 Kt. / I	00-10-200-002	Said Lange	100

PRE VIOLATION REPORT 2022

t		1/1//2022	lunk & Dehric	Boulder Hill	76 Circle Dr E. Montgomery	03-04-376-003	4/12/2022
7/5/2022 6/2/2022	30 day warning	4/20/2022	Multiple Violations		17045 Ridge Rd. Minooka	09-35-200-005	4/12/2022
5/25/2022	30 day warning	4/25/2022	Short term rental- banquet facility		1126 Simons Rd. Oswego	03-35-200-003	4/8/2022
5/18/2022	30 day warning	4/13/2022	Junk & Debris	Boulder Hill	51 Circle Drive E Montgomery	03-04-306-001	4/8/2022
4/12/2022 4/12/2022	2	4/12/2022	Trailer Parking	Boulder Hill	3 Wembley Rd. Montgomery	03-04-458-001	3/23/2022
4/12/2022 4/12/2022	Not enough evidence 4	4/12/2022	Possible Boarding house	Boulder Hill	48 Pembrooke Rd. Montgomery	03-04-181-010	3/16/2022
3/16/2022	Single family home BP# 01-00-160	3/15/2022	Possible barndominium		13297 Fennel Rd. Newark	07-07-200-022	3/11/2022
4/10/2022 Clases	-	2/12 & 3/9	Possible Auto repar business	Boulder Hill	8 Circle Dr East Montgomery	03-05-402-008	3/10/2022
5/23/2022	Removed	5/23/2022	Illegal POD in driveway	Boulder Hill	25 Hampton Rd. Montgomery	03-04-351-001	3/9/2022
4/12/2022 5/18/2022	30 day warning 4	3/9/2022	Multiple Violations	Boulder Hill	39 Whitney Way Montgomery	03-04-329-016	3/2/2022
4/8/2022 4/14/2022	family time	3/7/2022	Multiple Violations		804 McHugh Rd. Yorkville	02-28-403-005	3/2/2022
4/12/2022	30 day warning	3/9/2022	Junk & Debris	Boulder Hill	37 Woodridge Rd. Montgomery	03-04-154-002	3/7/2022
4/13/2022 4/13/2022	4	3/7/2022	Inoperable Vehicle-green truck	Richard Blackberry Estates	30 Patricia Ln. Yorkville	02-21-151-005	3/1/2022
3/7/2022	No violation	3/7/2022	Trailer in setback	Squaw Valley	5626 Minkler Rd. Yorkville	02-36-300-014	2/28/2022
3/9/2022	No POD on site	3/9/2022	POD in driveway	Boulder Hill	141 Boulder Hill Pass Montgomery	03-05-453-007	2/24/2022
3/9/2022	No RV on site	3/9/2022	Prohibited RV parking	Boulder Hill	54 Circle Dr. W Montgomery	03-08-202-008	2/24/2022
4/14/2022	30 day warning	3/7/2022	Box truck	Fields of Farm Colony	339 Austin Ct. Yorkville	02-35-301-003	2/24/2022
4/3/2023 Checks	MA		Driveway not asphalted per Ord. 2014-21		8250 Route 71 Yorkville	05-03-200-027	2/22/2022
2/18/2022	No Evidence of violation	2/18/2022	Remodel bathroom w/o permit	Riverview Heights	8 Riverview Ct. Oswego	02-24-228-001	2/16/2022
2/15/2022	No Evidence of auto shop	2/12/2022	Possible Auto repair business	Boulder Hill	83 Pueblo Rd. Montgomery	03-04-378-019	2/7/2022
4/13/2022 4/13/2022	Tow vehicle, trailers, cars, hauler 4	2/12/2022	Possible Auto repair business	Boulder Hill	8 Circle Dr East Montgomery	03-05-402-008	2/7/2022
2/15/2022	No Evidence of auto shop	2/12/2022	Possible Auto repair business	Boulder Hill	51 Hunter Dr. Montgomery	03-04-256-020	2/7/2022
3/9/2022	No RV on site	3/9/2022	Prohibited RV parking	Boulder Hill	102 Circle Drive W Montgomery	03-08-278-010	2/4/2022
3/8/2022	Applied for Permit	2/9/2022	Occupying a struction w/o C of O	Boulder Hill	81 Boulder Hill Pass	03-05-401-003	2/3/2022
1/27/2022	No Debris or Garbage observed	1/27/2022	Junk & Debris		behind 421 Hazeltine Way		1/26/2022
1/20/2022	Unable to observe blowing J & D	1/19/2022	Junk & Debris		9600 Route 71	05-04-300-033	1/19/2022
2/2/2022	Building permit applied for	1/18/2022	Possible residence in Barn		17660 Sedgewick Rd. Sandwich	01-19-200-009	1/18/2022
2	ponse	1/18/2022	Drive Lane not hard surface per SU approval		8250 Route 71 Yorkville	05-03-200-027	1/14/2022
2/3/2022 3/8/2022	Several Trucks Parked	1/23/2022	Trucking Business		8115 E. Highpoint. Rd.	05-18-226-002	1/13/2022
3/7/2022		2/28/2022	Trailer in Front yard setback	FOFC	5703 Fields Dr. Yorkville	02-35-380-006	1/11/2022
		1/23/2022	Junk & Debris	Boulder Hill	44 Ingleshire Rd. Montgomery	03-04-253-010	1/11/2022
1/21/2022 1/21/2022	-	1/5/2021	RV parked in front yard since 12/10/2021	FOFC	7796 Madeline Dr. Yorkville	02-35-380-006	1/6/2022
1/19/2022	Forwarded to Matt A for response	12/21/2021	Tent	Fox River Gardens	80 Riverside St. Yorkville	02-34-204-004	1/5/2022
1/19/2022	Gravel Drive Grandfatherd in	1/6/2022	Parking on non approved surface	Boulder Hill	23 Old Post Rd. Montgomery	03-08-227-036	1/5/2022
4/14/2022	Burnt car / trailer	1/6/2022	Inoperable Vehicle	Boulder Hill	14 Ridgefield Rd. Montgomery	03-09-152-019	1/5/2022
	moved	1/6/2022		Boulder Hill	22 Wyndham Dr. Montgomery	03-04-305-026	12/29/2021
4/12/2022 4/12/2022	No change	1/6/22 ,1/23/22	arking	Boulder Hill	49 Winrock Rd. Montgomery	03-04-406-004	12/28/2021
3/21/2022 182 9/	No change	1/6/2022, 1/23/2022		Owners 2nd Sub	19 N. Cherry Dr. Oswego	03-18-402-003	12/20/2021
. 1/5/2022	BP applied for #04-2022-029	12/20/2021	Building w/permit	Oswego Plains	7 Cherokee Dr. Oswego	06-02-177-003	12/20/2021
3/9/2022	30 day warning 1/24/2022	1/6/2022	Inoperable Vehicle	Boulder Hill	158 Boulder Hill Pass Montgomery	03-05-430-026	12/16/2021
2/18/2022	30 day warning 1/13/2022	1/6/2022	3 trailers in front yard setback	Fields of Farm Colony	5879 Danielle Lane Yorkville	02-35-381-004	12/16/2021
		1/6/2022	Prohibited Trailer parked in front yard	Boulder Hill	37 S Bereman Rd. Montgomery	03-05-429-031	12/16/2021
2/24/2022 3/9/2022	-	1/6/2022	Prohibited Trailer parked in front yard	Boulder Hill	42 S Bereman Rd. Montgomery	03-05-430-019	12/13/2021
6/3/2022 6/8/2022		12/11/2021	Multiple Violations	Boulder Hill	22 Greenbriar Rd. Montgomery	03-04-152-013	12/7/2021
12/20/2021	Truck in setback - trailer removed	12/22/2021	Prohibited Trailer parked in front yard	Boulder Hill	124 Longbeach Rd. Montgomery	03-04-408-041	12/2/2021
12/20/2021	Ag Building - Backfill per MA	12/13/2021	Inoperable Vehicles & Pile of dirt		195 Route 52 Minooka	09-13-200-006	12/2/2021
F/Up Closed	Comments	Inspection Date	Description of Complaint	Subdivision	Address	Parcel #	Date Opened

