

**KENDALL COUNTY PLANNING, BUILDING & ZONING COMMITTEE**  
*Kendall County Office Building*  
*Rooms 209 & 210*  
*111 W. Fox Street, Yorkville, Illinois*  
**6:30 p.m.**  
**Meeting Minutes of September 10, 2018**

**CALL TO ORDER**

The meeting was called to order by Chairman Davidson at 6:34 p.m.

**ROLL CALL**

Committee Members Present: Bob Davidson (Chairman), Judy Gilmour, Scott Gryder, and Matt Kellogg (Vice Chairman)

Committee Members Absent: Lynn Cullick

Also Present: Matt Asselmeier (Senior Planner), Laura Hubbard, Boyd Ingemunson, Mark Caldwell, Jerry Callaghan, Linda Fosen, Kirk Friestad, Bob Friestad, Madison Friestad, Scott Friestad, Linette Halcomb, Kristen Friestad, Don Anderson, Jim Williams, Peter Pasteris, Gay Hoddy, and Paul Pope

**APPROVAL OF AGENDA**

Motion by Member Gilmour, seconded by Member Gryder, to amend the agenda by moving Petition 18-27 to the first item under Petitions. With a voice vote of four (4) ayes, the motion carried. Motion by Member Kellogg, seconded by Member Gryder, to approve the agenda as amended. With a voice vote of four (4) ayes, the motion carried.

**APPROVAL OF MINUTES**

Motion by Member Kellogg, seconded by Member Gryder, to approve the minutes of the August 13, 2018 meeting. With a voice vote of four (4) ayes, the motion carried.

**EXPENDITURE REPORT**

The Committee reviewed the claims report. Member Gryder requested verification that adequate funds exist to pay the Plumbing Inspector; these costs are usually pass-throughs. Mr. Asselmeier will verify that information. Motion by Member Gryder, seconded by Member Gilmour, to forward the claims to the Finance Committee. With a voice vote of four (4) ayes, the motion carried.

Mr. Asselmeier noted that the Postage, Books/Subscriptions, Legal Publications, Plumbing Inspections, and Recording Expense Line Items were over one hundred percent (100%). The Plumbing Inspection and Recording Expense Line Items are pass-throughs.

Mr. Asselmeier stated that the Part-Time Office Assistant Zoning position is open because the person previously in that position resigned the previous week. The consensus of the Committee was to publicize and fill the vacancy.

## **PUBLIC COMMENT**

Kirk Friestad, Chicago Road, stated his opposition to the proposed changes to the Future Land Use Map in Lisbon Township. He questioned why this proposal was under consideration because the area is a prime agricultural area.

Member Kellogg explained that the majority of the information in the proposal was contained in the Village of Lisbon's Comprehensive Plan from 2009.

Linda Fosen, Townhall Road, objected to the planning area to be one-half (1/2) mile on either side of Route 47. Chairman Davidson said that space was needed for frontage roads and commercial and industrial users. Ms. Fosen suggested a quarter (1/4) mile on either side of Route 47.

Kristin Friestad, Quarry Road, requested clarification if someone approached the County to make these changes. The changes were proposed because of the widening of Route 47 and to correspond to the Village of Lisbon's Comprehensive Plan. She requested that the map remain unchanged. She expressed concerns about the ability of the County to deny rezoning requests to mining if the proposal is adopted.

Jerry Callaghan, attorney for Green Organics, stated he was in attendance because of the proposed special use permit amendment. Chairman Davidson said that Mr. Callaghan could make his remarks when the special permit item came up during the meeting.

Madison Friestad, Quarry Road, provided handouts with aeriels showing the current land uses and proposed land uses. She also provided pictures of the area. She would like the plan revisited in a few years.

Bob Friestad, Whitewillow Road, expressed concerns regarding the loss of farmland. He would like to see his family continue to farm in the area. Chairman Davidson mentioned the development along Route 59 and Naperville.

Linette Halcomb, West Sherrill Road, provided a history of her family's farming activities in the area going back to the 1840s. She showed a picture of the farmstead from the 1800s. She requested the Committee to consider the need for food and provided statistics on hunger. She believed that quarries should ask permission if they wish to open or expand in Kendall County.

## **PETITIONS**

*Petition 18-27-Request from Laura Hubbard for a Conditional Use Permit to Hold a Seasonal Event on September 29, 2018 and September 30, 2018 at 7626 Ashley Road, Yorkville, Kendall Township*

Mr. Asselmeier reported that Ms. Hubbard amended her request from earlier this year by expanding the September event to a two (2) day festival. She is rerouting traffic off of Route 126, but no other changes exist to her proposal. The Sheriff's Department expressed no concerns regarding this proposal. The Planning, Building and Zoning Department has not received any complaints from the Petitioner's previous events. The proposed dates are a Saturday and Sunday.