PRE VIOLATION REPORT 2022

7/1/2022 (16.21) 7/1/2022 (16.21) 7/1/2022 (16.21) 7/9/2022 (16.21)	30 day warning notice	6/8/2022	POOI - NO PETITIL		O CLCAC CE INICINDAMENT	00 00	
0 500			Dool No Darmit	Boulder Hill	9 Creve Ct. Montgomery	03-05-454-031	6/6/2022
200	Sent email for location to view or hear	6/9/2022	Rooster	Boulder Hill	4 Culver Rd. Montgomery	03-08-278-009	6/6/2022
200			Landscape business	Boulder Hill	113 Saugatuck Rd. Montgomery	03-04-479-023	6/2/2022
90	30 Day warning notice	5/25/2022	Junk & Debris	Boulder Hill	43 Saugatuck Rd. Montgomery	03-04-378-039	6/1/2022
	30 Day warning notice	5/25/2022	Boat in F-yard setback	Boulder Hill	15 Codorus Rd. Montgomery	03-05-476-020	5/31/2022
	30 Day warning notice	5/25/2022	Trailer in F-yard setback	Boulder Hill	24 Seneca Dr. Montgomery	03-05-432-010	5/31/2022
7/15/2022	Met w/owner	6/14/2022	Remodel & Change of Occup w/o permit	Walz	7789 Route 47 Yorkville	05-09-300-015	5/31/2022
6/9/2022	No evidence found of auto repair	6/7/2022	Car Repair business	Shore Heights	168 Dolores St. Oswego	03-07-402-014	5/31/2022
6/8/2022	Site visit w/owner-business not operational	5/25/2022	Mechanic Shop	Boulder Hill	51 Springdale Rd. Montgomery	03-04-478-005	5/26/2022
6/23/2022 (in hon 7/1)	30 Day warning notice	5/23/2022	Trailer in Front yard setback	Boulder Hill	7 Greenfield Rd. Montgomery	03-05-404-028	5/24/2022
6/23/2022 (16 hor 7/	30 Day warning notice	5/23/2022	Junk & Debris	Boulder Hill	162 Heathgate Rd. Montgomery	03-04-428-011	5/24/2022
6/23/2022 6/24/2022	30 Day notice for parking	5/23/2022	Parking on non approved surface	Boulder Hill	50 Sierra Rd. Montgomery	03-04-376-039	5/24/2022
6/23/2022 6/24/2022	30 Day warning notice	5/23/2022	Camper parked in F-yard setback	Boulder Hill	138 Fernwood Rd. Montgomery	03-04-256-026	5/24/2022
6/23/2022 6/24/2022	30 Day warning notice	5/23/2022	Trailer in F-yard setback	Boulder Hill	121 Fernwood Rd. Montgomery	03-04-180-004	5/24/2022
6/8/2022	Met w/owner - Home Occupation	5/25/2022	Sealcoating business	Boulder Hill	7 Curtmar Ct. Montgomery	03-05-454-013	5/24/2022
d/9/2022	Unable to locate commercial vehicle	5/25/2022	Commercial Vehicle parking	Herrens Riverview Add	2245 Route 31 Oswego	03-17-102-011	5/24/2022
7/1/2022 Oma 612	30 Day warning notice	5/25/2022	Commercial Vehicle	Boulder Hill	34 Longbeach Rd. Montgomery	03-04-307-025	5/20/2022
5/30/2022		5/26/2022	Possible remodel w/o permit	Boulder Hill	55 Ingleshire Rd. Montgomery	03-04-252-003	5/20/2022
7/1/2022	30 Day warning notice	5/25/2022	Inoperable Vehicle	Boulder Hill	112 Lonbeach Rd. Montgomery	03-04-408-035	5/20/2022
7/1/2022 FU 9/11	30 Day warning notice	5/25/2022	Junk & Debris	Boulder Hill	20 Wyndham Dr. Montgomery	03-04-305-025	5/18/2022
0	30 Day warning notice	5/25/2022	Inoperable Vehicle	Boulder Hill	99 Longbeach Rd. Montgomery	03-04-477-002	5/18/2022
73	30 Day warning notice	5/25/2022	Landscape business in R-6 zoning	Boulder Hill	21 Durango Rd. Montgomery	03-04-352-002	5/18/2022
0	30 Day warning notice	5/25/2022	RV Parked in grass	Boulder Hill	118 Boulder Hill Pass	03-05-404-009	5/18/2022
7/1/2022 Clase	30 Day warning notice	5/25/2022	Trailer Parking	Boulder Hill	14 Ridgefield Rd. Montgomery	03-09-152-019	5/18/2022
5/25/2022	ZBA allowed parking on gravel	5/25/2022	Parking on non approved surface	Boulder Hill	23 Old Post Rd. Montgomery	03-08-227-036	5/18/2022
5/31/2022	No violation	5/31/2022	Driveway - No Permit	Boulder Hill	115 Fernwood Rd. Montgomber	03-04-180-002	5/18/2022
6/1/2022	No Evidence - Neighbor will monitor	Several	Banquet Facility	Snyder	1700 Little Rock Rd. Plano	01-10-301-003	5/10/2022
5/16/2022	Removed	5/16/2022	Illegal dumping		Brisbin Rd. Minooka	09-18-300-017	5/10/2022
5/24/2022	Pool is min. 5" from property line	5/17/2022	Pool encroachment	Estates of Millbrook	8942 Wilcox Ct. Millbrook	04-16-351-005	5/10/2022
5/10/2022	Deferred to Osw Twn HwyDept	5/10/2022	Fence in ROW	Boulder Hill	9 Seneca Dr. Montgomery	03-05-430-031	5/9/2022
5/10/2022	No violation	5/10/2022	Trailer in F-yard setback	FOFC	5812 Danielle Ln. Yorkville	02-35-382-008	5/5/2022
5/10/2022	Deferred to Osw Twn HwyDept	5/10/2022	Fence in ROW	Boulder Hill	38 Hampton Rd. Montgomery	03-04-306-024	5/5/2022
5/10/2022	Deferred to Osw Twn HwyDept	5/10/2022	Fence in ROW	Boulder Hill	52 Springdale Rd. Montgomery	03-04-477-024	5/5/2022
5/10/2022	Deferred to Osw Twn HwyDept	5/10/2022	Fence in ROW	Boulder Hill	43 Saugatuck Rd. Montgomery	03-04-378-039	5/5/2022
5/9/2022	BP 12-2022-092 in progress	5/6/2022	Pool - No fence	Ronhill	12 Ronhill Rd. Yorkville	05-08-403-002	5/4/2022
5/3/2022	Using to move	5/3/2022	Semi tractor trailer	Boulder Hill	Fernwood Rd. Montgomery		5/3/2022
5/3/2022	No violation	5/3/2022	Fence debris after storm	Boulder Hill	62 Fernwood Rd. Montgomery	03-04-151-010	4/27/2022
4/28/2022	No Horses	4/27/2022	2 Horses	Oswego Plains	73 Oswego Plains Dr. Oswego	06-02-177-001	4/26/2022
5/27/2022	Can't prove inoperable	5/4/2022	Inoperable Vehicle	Cotswold FEN	61 Cotswold Dr. Yorkville	04-13-226-004	4/25/2022
8/1/2022	Onsite meeting 5/17/22	5/4/2022	Junk & Debris		8450 W Highpoint Rd. Yorkville	04-13-277-005	4/25/2022
4/28/2022	Not enough evidence	4/27/2022	Multiple Violations		15416 Miller Rd. Plano	01-16-201-003	4/25/2022
	No Property Maintenance Code	4/22/2022	Unsafe Structure	Boulder Hill	40 Marnel Rd. Montgomery	03-04-303-029	4/20/2022
	rning	4/13/2022	Zoning Violation - Airbnb	Grove Estates	7126 Roberts Ct. Oswego	06-08-101-011	4/13/2022
5/12/2022 4/25/2022		4/12/2022	Ambulance parked in driveway	Boulder Hill	52 Sonora Dr. Montgomery	03-04-479-032	4/12/2922
	30 day warning	4/12/2022	Junk & Debris	Boulder Hill	52 Eastfield Rd. Montgomery	03-04-478-022	4/12/2022
7/5/2022 Clase (30 Day warning notice	4/20/2022	Pool-open pit in backyard	Willowbrook	65 E Larkspur Ln. Bristol	02-11-101-007	4/12/2022