Motion by Member Gryder, seconded by Member Gilmour, to approve of the conditional use permit as requested.

Yeas (4): Davidson, Gilmour, Gryder, and Kellogg  
Nays (0): None  
Abstain (0): None  
Absent (1): Cullick

The motion carried.

Petition 18-04- Kendall County Regional Planning Commission

Mr. Asselmeier summarized the request.

The Comprehensive Land Plan and Ordinance Committee suggested holding an informational meeting on November 28<sup>th</sup> at 5:00 p.m. and that every property owner within one (1) mile of an impacted property should be notified.

The proposed changes include the following:

1. Changing the Agricultural Area West of Route 47 from Slightly South of Townhall Road to the Kendall/Grundy County Line to Mining.
2. Changing the Agricultural Area East of Route 47 from the Kendall/Grundy County Line North for a Distance of 0.50 Miles to Commercial.
3. Changing the Agricultural Area at the Northwest, Southwest, and Northeast Quadrants of the Intersection of Routes 47 and 52 to Commercial.
4. Changing the Agricultural Area at the Intersection of Route 47 and Plattville Road to Commercial.
5. Removing Rural Settlement Classification from Map.
6. Remaining Properties Along Route 47 from the Kendall/Grundy County Line to the Lisbon/Kendall Township Line Not Impacted by 1-5 Above Shall Be Changed from Agricultural to Mixed Use Business.
7. Incorporating the Village of Lisbon's Mixed Use Business and Residential Areas in Sections 16, 17, 18, 19, 20, 29, 30, 31, and 32 of Lisbon Township into the County Land Resource Management Plan.
8. Incorporate the Proposed Changes to the Lisbon Township Future Land Use Map into the Kendall County Future Land Use Map.
9. Remove All Language Contained in the Narrative Portion of the Kendall County Land Resource Management Plan that Conflicts with the Changes to the Lisbon Township Future Land Use Map.

The consensus of the Committee was to waive attorney/client privilege regarding the opinion of the State's Attorney's Office on notification. The opinion of the State's Attorney's Office was notification was not required in State law for updates to land resource management plans. Land resource management plans and the recommendations of planning commissions are advisory only. Nothing in State law prevented notification from occurring.

The Committee compared the proposal to the Village of Lisbon's Future Land Use Map.

Member Kellogg asked if the Village of Lisbon was considering changing their Future Land Use Map. Mr. Asselmeier was unsure if the Village of Lisbon had plans to update their map. Staff was unaware when the last time the Village of Lisbon reviewed their map.

Don Anderson, Ashley Road, suggested not making any changes because the Village of Lisbon already planned the area. The Village of Lisbon has more control than the County.

Motion by Member Gryder, seconded by Chairman Davidson, to forward the Petition 18-04 to the Committee of the Whole for their October meeting and to invite representatives from the Village of Lisbon and Village of Plattville to the October Planning, Building and Zoning meeting.

Member Gilmour expressed concerns about forwarding the proposal at this time due to lack of information.

Yeas (3): Davidson, Gryder, and Kellogg  
Nays (1): Gilmour  
Abstain (0): None  
Absent (1): Cullick

The motion passed. This matter will return to the Planning, Building and Zoning Committee on October 9<sup>th</sup> and the Committee of the Whole on October 11<sup>th</sup>.

*Amended Petition 18-07-Kendall County Planning, Building and Zoning Committee*

Mr. Asselmeier summarized the request.

This proposed text amendment was originally initiated because the Zoning Ordinance does not have a clear procedure for renewing special use permits. In reviewing all of the existing special use permits, twenty-seven (27) require some form of review or renewal. Additionally, in the future, the County Board may impose time limits on future special use permits. This proposal evolved into its current form as the Planning, Building and Zoning Committee and Kendall County Regional Planning Commission reviewed the proposal. Ultimately, the proposal called for amending the text of the Zoning Ordinance to allow the County Board to amend or revoke special use permits for any reason by a simple majority vote. This proposal only applies to special use permits issued after the date of adoption of this ordinance.

The Planning, Building and Zoning Committee reviewed the original proposal on February 13<sup>th</sup> and unanimously approved initiating the text amendment process. The Planning, Building and Zoning Committee reviewed the concerns raised by the Kendall County Regional Planning Commission at their May and June meetings and ultimately approved this text amendment proposal in its current form.

ZPAC reviewed the original proposal at their meeting on March 6<sup>th</sup> and unanimously recommended approval of the original proposal.

The Kendall County Regional Planning Commission believed that amendments and revocations should only occur after a special use permit holder had been found guilty in court and such revocations and amendments should occur by super-majority votes of the County Board. The Kendall County Regional Planning Commission also expressed concerns about the investments that special use permit holders made in their property and business that could be lost if a special use permit was revoked. Concerns about obtaining business loans were expressed on several occasions and that this proposal would discourage business. The Kendall County Regional Planning Commission also did not like the potential for litigation. Concerns about the County Board behaving arbitrarily on revocations or amendments were also expressed. The

Planning, Building and Zoning Committee was also informed of the Kendall County Regional Planning Commission's concerns about holding property and special use permit holders accountable for violations of previous property and/or special use permit holders. The Planning, Building and Zoning Committee did not share the concerns of the Kendall Regional Planning Commission on these matters and they (the Planning, Building and Zoning Committee) believed the County Board should have the ability to amend and/or revoke special use permits as outlined in the proposal. At their meeting on July 25, 2018, the Kendall County Regional Planning Commission unanimously recommended denial with eight (8) members of the Commission present.

Staff previously mailed notices of the meetings and a copy of the proposal to all special use permit holders on file.

The following comments on this subject were made at the March 28, 2018, Kendall County Regional Planning Commission meeting:

Roger Smith, Tyler Road, provided a history of his special use permit for a mobile home on his property. He was not in favor of the proposed changes.

Pat Kinnally, attorney for Bryan Holdings, Aurora, expressed concerns about the lack of clarity for grandfathering. He also expressed concerns about the difference between minor and major amendments to special use permits and the power of the Zoning Administrator. Mr. Kinnally did not want the actions of previous property owners to have an impact on whether or not a special use permit is revoked or renewed.

George Ostreko, East Beecher Road, said that he has not been inspected by Kendall County since he bought the property in the 1984. His special use permit is for mining.

The following comments on the subject were at the June 27, 2018, Kendall County Regional Planning Commission meeting:

Todd Milliron, Yorkville, does not like the simple majority language. He would like a supermajority vote of the County Board. He would like to see cause, documentation, and due process when amendments to or revocation of special use permits are considered.

Peter Pasteris, Johnson Road, expressed concerns regarding the proposal. He does not believe a special use permit should be revoked or amended if someone is following the provisions of their special use permit.

The following comments on the subject were made the July 25, 2018, Kendall County Regional Planning Commission meeting:

The proposal will not impact the campground on Van Emmon.

Dan Koukol, Oswego Township, said many of the special use permit holders employ many people in Kendall County. These employees spend money in Kendall County. The Comprehensive Land Plan and Solid Waste Plan are constantly updated. Families have been built on the special use permits. Mr. Koukol was also concerned that fewer than six (6) votes could be required to revoke someone's special use permit. He also expressed concerns that these special use permit holders will not get financing. If a

special permit holder makes four (4) County Board members angry, they could lose their special use permit.

Jerry Callaghan, attorney for Green Organics, argued that the grandfathering provisions were not clear. Does “upon revocation” mean that someone has to cease immediately? He stated that people cannot just cease an activity because of private property rights. There are no standards for revocation or amendment of special use permits which makes it difficult for people and businesses to make business decisions.

Peter Pasteris, Johnson Road, stated that his farm means a lot to him. He looked at his special use permit as a way to save their farm. He discussed the multiplier effect of his business on hotels, caterers, kids doing jobs, and similar businesses and people. He thinks that, if this proposal is approved, some of the growth will cease. He expressed concerns that he could lose his grandfathering if he makes changes to the layout of the site.

Megan Jensen, Caton Farm Road, stated that they went through the special use process two (2) years ago. She expressed concerns regarding the impact of potential changes to their special use permit. They purchased their property on the condition that the zoning must be approved. If the special use permit were revoked, that revocation would negatively impact their use of the property. The people applying for special use permits are trying to follow the rules.

Pete Bielby, Fox River Drive, asked how many special use permits did not run with the land. Mr. Asselmeier said very few. His special use permit runs with the land.

Nobody in audience at the July 25<sup>th</sup> meeting expressed support of the proposed amendment.

The Kendall County Zoning Board of Appeals held a public hearing on this proposal on July 30, 2018. The Kendall County Zoning Board of Appeals unanimously recommended denial of the proposal.