PRE VIOLATION REPORT 2022

6,	6				
6/16/2022	6/13/2022	6/12/2022	6/7/2022	6/6/2022	6/6/2022
02-21-178-001	03-04-376-023	03-17-102-011	09-18-300-017	03-08-278-009	03-04-477-038
3416 n. Route 47 Yorkville	102 Circle Drive W Montgomery	2245 Route 31 Oswego	Brisbin Rd. Minooka	4 Culver Rd. Montgomery	80 Springdale Rd. Montgomery
	Boulder Hill	Herrens Riverview Add		Boulder Hill	Boulder Hill
Tall grass	RV parked in F-yard setback	Fire - 2 apartments & out building	Fill / Debris	Rooster	Multiple Violations
	5/10/2022	6/13/2022	6/14/2022	6/21/2022	5/25/2022
Referred to Bristol Township	30 Day warning notice	Letter to contact for Fire Rest. Permit	Dirt fill placed-SW permit not required	Unable to see or hear rooster	30 day warning notice
	7/13/2022	8/1/2022	0		7/6/2022
6/17/2022			6/15/2022	6/21/2022	
	02-21-178-001 3416 n. Route 47 Yorkville Tall grass Referred to Bristol Township	03-04-376-023 102 Circle Drive W Montgomery Boulder Hill RV parked in F-yard setback 5/10/2022 30 Day warning notice 7/13/2022 02-21-178-001 3416 n. Route 47 Yorkville Tall grass Referred to Bristol Township	03-17-102-0112245 Route 31 OswegoHerrens Riverview AddFire - 2 apartments & out building6/13/2022Letter to contact for Fire Rest. Permit8/1/202203-04-376-023102 Circle Drive W MontgomeryBoulder HillRV parked in F-yard setback5/10/202230 Day warning notice7/13/202202-21-178-0013416 n. Route 47 YorkvilleTall grassReferred to Bristol Township	O9-18-300-017 Brisbin Rd. Minooka Fill / Debris 6/14/2022 Dirt fill placed-SW permit not required 03-17-102-011 2245 Route 31 Oswego Herrens Riverview Add Fire - 2 apartments & out building 6/13/2022 Letter to contact for Fire Rest. Permit 8/1/2022 03-04-376-023 102 Circle Drive W Montgomery Boulder Hill RV parked in F-yard setback 5/10/2022 30 Day warning notice 7/13/2022 02-21-178-001 3416 n. Route 47 Yorkville Tall grass Referred to Bristol Township	03-08-278-009 4 Culver Rd. Montgomery Boulder Hill Rooster 6/21/2022 Unable to see or hear rooster 09-18-300-017 Brisbin Rd. Minooka Fill / Debris 6/14/2022 Dirt fill placed-SW permit not required 03-17-102-011 2245 Route 31 Oswego Herrens Riverview Add Fire - 2 apartments & out building 6/13/2022 Letter to contact for Fire Rest. Permit 8/1/2022 03-04-376-023 102 Circle Drive W Montgomery Boulder Hill RV parked in F-yard setback 5/10/2022 30 Day warning notice 7/13/2022 02-21-178-001 3416 n. Route 47 Yorkville Tall grass Referred to Bristol Township

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Permit Summary by Category Kendall County

Permit Category	Count	Estimated Cost	Permit Fees	Land Cash
House	2	\$1,381,654	\$10,822	\$5,022
Garage	2	\$104,888	\$325	\$0
Accessory Buildings	4	\$95,198	\$812	\$0
Additions	2	\$92,000	\$369	\$0
Remodeling	2	\$243,000	\$1,282	\$0
Barns/Farm Buildings	3	\$1,020,000	\$0	\$0
Signs	1	\$945	\$182	\$0
Swimming Pools	5	\$94,730	\$800	\$0
Decks	2	\$8,500	\$400	\$0
Electrical Upgrades	1	\$1,500	\$150	\$0
Driveway	2	\$12,000	\$200	\$0
Patio	2	\$10,625	\$100	\$0
Generator	1	\$11,632	\$0	\$0
Solar	6	\$151,001	\$1,150	\$0
	35	\$3,227,673	\$16,593	\$5,022

June 2021 - 2 Houses 45 Pernits 4TD 2021 - 15 Houses 194 Pernits

Permit Summary by Category by Month Kendall County

Permit Category	Total	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
House	16	1	2	5	2	4	2	0	0	0	0	0	0
Garage	3	0	0	0	0	1	2	0	0	0	0	0	0
Accessory Buildings	22	0	0	9	6	3	4	0	0	0	0	0	0
Additions	10	1	1	1	4	1	2	0	0	0	0	0	0
Remodeling	12	1	3	4	1	1	2	0	0	0	0	0	0
Commercial - M Zone	2	0	1	0	1	0	0	0	0	0	0	0	0
Commercial - B Zone	1	0	0	1	0	0	0	0	0	0	0	0	0
Barns/Farm Buildings	17	1	1	4	3	5	3	0	0	0	0	0	0
Signs	1	0	0	0	0	0	1	0	0	0	0	0	0
Swimming Pools	20	0	2	7	6	0	5	0	0	0	0	0	0
Decks	11	1	1	3	1	3	2	0	0	0	0	0	0
Demolitions	3	0	0	2	1	0	0	0	0	0	0	0	0
Electrical Upgrades	3	1	1	0	0	0	1	0	0	0	0	0	0
Change in Occupancy	2	1	0	1	0	0	0	0	0	0	0	0	0
Driveway	6	0	0	2	1	1	2	0	0	0	0	0	0
Patio	5	0	0	1	2	0	2	0	0	0	0	0	0
Generator	10	1	0	4	0	4	1	0	0	0	0	0	0
Solar	37	6	8	3	8	6	6	0	0	0	0	0	0
	181	14	20	47	36	29	35	0	0	0	0	0	0

5/16/2022	3/7/2022	3/22/2022	6/24/2022	4/28/2022	2/18/2022	1/11/2022	3/29/2022	6/24/2022	5/4/2022	3/9/2022	Issue Date
012022155 01 House	012022060 01 House	012022084 01 House	012022196 01 House	012022085 01 House	012022048 01 House	012022030 01 House	012022078 01 House	012022194 01 House	012022144 01 House	012022063 01 House	Permit ID Permit Category
01-19-276-004 GOMEZ BRIAN A & MCHELLE E	05-12-227-005 MURRAY, KYLE & ANNA	05-12-276-002 ARMSTRONG ERRIN & SHIRLEY	06-05-402-019 CHRISTOPHER & MARANDA VAN	05-12-227-003 HARDY JOHN A & CHRISTINE A	04-02-225-004 CLEAN EDGE HOMES INC	06-07-226-004 MCCUE DEVELOPMENT INC	09-23-300-021 JAMES AND CAROL FLEMING	06-06-450-004 BUTKUS ADRIAN M & JENNA M	05-18-250-007 AMPORT CARL W & PATRICIA L	06-13-101-011 RUFFATTO, MICHAEL & ERYN	Parcel Number Owner Name
92 HUNTSMEN DR PLANO, I 60545-	7221 CLUBHOUSE DR YORKVILLE, IL 60560-	7461 CLUBHOUSE DR YORKVILLE, IL 60560-	4153 STEAM MILL CT OSWEGO, IL 60543-	6200 WHITETAIL RIDGE COURT YORKVILLE, IL. 60560	6106 POLO CLUB DR YORKVILLE, IL 60560-	5556 WHITETAIL RIDGE DR YORKVILLE, IL 60560-	15611 HARE ROAD MINOOKA, IL. 60447	5537 WHITETAIL RIDGE DR YORKVILLE, IL 60560-	11385 BRIGHTON OAKS DR YORKVILLE, IL 60560-	782 ROUTE 126 PLAINFIELD, IL. 60544	Property Address
IL HUNTSMEN TRAILS SUB	WHITETAIL RIDGE	WHITETAIL RIDGE	HENNEBERRY WOODS UNIT 1	WHITETAIL RIDGE	THE WOODS OF SILVER SPRINGS PHASE 3	WHITETAIL RIDGE		WHITETAIL RIDGE	BRIGHTON OAKS ESTATES	·	Subdivision
MCCUE BUILDERS, INC.	SAME	JPM CUSTOM HOMES	REVOLUTION BUILDERS CUSTOM	CHARLES JAMES CUSTOM HOMES	CLEAN EDGE CONSTRUCTION	SAME		JPM CUSTOM HOMES	JPM CUSTOM HOMES		Contractor Name

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4/29/2022	4/29/2022	4/22/2022	6/6/2022	4/21/2022	3/2/2022	6/14/2022	6/1/2022	4/14/2022	5/23/2022	4/19/2022	Date	
032022142 03 Accessory Buildings	032022140 03 Accessory Buildings	032022136 03 Accessory Buildings	032022128 03 Accessory Buildings	032022131 03 Accessory Buildings	032022062 03 Accessory Buildings	022022192 02 Garage	022022177 02 Garage	012022101 01 House	012022158 01 House	012022121 01 House	Permit Category	Permit ID
02-10-227-003 BRINEY GREGORY MICHAEL	02-15-251-004 JONES, DAVID A & JONES, MEGHAN J	01-16-127-006 LIGHT ERIC & LAURA	02-23-202-012 HANACEK MARCUS	O1-28-252-003 NILES JEFFREY R & TRACEY J	06-09-400-005 BAISH EXCAVATING/DTG	04-16-126-003 CAMPBELL KENNETH & ROBIN	02-22-151-014 ROLLINS KEVIN & EMILY	04-21-125-030 MCCUE BUILDERS INC	07-07-300-009 BREUNIG DANIEL SCOTT & JENNIFER A	02-23-302-004 SLADEK ZACHARY	Owner Name	Parcel Number
67 W LARKSPUR LN BRISTOL, IL 60512-	15 N ROYAL OAKS DR BRISTOL, IL 60512-	15540 MILLER RD PLANO, IL 60545-	12 W LYNCLIFF DR OSWEGO, IL 60543-	216 KINSEL ST PLANO, IL 60545-	3485 ROUTE 126 OSWEGO, IL 60543-	21 FOXHURST LN NEWARK, IL 60536-	20 CHRISTY LN YORKVILLE, IL 60560-	9250 CHATHAM PL NEWARK, IL 60541-	13756 COUNTY LINE ROAD NEWARK, IL. 60541	7 TIMBER VIEW LN YORKVILLE, IL 60560-	Property Address	
WILLOWBROOK UNIT 3	THE WOODS OF BLACKBERRY OAKS	GIFFORDS SHADY OAK FIRST ADDN SUB	LYNWOOD SUB	OWNERS RSUB PT NW 1/4 SAME SEC 27 & PT NE 1/4 SEC 28-37-6		FOXHURST UNIT 1	CREEKSIDE SUB	UNIT 3		TIMBER RIDGE SUB UNIT 2	Subdivision	
COACH HOUSE GARAGES	CS ENTERPRISE LANDSCAPE	BOB LEE	SAME	4 SAME		COACH HOUSE GARAGES	BOONDOCKS BARNS	MCCUE BUILDERS INC.		OWNER	Contractor Name	

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6/30/2022	5/25/2022	6/16/2022	3/9/2022	6/15/2022	3/29/2022	3/30/2022	6/14/2022	6/10/2022	3/31/2022	6/22/2022	Date	Issue
032022208 03 Accessory Buildings	032022167 03 Accessory Buildings	032022172 03 Accessory Buildings	032022071 03 Accessory Buildings	032022153 03 Accessory Buildings	032022091 03 Accessory Buildings	032022103 03 Accessory Buildings	032022189 03 Accessory Buildings	032022109 03 Accessory Buildings	032022104 03 Accessory Buildings	032022202 03 Accessory Buildings	Permit Category	Permit ID
01-25-456-009 DECRANE TOMMY C & EILEEN M	08-12-101-001 CLARK WILLIAM B & MARY G	6-02-300-009 KONOWALIK JAMES J & LINDA M	06-09-400-005 BAISH EXCAVATING/DTG	01-05-128-008 ROTHLISBERGER SCOTT & SARAH	09-14-400-002 MOSCATO JUSTIN E	04-21-251-001 LEDESMA PAUL A & VIRGINIA M	02-34-129-010 HENRICHS KELLEY J & BRIAN A	04-16-204-007 CHRISTENSEN BRADLEY P	08-11-226-004 M E CHURCH PLATTVILLE	05-08-376-020 ZANDSTRA DANIEL F & DEBRA G	Owner Name	Parcel Number
4492 MITCHELL CT PLANO, IL 60545-	13030 CHURCH RD YORKVILLE, IL 60560-	1502 CHERRY RD OSWEGO, IL 60543-	3485 ROUTE 126 OSWEGO, IL 60543-	16524 GALENA RD PLANO, I 60545-	1498 ROUTE 52 MINOOKA, IL 60447-	15593 PROSPECT HILL DR NEWARK, IL 60541-	55 RIVERSIDE ST YORKVILLE, IL 60560-	8255 FOX RIVER DR MILLBROOK, IL 60536-	13025 CHURCH RD YORKVILLE, IL 60560-	10681 LEGION RD YORKVILLE, IL 60560-	Property Address	
SCHAEFER WOODS SOUTH UNIT 3	PLATTVILLE (ORIGINAL TOWN)			F	F	ESTATES OF MILLBROOK UNIT 3	FOX RIVER GARDENS	MILLBROOK (ORIG TOWN) PT VACATED			Subdivision	
		WICK BUILDINGS	BAISH EXCAVATING INC.	WEST SUBURBAN DECKS LLC.	COAST TO COAST CARPORTS	494					Contractor Name	

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6/13/2022	2/9/2022	4/5/2022	4/20/2022	6/3/2022	5/24/2022	4/29/2022	3/9/2022	3/9/2022	6/23/2022	3/30/2022	Date	issue
042022186 04 Additions	042022029 04 Additions	042022113 04 Additions	042022126 04 Additions	042022127 04 Additions	042022165 04 Additions	042022141 04 Additions	032022072 03 Accessory Buildings	032022073 03 Accessory Buildings	032022206 03 Accessory Buildings	032022094 03 Accessory Buildings	Permit Category	Permit ID
03-27-327-013 FALKOS DANIEL J & DIANE	06-02-177-003 ROSIER CHRISTOPHER A &	06-06-450-005 TRINER ANTHONY E JR & ASHLEY M	05-02-128-005 BRUMMEL KENNETH JR & NATALIE A	02-23-202-012 HANACEK MARCUS	02-14-278-001 GRZETIC JOHN A & JOANNE K	01-16-401-005 GUZMAN JOSE L & ADRIANA TR	06-09-400-005 BAISH EXCAVATING / DTG INVESTMENTS	06-09-400-005 BAISH EXCAVATING / DTG INVESTMENTS	03-08-229-007 VILLALPANDO DANIEL S	03-08-154-004 AGLER SAMUEL D & REESE OLIVIA	Owner Name	Parcel Number
4655 DOUGLAS RD OSWEGO, IL 60543-	7 CHEROKEE DR OSWEGO, IL 60543-	5529 WHITETAIL RIDGE DR YORKVILLE, IL 60560-	6143 SAVANNA CT YORKVILLE, IL 60560-	12 W LYNCLIFF DR OSWEGO, IL 60543-	154 W RICKARD DR OSWEGO, IL 60543-	83 S LINDEN DR PLANO, IL 60545-	3485 ROUTE 126 OSWEGO, IL 60543-	3485 ROUTE 126 OSWEGO, IL 60543-	45 OLD POST RD MONTGOMERY, IL 60538-	20 SHORE DR OSWEGO, IL 60543-	Property Address	
LEISURE LEA UNIT 1	•	WHITETAIL RIDGE	ROSEHILL	LYNWOOD SUB	LYNWOOD EXTENSION 4	MEYERBROOK UNIT 6			BOULDER HILL UNIT 20	MARINA VILLAGE	Subdivision	
		MEDOWS CONSTRUCTION INC.	WEDGEWOOD CONSTRUCTION	SAME	MIDWEST STRUCTURE	RELIABLE HOME IMPROVEMENT	BAISH EXCAVATING INC	BAISH EXCAVATING INC.		ROCKY RIDGE STRUCTURES	Contractor Name	