The following testimony and comments on the subject were made the July 30, 2018, Kendall County Zoning Board of Appeals meeting:

Jerry Callaghan, attorney for Green Organics, stated that he attended the Kendall County Regional Planning Commission meeting on July 23, 2018. He stated that Green Organics has five (5) more years on their special use permit. He stated the language of the petition was that the special use will remain in effect until the special use permit expires. Chairman Mohr agreed with Mr. Callaghan. Mr. Callaghan continued that, if the special use permit was to be revoked, notice had to be sent two (2) months prior to final action. Mr. Asselmeier responded, if Kendall County wanted to revoke a special use permit, yes. Mr. Callaghan expressed concerns regarding the procedure and lack of standards for revocation. Mr. Callaghan expressed concerns regarding the loss of investment made by a business if the County revoked a special use permit. Mr. Callaghan questioned the County’s ability to shut down an activity due to legal non-conforming regulations. Mr. Callaghan argued the proposal did not take into consideration the owners property rights and was promoting chaos and confusion. He agreed if an owner was not adhering to their special use permit, the County has a right

revoke their special use. Mr. Callaghan agreed that the petition will discourage investments and discourage banks from lending money to owners. He requested the Zoning Board of Appeals to reject the proposed text amendment. Chairman Mohr questioned the location of the Green Organics business and if they are paying the tipping fees as part of the special use permit. Mr. Callaghan believed that Green Organics was paying the tipping fees. Chairman Mohr questioned if Green Organics will still be in a similar situation in five (5) years when they are set to renew their permit. Mr. Callaghan believed any owner would be in a better position for renewal if this proposal was not rejected. Mr. Asselmeier responds that one member of the Planning, Building and Zoning Committee believed the issues with the special use permits were a legislative decision and that revocation falls under that scope and the County would have that right to revoke under the legislative decision. Mr. Callaghan agreed that the issuance of special uses permits are a legislative decision, but did not believe it can be legislated to revoke someone's property rights.

Mark Caldwell, Finnie Road, Dickson Valley Camp, stated that he understood the camp would be grandfathered, but did not agree with the proposal. Mr. Caldwell argued that the language could be used negatively by future County Boards that have an agenda against religious organizations such as his. He stated any changes or amendments to the camp could place them under the new regulations. Mr. Caldwell admitted that the camp will continue to evolve and changes will be made. However, they will be penalized with the new language if accepted. Mr. Caldwell requested for the Zoning Board of Appeals to vote no.

Megan Jensen, Caton Farm Road, requested the Zoning Board of Appeals vote no on the petition. She understood the petition will not affect them as they are grandfathered. However, if their special use needed to be amended for any reason, the County could revoke their special use permit for any reason. Ms. Jensen argued the County should not be able to revoke at a later date if the owner agreed to follow any and all rules. Furthermore, she argued the petition was proposed for a couple of properties with issues, but this proposal will not apply to those properties because they are also grandfathered. The proposal creates issues for future special use. Also, if the special use permit that came with her property was revoked, they would have lower property values. Ms. Clementi questioned what Ms. Jensen's special use was for; Ms. Jensen's special use was for landscaping.

Fred Davis, Caton Farm Road was mainly concerned with the County's ability to revoke the special use permit without good reason and without majority of County Board members present. Mr. Davis reinvested back into the Kendall County community via his special use and he did not believe the petition will be welcoming to businesses. Mr. Davis argued if someone is not following the rules, their special use permit should be revoked. Mr. Davis questioned if he amended his business by expansion or hiring more workers would he then be under the new petition. Mr. Asselmeier stated that, if Mr. Davis' amendments were more than ten percent (10%) of something quantifiable in his special use permit, he would fall under the new regulations. Chairman Mohr stated that whatever changes Mr. Davis makes to his property will affect the homes or properties near him which would warrant him to fall under the new petition if approved. Chairman Mohr acknowledged that there will still be a procedure whether the petition is accepted

or not if Mr. Davis adds to his special use. Mr. Asselmeier explained that, with the current procedure Mr. Davis would still be required to amend his special use if he intended on amending his property more than ten percent (10%). Chairman Mohr questioned if Mr. Davis would be better off not expanding; Mr. Asselmeier confirmed.

Pete and Laurie Pasteris, Johnson Road, believed if the County was having an issue with a few people with a special use permit, the County should deal with those individuals instead of creating problems for the ones that are following the rules. Mr. Pasteris stated they have a farm but also a special use for a weddings. He argued if he changes the tent size, they would have to accept the new guidelines. Mr. Pasteris argued the farm was another selling point for his business. Ms. Pasteris argued their loan could create problems if Kendall County decided to revoke their special use permit, which is not fair in her opinion.

Nate Howell, Church Road stated his problem with the revocation language. He has a special use for his whole property, but uses a small percentage for his shooting range. Mr. Howell argued that, if he decided to demolish his current barn, he would automatically be placed under the new rules. Mr. Howell argued if someone on the County Board did not like shooting ranges, he would no longer have a business. Mr. Howell stated he cannot add or take down any building because of his special use permit. Mr. Asselmeier responded that, due to how Mr. Howell's site plan was approved, Mr. Howell would have a harder time making any changes to his property.

Chairman Mohr questioned the definition of guilty. Mr. Asselmeier responded guilty meant being found guilty by a court. Chairman Mohr referred to Mr. Howell taking down the barn on his property; Mr. Mohr believed that Mr. Howell should have his special use revoked even though the removal of the barn would technically be a violation of special use permit. Mr. Asselmeier stated, because of how his special use permit was written, Mr. Howell would be in violation. However, the original goal of the proposal was to revoke special use permits only after all legal actions have been taken and the property owner was in fact found guilty of violation by a court. Chairman Mohr agreed with Mr. Howell that, if someone on the Kendall County Board did not like shooting ranges, that belief would be a reason for revocation.

Mr. Whitfield stated there was already a revocation process in place. Mr. Asselmeier stated there was a procedure currently in place. After notice, the owner has thirty (30) days for remediation. An owner can request an extension. After all extensions were exhausted, the case goes to the Kendall County Board Committee and they can forward the case to the States' Attorney for legal action. Mr. Asselmeier stated the one (1) special use permit holder has been causing problems, but has not been found guilty because they remedied their violations. Mr. Whitfield sought clarification that there was a procedure already in place that keeps the owners in line with the rules. Mr. Whitfield stated there was already a process in place for the people who are causing problems.

Mr. Thompson agreed with Mr. Whitfield and stated the proposal is too imposing.

Mr. Davidson stated his opposition because he believed that a super majority vote should be required. Mr. Davidson did not believe the petition will have a positive effect.



Ms. Clementi did not believe the proposal was fair to the people, and the people causing problems should be addressed directly.

Mr. LeCuyer stated that too many rules could hinder the people that are adhering to the rules.

The townships were frequently updated on the status of this proposal and on July 31, 2018, they were notified that a public hearing occurred. Pursuant to 55 ILCS 5/5-12014(c), the townships of Little Rock, Kendall, Lisbon, and Seward filed formal objections to this proposal. Pursuant to State law, the approval of at least three-quarters (3/4) of the County Board is required to approve this proposal.

The Comprehensive Land Plan and Ordinance Committee met on this proposal on August 22, 2018, and suggested that the proposal be laid over reviewed for possible changes at their October meeting.

Chairman Gryder reported that Oswego Township was in favor of the proposal.

There was a legal question raised regarding whether or not the proposal would apply to those townships that did not object. Chairman Davidson wanted the State's Attorney's Opinion on the formal objections of townships and the number of votes required at the County Board.

Member Kellogg expressed concerns regarding enforcing vague statements in special use permits or enforcing the noise regulations. This proposal will not help enforce noise regulations.

Chairman Davidson wanted the State's Attorney's opinion on the legality of the proposal. Member Kellogg did not want to waste the State's Attorney's time.

Motion by Member Gryder, seconded by Member Gilmour, to request the State's Attorney's opinion regarding the legality of the proposal and the whether or not eight (8) votes are required to adopt the proposal.

Yeas (3): Davidson, Gilmour, and Gryder  
Nays (1): Kellogg  
Abstain (0): None  
Absent (1): Cullick

The motion carried. The proposal will be forwarded to the State's Attorney's Office for review.

*Amended Petition 18-13-Kendall County Planning, Building and Zoning Committee*

Mr. Asselmeier summarized the request.

At their meeting on March 12, 2018, the Planning, Building and Zoning Committee approved initiating text amendments to the Kendall County Zoning Ordinance incorporating DeKalb County's proposed solar panel regulations into the Kendall County Zoning Ordinance.

Mr. Holdiman previously suggested that 4.18.O.2 be removed from the proposal because the County currently does not require insurance for existing solar panels.

The Kendall County Farm Bureau was sent the proposal in March. They questioned why the bonding requirement was “may” and not “shall” (4.18.P.6).

The townships were mailed the proposal on March 22<sup>nd</sup> and were notified of the results of the July 30, 2018, Zoning Board of Appeals hearing. To date, no townships have submitted comments.

ZPAC met on the proposal on April 3<sup>rd</sup> and unanimously recommended approval of the proposal with the following amendments:

1. Section 4.18.D.10 should be removed because the same language is found in 4.18.Q.3.
2. A more detailed contour map with existing vegetation, waterways, wetland boundaries, and FEMA FIRM information in a manner described in the Boone County ordinance should be added to the proposal.
3. The reference to the State of Illinois Uniform Building Code found in Section 4.18.C.8 should be removed.
4. Greater discussion should occur regarding the desire to have solar gardens in residential zoned districts.
5. The word “crops” found in line 7 of 4.18.C.4 should be replaced with the word “vegetation” because crops probably will not be the only plants growing around the solar panels and crops probably will not grow around the solar panels.