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2/18/2022	3/2/2022	3/16/2022	3/23/2022	3/30/2022	4/27/2022	5/16/2022	6/14/2022	6/22/2022	3/16/2022	2/15/2022	Date	Issue
052022053 05 Remodeling	052022059 05 Remodeling	052022083 05 Remodeling	052022086 05 Remodeling	052022098 05 Remodeling	052022138 05 Remodeling	052022156 05 Remodeling	052022190 05 Remodeling	052022204 05 Remodeling	042022082 04 Additions	042022046 04 Additions	Permit Category	Permit ID
07-16-400-006 BUDRECK ELIZABETH E	08-09-200-003 LOOS KENNETH & DENGES LAURA	03-07-279-001 LIGHT ROAD APARTMENTS LLC	02-15-176-001 BRISTOL PARK PROPERTIES LLC	07-06-300-004 KULBARTZ NICHOLAS & NICOLE	01-16-427-009 KANTOR MATTHEW E & AUDRA MAE	02-22-102-009 DUNN PATRICK J & CONNIE L	03-08-228-018 ORT JAS & PATRICIA	02-13-477-005 SINN MICHAEL	06-29-100-004 LEEDY MILTON H	03-32-133-001 STAUFFER PAUL & STACEY	Owner Name	Parcel Number
14560 TOWNHOUSE RD NEWARK, IL 60541-	9396 PLATTVILLE RD NEWARK, IL 60541-	1100-1800 LIGHT RD OSWEGO, IL 60543-	43 OAK ST BRISTOL, IL 60512-	17574 ROUTE 71 NEWARK, IL 60541-	40 MEYER RD PLANO, IL 60545-	57 LILLIAN LN YORKVILLE, II 60560-	19 CAYMAN DR MONTGOMERY, IL 60538-	12 FOREST CT OSWEGO, IL 60543-	4932 WALKER RD YORKVILLE, IL 60560-	5400 HALF ROUND RD OSWEGO, IL 60543-	Property Address	
					MEYERBROOK UNIT 3	IL BRISTOL LAKE SUB	BOULDER HILL UNIT 20	. RIVERVIEW HEIGHTS		OLD RESERVATION HILLS UNIT 1	Subdivision	
		ARTIST TOUCH INC	DOCK AND DOOR NATIONAL	WILLMAN & GROESCH GC	AM KITCHEN & BATH	WILLMAN & GROESCH GC	BJP CONSTRUCTION LLC	DAVE'S HOME REMODELING		CLEAN EDGE CONSTRUCTION	Contractor Name	

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3/29/2022	3/30/2022	3/30/2022	4/19/2022	3/30/2022	4/19/2022	3/23/2022	4/29/2022	1/13/2022	3/30/2022	2/18/2022	Issue Date
082022079 09-23-300-021 08 Barns/Farm Buildings JAMES AND CAROL FLEMING	082022095 07-29-400-011 08 Barns/Farm Buildings LAESCH JAMES LAURA J	082022096 04-08-400-011 08 Barns/Farm Buildings LEITNER BRYAN SR & SHAUNA	082022129 08 Barns/Farm Buildings	082022097 08 Barns/Farm Buildings	062021153 03-28-100-004 06 Commercial - M Zone THE PET'S HOME % GAY JOHN & LAURA	062022054 01-01-200-002 06 Commercial - M Zone TMF MANAGEMENT LLC	062022145 03-07-227-002 06 Commercial - M Zone UTILITY DYNAMICS CORPORATION	052022032 05 Remodeling	052022106 05 Remodeling	052022052 05 Remodeling	Permit ID Permit Category
09-23-300-021 ; JAMES AND CAROL FLEMING	07-29-400-011 LAESCH JAMES H & LAURA J	04-08-400-011 LEITNER BRYAN SR & SHAUNA	09-14-300-001 RCUBE FARMS LLC. RIYAZ HAMEED	04-08-400-011 LEITNER BRYAN SR & SHAUNA	03-28-100-004 THE PET'S HOME % GAY JOHN & LAURA	01-01-200-002 TMF MANAGEMENT LLC	03-07-227-002 UTILITY DYNAMICS CORPORATION	02-28-453-017 GENTILE, FRANK D & JENNIFER	03-18-451-002 LMFAO LLC	03-07-253-009 SANTELLANES	Parcel Number Owner Name
15611 HARE ROAD MINOOKA, IL. 60447	16640 STEPHENS RD NEWARK, IL 60541-	16154 ROGERS RD NEWARK, IL 60541-	1910 ROUTE 52 MINOOKA, IL 60447-	16154 ROGERS RD NEWARK, IL 60541-	3601 PLAINFIELD RD OSWEGO, IL 60543-	12127 B GALENA RD PLANO, IL 60545-	5327 LIGHT RD. OSWEGO, IL. 60543	606 WACKER DR YORKVILLE, IL 60560-	5462 ROUTE 34 OSWEGO, IL 60543-	113 KEVIN LN OSWEGO, IL 60543-	Property Address
			_			u e		WACKERLIN SUB	IL RIVERVIEW HEIGHTS	SHORE HEIGHTS UNIT 2	Subdivision
					CONSTRUCTION	SAME	CLEARY BUILDING CORP.		AMENITY ROOFING, SIDING & GUTTERS	RITEWAY HOME REMODELING	Contractor Name

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5/2/2022	5/24/2022	5/24/2022	2/24/2022	5/24/2022	5/25/2022	6/1/2022	6/7/2022	6/15/2022	6/15/2022	2/28/2022	Issue Date
082022148 08 Barns/Farm Buildings MATTHEW & MELISSA CHESNEY	082022162 09-14-300-001 08 Barns/Farm Buildings RCUBE FARMS LLC	082022163 09-14-300-001 08 Barns/Farm Buildings RCUBE FARMS LLC	082022051 08 Barns/Farm Buildings INGRAM CHRISTO	082022164 09-14-300-001 08 Barns/Farm Buildings RCUBE FARMS, LLC	082022166 09-22-200-034 08 Barns/Farm Buildings ILLINOIS STREET LLC	082022175 09-04-100-013 08 Barns/Farm Buildings SALINAS RAFAEL & MARIA M	082022181 05-36-200-007 08 Barns/Farm Buildings HOMERDING JEFFREY	082022198 05-12-100-003 08 Barns/Farm Buildings STEWART FARMS LLC % R CRAIG STEWART	082022199 05-12-100-003 08 Barns/Farm Buildings STEWART FARMS LLC % R CRAIG STEWART	082022037 09-09-300-009 08 Barns/Farm Buildings PADILLA JOSE L	Permit Permit Category C
05-02-200-008 MATTHEW & MELISSA CHESNEY	09-14-300-001 RCUBE FARMS LLC	09-14-300-001 RCUBE FARMS LLC.	07-34-400-004 INGRAM CHRISTOPHER	09-14-300-001 RCUBE FARMS, LLC	09-22-200-034 ILLINOIS STREET LLC	09-04-100-013 SALINAS RAFAEL & MARIA M	05-36-200-007 HOMERDING JEFFREY	05-12-100-003 STEWART FARMS LLC % R CRAIG STEWART	05-12-100-003 STEWART FARMS LLC % R CRAIG STEWART	09-09-300-009 PADILLA JOSE L	Parcel Number Owner Name
6361 MINKLER RD. YORKVILLE, IL. 60560	1910 ROUTE 52 MINOOKA, IL 60447-	1910 ROUTE 52 MINOOKA, IL 60447-	14040 HILL RD NEWARK, IL 60541-	1910 ROUTE 52 MINOOKA, IL 60447-	2259G BELL RD MINOOKA, IL 60447-	12452 MCKANNA RD MINOOKA, IL 60447-	11309 BRISBIN RD YORKVILLE, IL 60560-	I	1	13916 MCKANNA RD. MINOOKA, IL. 60447	Property Address
	F	F		F	⊩						Subdivision
							WICK BUILDINGS	JEFF SIDELL	JEFF SIDELL		Contractor Name

4/5/2022	4/21/2022	4/19/2022	4/19/2022	5/10/2022	4/27/2022	6/8/2022	6/16/2022	6/24/2022	6/22/2022	4/19/2022	Date	Issue
122022114 12 Swimming Pools	122022119 12 Swimming Pools	122022123 12 Swimming Pools	122022124 12 Swimming Pools	122022132 12 Swimming Pools	122022139 12 Swimming Pools	122022183 12 Swimming Pools	122022197 12 Swimming Pools	122022205 12 Swimming Pools	092022201 09 Signs	082022130 08 Barns/Farm Buildings	Permit Category	Permit ID
06-05-404-003 MADAI JAMES & KRYSTAL L	05-02-102-013 BLOMBERG JOSHUA J & MEGAN L	06-06-226-017 PLYWACZYNSKI JODY M	01-35-201-004 PORTER JAMES & KATHY	05-12-228-017 MORSE JAMES R & GERALYN L	03-07-229-016 RENZETTI JOSEPH T III	03-05-278-024 WEST MICHAEL & AMBER	03-07-430-004 DELA PAZ ANICETO JR & HODGES SABRINA A	03-20-400-018 GARCIA JOSE J	09-24-100-012 JADE RESTORATIONS INC	09-14-300-001 RCUBE FARMS, LLC. RIYAZ HAMEED	Owner Name	Parcel Number
6526 HENNEBERRY PKWY OSWEGO, IL 60543-	361 EMILY CT YORKVILLE, IL 60560-	15 IROQUOIS CT OSWEGO, IL 60543-	13410 C HALE RD PLANO, IL 60545-	7233 IRONWOOD CT YORKVILLE, IL 60560-	6 DOLPHIN CT OSWEGO, IL 60543-	5 KNOLLWOOD DR MONTGOMERY, IL 60538-	159 DOLORES ST OSWEGO, IL 60543-	3842 GROVE RD OSWEGO, IL 60543-	949 BELL RD MINOOKA, IL 60447-	1910 ROUTE 52 MINOOKA, IL 60447-	Property Address	
HENNEBERRY WOODS UNIT 2	_ FIELDS OF FARM COLONY UNIT 1	NA-AU-SAY WOODS UNIT 2		WHITETAIL RIDGE	MARINA TERRACE	BOULDER HILL UNIT 3				'	Subdivision	
SIGNATURE POOLS & SPAS INC.				SWIM SHACK INC.	SAME	PRECISION POOLS	A & J		BULLMASTIFF CONSTRUCTION		Contractor Name	