The Kendall County Regional Planning Commission met on May 23, 2018, and recommended approval of the proposal with the following changes.

1. The reference to a county solar garden in the definition of “Solar Garden” should be deleted.
2. All references to waiving the special use permit requirements and setback requirements should be deleted.
3. Solar gardens and solar farms had to follow the setback requirements for the zoning district in which they are located. Accordingly, the reference to a one hundred foot (100’) distance from the right-of-way or property line found in 4.18.D.2 should be deleted.
4. The statement that solar farms require a special use permit found in Section 4.18.D.1 should be removed.
5. If allowed by the State’s Attorney’s Office, a provision should be added to Section 4.18.F regarding repair of damaged drain tile.

The Kendall County Zoning Board of Appeals held a public hearing on this proposal on July 30, 2018. No members of the public testified in favor or in opposition to the proposal. The Zoning Board of Appeals unanimously recommended approval of the proposal.

The State of Illinois recently approved an Agricultural Impact Mitigation Agreement (AIMA) requirement. This proposal requires decommissioning to be completed within six (6) months of

the commencement of the decommissioning plan (4.18.P.4); the AIMA allows a maximum twelve (12) months for decommissioning to occur (17.B). In addition, the proposal gives the County Board discretion whether or not to require a decommissioning bond (4.18.P.6); the AIMA allows decommissioning Financial Assurance to be phased over the first eleven (11) years (17.D).

Member Gilmour asked about the definition of solar garden. Mr. Asselmeier read the definition.

Member Gilmour asked about Illinois Building Code. Mr. Asselmeier responded that the code in question does not exist.

Member Gryder discussed evaluating special uses on a case-by-case basis instead of a blanket ordinance.

Solar panels used to produce energy for onsite consumption are exempt from the proposal.

Chairman Davidson liked the Kendall County proposal regarding the timing for decommissioning and the keeping of a bond for the duration of a special use permit.

The consensus of the Committee was to make the bonding requirements mandatory instead of discretionary.

Motion by Member Kellogg, seconded by Member Gryder, to forward the proposal to the Committee of the Whole.

Yeas (4): Davidson, Gilmour, Gryder, and Kellogg  
Nays (0): None  
Abstain (0): None  
Absent (1): Cullick

The motion carried. The proposal will go to the Committee of the Whole on September 13<sup>th</sup>.

*Petition 18-26- Maurice E. Ormiston as Trustee u/t/a No. 101 and Marilyn J. Ormiston as Trustee u/t/a 102 (Owners) and Gay Hoddy (Tenant)*

Mr. Asselmeier summarized the request.

Gay Hoddy is the daughter-in-law of the Owners of the subject property. Ms. Hoddy would like to establish a banquet facility at the subject property and is requesting variances to the requirement that the facility must be located on an arterial or major collector road, the requirement for hard surface parking areas (except for the ADA required parking spaces), and that the property not be required to have fully shielded parking facility lighting.

Because a similar special use permit and similar variances were granted at a property near the subject property, Staff recommends approval of the requested special use permit and variances subject to the following conditions and restrictions:

1. The site, including parking plan, shall be developed in accordance to the attached site plan. The owner of the business allowed by this special use permit may remove the

porta-potties shown on the site plan if adequate, permitted facilities (i.e. septic system) are installed on the property for use at the banquet facility (**Amended by ZPAC**). The owner of the business allowed by this special use permit may also install one or more temporary tents located west of the framed barn. (**Clarified after ZPAC**).

2. A maximum of two hundred fifty (250) guests in attendance at a banquet center related event may be on the subject property at a given time (**Added after ZPAC**).
3. The lighting shall be developed in accordance to the attached site plan and photometric plan. The operator of the banquet facility may install two (2) decorative lights on the south side of the barn and two (2) decorative lights on the east side of the barn.
4. Events shall be confined to the framed barn, patio area, and grassy area west of the barn. No events may be held in the loft or second story or above of the framed barn, the corn crib, garage, residence, or any new barns or accessory buildings on the property without an amendment to this special use permit.
5. A variance shall be granted to the requirement that the facility shall have direct access to a road designated as an arterial roadway or major collector road as identified in the Land Resource Management Plan as required in Section 7.01.D.10.a of the Kendall County Zoning Ordinance (**Clarified after ZPAC**).
6. The subject parcel must be a minimum of five (5) acres.
7. The use of this property shall be in compliance with all applicable ordinances. The banquet facility shall conform to the regulations of the Kendall County Health Department and the Kendall County Liquor Control Ordinance (Ord. 99-34).
8. Off-street parking, lighting and landscaping shall be provided in accordance with the provisions of Section 11 of the zoning ordinance except where variances are granted.
9. A variance shall be granted to the requirement contained in Section 11.02.F.2 of the Kendall County Zoning Ordinance that the business allowed by this special use permit shall be exempt from the requirement that all required open off-street parking areas and access drives constructed or re-constructed after May 20, 2008 shall be improved with a permanent, concrete, unit paver, asphalt surface or some other environmentally friendly surface or green design practices. This variance shall not be extended to parking and parking related facilities required by the Americans with Disabilities Act (**Clarified after ZPAC**).
10. A variance shall be granted to the requirement contained in Section 11.02.F.12.B of the Kendall County Zoning Ordinance that the business allowed by this special use permit shall provide only "fully shielded" or "cut-off" light fixtures (**Clarified after ZPAC**).
11. All signage shall comply with the provisions of Section 12 of the Kendall County Zoning Ordinance. The signage shall be developed in accordance to the attached site plan. The signage will not be illuminated.
12. Retail sales are permitted as long as the retail sales will be ancillary to the main operation.
13. 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.

14. No music shall originate outside of any building associated with the special use permit. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony (**Added at ZPAC**). No bands shall perform at any events (**Added at KCRPC**).
15. Events shall be held between May 1 and October 31. The property owner or banquet operator may hold events outside of this timeframe with the approval of the Planning, Building and Zoning Committee.
16. No more than four (4) events in a seven (7) day period may be held at the property.
17. Setup for events shall not commence prior to 10:00 a.m.
18. All events must cease by Midnight except for cleaning up after an event which must cease by 1:00 a.m.
19. A new certificate of occupancy must be issued for the framed barn.
20. The operator of the banquet facility allowed by this special use permit shall reside at the subject property as their primary place of residence.
21. The operator of the banquet facility and property owner(s) acknowledge and agree to follow Kendall County's Right to Farm Clause.
22. The property owner and operator of the banquet facility allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business.
23. 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.
24. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

Fox Township was emailed information on July 30, 2018. No comments were received.

Newark Fire Protection District was emailed information on July 30, 2018. No comments were received.

The United City of Yorkville was emailed information on July 30, 2018. While the property is within one point five (1.5) miles of the Yorkville City Limits, the subject property is not included in Yorkville's extraterritorial planning area as shown on the Yorkville Future Land Use Map.

ZPAC reviewed this proposal at their meeting on August 7, 2018. The consensus of ZPAC was to allow the Petitioner to install or expand her septic system in the future (thus removing the need for porta-potties) without having to amend her site plan. Discussion also occurred about requiring landscaping, berming, and/or trees if the neighbors complain. John Whitehouse, engineer for the Petitioner, expressed concerns installing buffering because of a complaint; he wondered who would investigate a complaint and if a complaint, whether founded or unfounded, would trigger a buffering requirement. The Petitioner agreed not to have music outside the barn except wedding ceremony music. No private security would be provided. Mr. Rybski indicated that private events are not under the jurisdiction of the Health Department so long as the well is not used. If all the water is trucked in, that is fine. Mr. Whitehouse said that he would provide additional information on the lines for the septic field. Mr. Asselmeier indicated that WBK had concerns about the unpaved parking area. Mr. Asselmeier indicated that, if the area looked bad, Ms. Hoddy's business would suffer because some prospective customers would not want to have events at a location that looked undesirable. Mr. Davidson said the Petitioner will have to let the grass grow slightly higher and mow it frequently. ZPAC unanimously recommended approval of the proposal with restrictions.

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on August 22, 2018. Discussion occurred regarding verifying that the property owners supported the application. No music would be allowed to originate from tents. The special use permit would run with the land; a resident of the property could operate a banquet facility. Ms. Wilson expressed concerns regarding noise, particularly wedding reception music, created by the proposed use. The Petitioner indicated that no bands shall perform at events. Mr. Bledsoe expressed concerns regarding the impact of noise and lights on the house across the street from the property. Ms. Zubko suggested adding landscaping south of the parking area to block lights from the parking lot. She also suggested adjusting the handicapped stall or walkway to prevent a vehicle from blocking the south access point of the path from the handicapped parking area to the barn. Mr. Nelson suggested adding arborvitae to block the headlights from motorists on the driveway. Discussion occurred regarding adding a right-turn only sign. However, the consensus of the Commission was that people would not follow the instruction and that enforcing the sign would be difficult. Anne Vickery stated that she visited her daughter who lives near another banquet facility and did not hear any noise from that banquet facility. She also stated that people will travel down the path of least resistance and a right-turn only sign will not work. The Kendall County Planning Commission recommended approval the conditions proposed by Staff with seven (7) Commissioners in favor and one (1) Commissioner in opposition. Ms. Wilson voted no because of the lack of mitigation of noise and light. She was unsure that the property owner was in favor of the petition. She also does not think the County does an adequate job of enforcing the noise regulations.