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3/1/2022	3/1/2022	2/9/2022	2/28/2022	3/29/2022	6/6/2022	3/30/2022	3/15/2022	3/22/2022	4/14/2022	3/31/2022	Issue Date
132022058 13 Decks	122022061 12 Swimming Pools	122022045 12 Swimming Pools	122022056 12 Swimming Pools	122022092 12 Swimming Pools	122022178 12 Swimming Pools	122022099 12 Swimming Pools	122022077 12 Swimming Pools	122022087 12 Swimming Pools	122022100 12 Swimming Pools	122022111 12 Swimming Pools	Permit ID Permit Category
02-35-431-005 BRENART HEATHER & ROBERT F	06-05-300-011 BAILEY FAMILY TRUST	06-07-226-022 FRANCESCONI MICHAEL & KARA	04-16-377-014 MAILLOUX BRAD & PAM	05-08-403-002 PEYTON BRYAN	06-07-228-007 MCCUE BUILDERS INC	01-25-454-006 STONE MARIA T & DANIEL R	05-08-352-006 HAGOS YONAS A & KRISTEN A	06-02-177-002 RENDINA BRUNO & LAURA L	05-07-101-003 DEMPSEY TODD A & LISA D	05-18-229-004 WILLMAN JASON P & HEATHER B	Parcel Number Owner Name
5671 SCHMIDT LN YORKVILLE, IL 60560-	4811 CHERRY RD OSWEGO, HENNEBERRY WOODS IL 60543-	7503 FAIRWAY DR YORKVILLE, IL 60560-	8840 WILCOX CT MILLBROOK, IL 60536-	12 RONHILL RD YORKVILLE, IL 60560-	7386 FAIRWAY DR YORKVILLE, IL 60560-	12490 ANDREW ST PLANO, IL 60545-	7912 TANGLEWOOD TRAILS DR YORKVILLE, IL 60560-	103 OSWEGO PLAINS DR OSWEGO, IL 60543-	16 HILLVIEW CT YORKVILLE, PAVILLION HEIGHTS UNIT IL 60560-	10974 TANGLEWOOD TRAILS DR YORKVILLE, IL 60560-	Property Address
FIELDS OF FARM COLONY CHRIS BOURQUE UNIT 4), HENNEBERRY WOODS UNIT 4	WHITETAIL RIDGE	ESTATES OF MILLBROOK UNIT 1	RONHILL ESTATES	WHITETAIL RIDGE	SCHAEFER WOODS NORTH UNIT 3	TANGLEWOOD TRAILS	OSWEGO PLAINS	, PAVILLION HEIGHTS UNIT 3	TANGLEWOOD TRAILS	Subdivision
CHRIS BOURQUE	DUTCH BARN LANDSCAPING	SUNSET POOLS AND SPAS				AG POOL MASTERS LLC				SAME	Contractor Name

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4/29/2022	3/8/2022	3/15/2022	4/12/2022	6/22/2022	4/19/2022	6/2/2022	6/16/2022	5/31/2022	6/14/2022	1/18/2022	Issue Date
142022146 14 Demolitions	132022068 13 Decks	132022080 13 Decks	132022093 13 Decks	132022203 13 Decks	132022122 13 Decks	132022157 13 Decks	132022173 13 Decks	132022174 13 Decks	132022193 13 Decks	132022034 13 Decks	Permit ID Permit Category
06-09-400-005 DTG INVESTMENTS LLC 3485 ROUTE 126	03-12-100-013 MARTINEZ JOSE A & SILVIA	06-07-130-003 BULLINGTON AUSTIN J & LINDSEY N	02-14-428-007 HOFMEISTER THEODORE K JR	06-02-177-002 RENDINA BRUNO & LAURA L	02-34-472-001 SMITH THOMAS	04-16-376-006 SANDERS ADAM	03-16-177-001 KURCZ ASHLEY M LAMM	05-18-322-004 ALICZ LAWRENCE G & DIANE T	05-07-101-003 DEMPSEY TODD A & LISA D	04-21-125-014 KRISTIANSON NEIL A & JENNINE F	Parcel Number Owner Name
3485 ROUTE 126 OSWEGO, IL 60543-	1	7136 IRONWOOD CT YORKVILLE, IL 60560-	57 E RICKARD DR OSWEGO, IL 60543-	103 OSWEGO PLAINS DR OSWEGO, IL 60543-	8102 SHADOW CREEK LN YORKVILLE, IL 60560-	8705 WILCOX CT NEWARK, IL 60541-	3614 WOLF RD OSWEGO, IL 60543-	2108 BERNADETTE LN YORKVILLE, IL 60560-	16 HILLVIEW CT YORKVILLE, IL 60560-	9175 N STONEWALL DR NEWARK, IL 60541-	Property Address
		WHITETAIL RIDGE	v	OSWEGO PLAINS	SHADOW CREEK SUB	ESTATES OF MILLBROOK PAT CLARK UNIT 1		HAWTHORN VILLAGE	PAVILLION HEIGHTS UNIT	ESTATES OF MILLBROOK UNIT 2	Subdivision
	HOMEOWNER	TOM RODNEY-RODNEY BUILDERS	UPPERDECK DESIGN CONSTRUCTION	WOLF SPIRIT LLC	UPPERDECK DESIGN AND CONSTRUCTION	PAT CLARK	AM KITCHEN & BATH	RLK UILDERS INC.		HURSTHOUSE, INC.	Contractor Name

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6/15/2022	1/4/2022	1/4/2022	1/4/2022	2/9/2022	3/9/2022	1/18/2022	2/4/2022	6/7/2022	3/7/2022	3/22/2022	Issue Date
182022195 18 Driveway	172022023 17 Change in Occupanc	172022024 17 Change in Occupanc	172022025 17 Change in Occupanc	172022038 17 Change in Occupano	172022066 03-05-401-003 17 Change in Occupancy AHMAD,DAANYAAL / BOULDER HILL PRO	152022035 15 Electrical Upgrades	152022044 15 Electrical Upgrades	152022182 15 Electrical Upgrades	142022065 14 Demolitions	142022090 14 Demolitions	Permit ID Permit Category
02-10-227-003 BRINEY GREGORY MICHAEL	03-06-200-012 17 Change in Occupancy 325 SOUTH ROUTE 31 LLC	03-06-200-012 17 Change in Occupancy 325 SOUTH ROUTE 31 LLC	172022025 03-06-200-012 17 Change in Occupancy 325 SOUTH ROUTE 31 LLC	172022038 01-19-200-009 17 Change in Occupancy RAMIREZ JORGE & RY	03-05-401-003 y AHMAD,DAANYAAL / BOULDER HILL PROP	03-05-278-023 POWELL FRANCINE & EDMONDS ANTHONY N	03-04-306-016 ROBLES, RAFAEL	02-10-400-007 IBARRA JOSE ANTONIO/Cesar	02-34-151-003 MEYER DETRA K	03-12-251-001 KST EXPRESS LTD	Parcel Number Owner Name
67 W LARKSPUR LN BRISTOL, IL 60512-	275 ROUTE 31 OSWEGO, IL 60543-	275 ROUTE 31 OSWEGO, IL 60543-	275 ROUTE 31 OSWEGO, IL 60543-	17660 SEDGEWICK RD SANDWICH, IL 60548-	83 BOULDER HILL PASS MONTGOMERY, IL 60538-	7 KNOLLWOOD DR MONTGOMERY, IL 60538-	81 CIRCLE DR MONTGOMERY, IL 60538-	8371 GALENA RD BRISTOL, IL 60512-	90 QUINSEY RD YORKVILLE, QUINSEY SUB IL 60560-	1214 ROUTE 30 AURORA, IL 60503-	Property Address
WILLOWBROOK UNIT 3						BOULDER HILL UNIT 3	BOULDER HILL UNIT 5		, QUINSEY SUB		Subdivision
CRS MATERIAL AND SERVICES	UNITED GROUP LOGISTICS, INC. UGL	TSA PROCESSING CHICAGO, INC.	THE BOLDT COMPANY			KG BUILDERS	INDEPENDENCE RENEWABLE ENERGY				Contractor Name

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5/25/2022	4/19/2022	5/2/2022	6/7/2022	6/15/2022	3/23/2022	4/4/2022	3/30/2022	4/12/2022	5/16/2022	6/10/2022	Issue Date	
232022168 23 Generator	202022120 20 Patio	202022147 20 Patio	202022180 20 Patio	202022191 20 Patio	202022088 20 Patio	182022105 18 Driveway	182022110 18 Driveway	182022118 18 Driveway	182022161 18 Driveway	182022185 18 Driveway	Permit ID Permit Category	
BAUMWELL KATHIE S	03-05-276-006 GONZALEZ GUSTAVO & ADRIANA &	03-07-427-005 MCPHERSON KEVIN C & LISA R	03-05-430-024 MARSHALL DARRYL L & CHERYL S	03-05-452-077 RAMIREZ ANA KAREN	03-07-252-012 JVE HOMES LLC	08-02-300-012 GUTIERREZ LORENA & JOSE DE JESUS &	09-14-300-001 RCUBE FARMS, LLC	03-16-176-004 SMITH NATHAN	03-04-256-002 TRUJILLO RAMIRO & MARTHA	09-14-300-001 RCUBE FARMS LLC. RIYAZ HAMEED	Parcel Number Owner Name	
5953 CHAMPIONSHIP CT YORKVILLE, IL 60560-	38 N BEREMAN RD MONTGOMERY, IL 60538-	101 AUGUSTA RD OSWEGO, IL 60543-	52 S BEREMAN RD MONTGOMERY, IL 60538-	9 HILLCREST CT MONTGOMERY, IL 60538-	120 AUGUSTA RD OSWEGO, IL 60543-	12830 ASHLEY RD NEWARK, IL 60541-	1910 ROUTE 52 MINOOKA, IL 60447-	3725 WOLF RD OSWEGO, IL 60543-	15 HUNTER DR MONTGOMERY, IL 60538-	1910 ROUTE 52 MINOOKA, IL 60447-	Property Address	
WHITETAIL RIDGE	BOULDER HILL UNIT 15 REUSB	, SHORE HEIGHTS UNIT 1	BOULDER HILL UNIT 7	BOULDER HILL UNIT 7	SHORE HEIGHTS UNIT 1		•	FOX BEND ESTATES	BOULDER HILL UNIT 34	•	Subdivision	
BAKER ELECTRIC	ALEJANDRO HERNANDEZ	UPPER DECK DESIGN & CONSTRUCTION	BKL CONSTRUCTION INC.	ADRIAN MARTIN		JESUS GUTIERREZ					Contractor Name	

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4/12/2022	1/4/2022	1/13/2022	1/27/2022	3/10/2022	3/10/2022	3/10/2022	3/15/2022	5/5/2022	5/12/2022	5/16/2022	Issue Date
242022116 24 Solar	242022026 24 Solar	242022031 24 Solar	232022039 23 Generator	232022074 23 Generator	232022075 23 Generator	232022076 23 Generator	232022081 23 Generator	232022149 23 Generator	232022154 23 Generator	232022160 23 Generator	Permit ID Permit Category
02-23-153-002 HOULE ANTHONY W & LAURA M	06-05-402-012 THOMAS KURIAN E & CHEYENNE F CASSIDY	03-05-404-033 MENDELL GERALD A & WINIFRED	04-02-230-002 MOUIS KEITH F & JESSICAA	06-07-375-006 KRAMER CHRISTINE M	06-07-130-005 CARSON BRIAN K & ANNETTE M	05-12-220-004 FERRI JOHN & LUZ	02-27-153-007 BOTCHEV MIROSLAV I & BORISLAVOVA LIDIA	05-12-228-017 MORSE JAMES R & GERALYN L	HEFFERNAN JUSTIN B	05-04-176-010 HACKERSON STEVEN J TRUST &	Parcel Number Owner Name
44 PARKWAY DR YORKVILLE, IL 60560-	4122 STEAM MILL CT OSWEGO, IL 60543-	17 GREENFIELD RD MONTGOMERY, IL 60538-	6160 RED GATE LN YORKVILLE, IL 60560-	5725 WATERS EDGE CT YORKVILLE, IL 60560-	5836 WHITETAIL RIDGE DR YORKVILLE, IL 60560-	6349 VALLEYVIEW CT YORKVILLE, IL 60560-	4416 TUMA RD YORKVILLE, IL 60560-	7233 IRONWOOD CT YORKVILLE, IL 60560-	5900 C RED GATE LN YORKVILLE, IL 60560-	70 WOODEN BRIDGE DR YORKVILLE, IL 60560-	Property Address
RIVER RIDGE UNIT 3		BOULDER HILL UNIT 6	THE WOODS OF SILVER SPRINGS PHASE 2	WHITETAIL RIDGE	WHITETAIL RIDGE	WHITETAIL RIDGE	WACKERLINS 2ND SUB	WHITETAIL RIDGE	THE BLUFF AT SILVER SPRINGS	CROOKED CREEK WOODS	Subdivision
SUNPOWER CORP.	SUNRUN INSTALLATION	BRIGHT PLANET SOLAR - JULIA CARTER	LEE LEGLER CONSTRUCTION AND	LEE LEGLER CONSTRUCTION AND	LEE LEGLER CONSTRUCTION AND	CONSTRUCTION AND 4	BAKER ELECTRIC	LEE LEGLER CONSTRUCTION &	SATURN HEATING, COOLING & ELECTRIC	LEE LEGLER CONSTRUCTION &	Contractor Name

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issue	Permit ID	Parcel Number		i i	
4/12/2022	242022115 24 Solar	02-34-202-001 ANDERSON MICHAEL D	132 RIVERSIDE DR YORKVILLE, IL 60560-	FOX RIVER WOODLANDS	SIGE ELECTRIC LLC
3/22/2022	242022089 24 Solar	03-08-280-027 GIOVANNONI MATTHEW & GARNER	3 FIELDCREST DR MONTGOMERY, IL 60538-	BOULDER HILL UNIT 17	SUNRUN INSTALLATION
3/9/2022	242022070 24 Solar	03-04-303-007 CAZARES ELODIA	40 CIRCLE DR E MONTGOMERY, IL 60538-	BOULDER HILL UNIT 5	SUNRUN INSTALLATION
2/24/2022	242022057 24 Solar	03-08-304-004 SCHRAMER HERBERT JOHN	1540 ROUTE 31 OSWEGO, II 60543-	IL PROSPECT VILLA SUB	HEADLINE SOLAR LLC
2/16/2022	242022050 24 Solar	02-28-401-002 NUNEZ GERARDO	901 MCHUGH RD YORKVILLE, IL 60560-	GUTHRIE SUB	SUNRUN INSTALLATION
2/18/2022	242022049 24 Solar	09-16-200-018 DELANEY MARTHA ANN & RUDDICK DEVIN	13990 MCKANNA RD MINOOKA, IL 60447-		SUN BADGER SOLAR
2/9/2022	242022047 24 Solar	05-18-153-001 MCCUSKER MICHAEL J & PAMELA K	64 COTSWOLD DR YORKVILLE, IL 60560-	COTSWOLD FEN PUD PHASE 4	SUNRUN INSTALLATION
2/4/2022	242022043 24 Solar	02-24-300-021 PARKHURST GERALD	6809 A ROUTE 71 YORKVILLE, IL 60560-		POWER HOME SOLAR LLC
4/29/2022	242022143 24 Solar	03-08-226-028 WILSON JOHNNY R	43 CODORUS RD MONTGOMERY, IL 60538-	BOULDER HILL UNIT 14	SUNRUN INSTALLTION SERVICES INC.
4/20/2022	242022135 24 Solar	02-34-178-001 HARRIS KARI	8520 VAN EMMON RD YORKVILLE, IL 60560-		MODERM MILL LLC - MARK BROUGH
4/20/2022	242022134 24 Solar	03-12-204-004 LIPPOLD CURTIS	22 GASTVILLE ST AURORA, IL 60503-	GASTVILLE	SUNPOWER CORP

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2/3/2022	2/3/2022	2/3/2022	6/10/2022	6/13/2022	6/22/2022	6/23/2022	6/30/2022	4/12/2022	4/20/2022	4/20/2022	Issue Date	
242022040 24 Solar	242022041 24 Solar	242022042 24 Solar	242022184 24 Solar	242022188 24 Solar	242022200 24 Solar	242022207 24 Solar	242022209 24 Solar	242022117 24 Solar	242022125 24 Solar	242022133 24 Solar	Permit Category	Permit
07-34-100-009 CARLSON JASON D & ERICA	02-11-176-008 BAYER CHRISTOPHER A & MALDONADO	09-15-400-010 HUERTA HERIBERTO & ISRAEL	03-04-251-021 CUPPLES KATHLEEN	03-05-428-006 SCHUR TYLER & ALM JAMES B	06-02-400-002 KESLAR MICHAEL W & MARIA VILLALOBOS	03-04-408-034 EMRULOSKI IMER	01-16-426-004 RICHMOND LAWRENCE &	03-09-151-015 LAMPHERE RICHARD W & PEGGY	03-09-105-003 NUNEZ GUMESINDO JR & DIANA L	03-05-453-024 GILBERT MAXWELL	Owner Name	Darool Nillmhor
14908 WHITEWILLOW RD NEWARK, IL 60541-	7617 GALENA RD BRISTOL, IL 60512-	14776 JUGHANDLE RD MINOOKA, IL 60447-	34 HUNTER DR MONTGOMERY, IL 60538-	37 CIRCLE DR MONTGOMERY, IL 60538-	1375 JOHNSON RD OSWEGO, IL 60543-	110 LONGBEACH RD MONTGOMERY, IL 60538-	48 N LINDEN DR PLANO, IL 60545-	47 FIELDPOINT RD MONTGOMERY, IL 60538-	116 CIRCLE DR E MONTGOMERY, IL 60538-	17 SCARSDALE RD MONTGOMERY, IL 60538-	Property Address	
	WILLOWBROOK UNIT 1			BOULDER HILL UNIT 3		BOULDER HILL UNIT 27	MEYERBROOK UNIT 1	BOULDER HILL UNIT 25	BOULDER HILL UNIT 25	BOULDER HILL UNIT 7	Subdivision	
SOLAR POWER MIDWEST	SUNRUN INSTALLATION	SUNRUN	JULIA CARTER % BRIGHT PLANET	SUNRUN INSTALLATION	MOXIE SOLAR	BRIGHT PLANET SOLAR % YAILEEN	BRIGHT PLANET SOLAR	BRIGHT PLANET SOLAR - WANDA	SUNRUN INSTALLATION	BRIGHT PLANET SOLAR	Contractor Name	

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5/5/2022	5/5/2022	1/4/2022	5/16/2022	5/24/2022	5/24/2022	3/31/2022	5/25/2022	1/13/2022	1/20/2022	2/24/2022	Issue Date
242022150 24 Solar	242022151 24 Solar	242022028 24 Solar	242022159 24 Solar	242022169 24 Solar	242022170 24 Solar	242022112 24 Solar	242022171 24 Solar	242022033 24 Solar	242022036 24 Solar	242022055 24 Solar	Permit ID Permit Category
03-04-303-027 SILVA CARLOTA	05-05-103-003 NASTI JAMES H & MARY	01-26-300-005 SANDOVAL JONHATAN	05-02-100-003 MAGANA JESUS A & AIDA	DUFFY DONALD E & STACEY A	MCREYNOLDS		02-35-103-013 HATHAWAY BRADFORD &	08-28-400-005 FRIESTAD SCOTT & KRISTIN	03-08-253-005 GONZALEZ JOSE	06-02-300-018 MARTINEZ ANDRES	Parcel Number Owner Name
36 MARNEL RD MONTGOMERY, IL 60538-	20 MAPLE ST YORKVILLE, IL 60560-	13871 HALE RD PLANO, IL 60545-	6465 MINKLER RD YORKVILLE, IL 60560-	83 STAINFIELD DR PLANO, I 60545-	299 BOULDER HILL PASS MONTGOMERY, IL 60538-	134 RIVERSIDE DR YORKVILLE, IL 60560-	7807 VAN EMMON RD YORKVILLE, IL 60560-	16950 QUARRY RD MORRIS, IL 60450-	6 ASHLAWN AVE MONTGOMERY, IL 60538-	1585 JOHNSON RD OSWEGO, IL 60543-	Property Address
BOULDER HILL UNIT 10	FOXLAWN UNIT 3			IL STAINFIELD SUB UNIT 2	BOULDER HILL UNIT 21	FOX RIVER WOODLANDS	WENDLING SUB	-	BOULDER HILL UNIT 17		Subdivision
BRIGHT PLANET SOLAR	SUNRUN INSTALLATION	BRIGHT PLANET SOLAR	FREEDOM FOREVER IL LLC	SUNRUN INSTALLATION	BRIGHT PLANET SOLAR	SIGE ELECTRIC LLC	MARC S JONES CONSTRUCTION LLC	SOLAR POWER MIDWEST	BRIGHT PLANET SOLAR	SUNPOWER CORP.	Contractor Name

PLANNING BUILDING & ZONING RECEIPTS 2022

December January February March	\$12,456.20 \$5,238.40 \$5,245.20	\$3,789.00 \$600.00 \$516.00	\$12,877.04 \$4,805.78 \$2,188.27	*3,000.00 \$1,000.00 \$0.00	MONTHLY FY 22 \$32,122.24 \$11,644.18 \$7,433.47 \$30,204.30	FY 22 \$32,122.24 \$43,766.42 \$51,199.89 \$81,404,10	MONTHLY FY 21 \$8,380.10 \$15,150.19 \$17,144.89	FY 21 FY 21 \$8,380.10 \$23,530.29 \$40,675.18
February	\$5,245.20	\$0.00	\$2,188.27	\$0.00	\$7,433.47	\$51,199.89	\$17,144.89	€
March	\$14,568.84	\$516.00	\$13,209.46	\$2,000.00	\$30,294.30	\$81,494.19	\$36,607.37	€9
April	\$13,386.56	\$1,138.00	\$2,013.82	\$0.00	\$16,538.38	\$98,032.57	\$21,718.13	\$99,000.68
Мау	\$9,402.84	\$885.50	\$9,768.21	\$1,000.00	\$21,056.55	\$119,089.12	\$23,617.81	\$122,618.49
ennr	\$9,414.48	\$0.00	\$414.41	\$0.00	\$9,828.89	\$128,918.01	\$42,987.55	\$165,606.04
VIIIV					\$0.00		\$10,495.24	\$176,101.28
August					\$0.00		\$17,777.87	\$193,879.15
September					\$0.00		\$15,109.78	\$208,988.93
October					\$0.00		\$38,827.30	\$247,816.23
November					\$0.00		\$46,125.36	\$293,941.59
YR END TOTAL	\$69.712.52	\$6.928.50	\$45.276.99	\$7.000.00	\$128.918.01			

Ingemunson Law Offices Ltd.

759 John St. Unit A Yorkville, IL 60560 Ph (630) 553-5622 Fx (630) 553-7958 Gregg Ingemunson Boyd Ingemunson

July 1, 2022

Matthew Asselmeier
Department of Planning, Building, and Zoning
111 W. Fox St. Room 204
Yorkville IL 60560

Re: PIN # 09-15-200-003, Best Budget Tree Service LLC

Dear Matt,

My clients closed on the subject property located at Rte 52 and Arbiter Rd. The property is currently zoned A-1 and my clients intend to utilize the property as a permitted use under your current permitted uses set forth in the county zoning ordinance. My clients acquired this parcel of property in reliance upon the permitted uses set forth in your zoning ordinance as well as 55 ILCS 5/5-12001 and the Illinois Supreme Court decision of People ex re. Pletcher v. Joliet and other appellate court decisions. "Agricultural purpose" has a very broad definition as set forth by the Illinois Supreme Court. Further, the Illinois State Legislature has precluded the counties from enacting any regulations which may place any limits or regulations on property utilized for agricultural purposes. The current attempt to manufacture a new definition for "forestry" which restricts the definition of agriculture as defined by the Illinois Supreme Court is without any legal authority to do so. Frankly, the attempt to do so is vindictive in nature and my clients are prepared to exercise any and all remedies at law to protect their rights as land owners.

Sincerely,

Boyd Ingemunson