The Kendall County Zoning Board of Appeals held a public hearing on this proposal on August 27, 2018. No members of the public expressed support or objections to this proposal. The Petitioner's attorney provided documentation from the owner expressing his support for the proposal. The Petitioner's attorney also provided a letter of no opposition from the tenant living in the house across Hughes Road from the subject property. The Zoning Board of Appeals

unanimously recommended approval of the special use permit and variances with the restrictions proposed by Staff. The complete record of the hearing, including the minutes of all related meetings and documents related to the Petition, can be found at [https://www.co.kendall.il.us/wp-content/uploads/Petition\\_18-26.pdf](https://www.co.kendall.il.us/wp-content/uploads/Petition_18-26.pdf).

The Zoning Board of Appeals also unanimously approved the following Findings of Fact:

#### **FINDINGS OF FACT-SPECIAL USE**

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

*That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. **The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, or general welfare, provided that the site is developed in accordance with an approved site plan. The Kendall County Sheriff's Department, Fox Township Road District, and Newark Fire Protection District have not submitted comments expressing concerns for public health and safety. However, without proper buffering or screening, light and noise from the proposed use could impact the comfort of the property located southeast of the subject property.***

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

*That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. **True, adequate utilities, drainage, and points of ingress and egress are 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. **Provided that variances are approved regarding distance to arterial and collector roads, the waiver of the requirement that off-street parking areas and access drives be improved with a permanent, concrete, unit paver, asphalt surface, or some other environmentally friendly surface or green design practice, and the waiver of the requirement that only "fully shielded" or "cut-off" light fixture are allowed, the special use would 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 3-6 of the Kendall County Land Resource Management Plan which states as an objective “Encourage Agriculture and Agribusiness.” Also, if the business allowed by this special use permit were to cease operations, the land could be easily converted to other uses allowed in the A-1 Zoning District.*

## **FINDINGS OF FACT-VARIANCE**

§ 13.04.A.3 of the Zoning Ordinance outlines findings that the Zoning Board of Appeals must make in order to grant variations. They are listed below in *italics*. Staff has provided findings in **bold** below based on the recommendation:

*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. If the owner of the business allowed by this special use permit were required to install the required parking, the property would have greater difficulty reverting back to a farmstead if the business ceased operations. The required light is for businesses located in a more developed, commercial area and not a rural, agricultural area. The proposed banquet facility is approximately one point two (1.2) miles from an arterial roadway (Route 71); an existing, approved banquet facility on the same road is approximately one point five (1.5) miles away from an arterial roadway or major collector roadway.*

*That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. This is not true. Other banquet facilities in the rural areas could face similar concerns related to lighting, parking, and access to an arterial roadway or major collector roadway. The specific number of properties sharing similar characteristics is unknown.*

*That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. While no one involved with the requested special use permit and variances platted the subject property, the Petitioners created the hardship by desiring to have a banquet facility at the subject 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. True, the Kendall County Sheriff’s Department, Fox Township Road District, and the Newark Fire Protection District have not expressed any concerns regarding the proposed use being materially detrimental to the public welfare or injurious to other property in the neighborhood.*

*That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. True, the proposed use will not block light or air from adjacent properties. The proposed use will not cause an increase in congestion on public streets because events will not be held every day. Provided the business allowed by the special use permit follows the restrictions placed on the special use permit, no increase to the*



**danger of fire or the endangerment of public safety should occur. Data does not exist as to whether the placement of the proposed use will diminish or impair the property value of the property located southeast of the subject property.**

Ms. Hoddy's business plans were provided. The site plan was provided. The site plan was revised prior to the Kendall County Regional Planning Commission meeting to reflect concerns by the Health Department regarding the location of the septic field.

Events would be held in the frame barn located on the north side of site. Tents could be set up to the west of the barn. Based on the current size of the barn (approximately 1100 square feet), approximately one hundred twenty (120) people could fit inside the barn. Ms. Hoddy anticipates the largest group of attendees to be approximately two hundred fifty (250) people including staff. No members of the public would be allowed in the loft of the barn. At some point in the future, Ms. Hoddy may put concrete pavement in the barn; the current pavement is compacted gravel.

The facility would be operational from May 1<sup>st</sup> through October 31<sup>st</sup>. Ms. Hoddy would like the ability to have events outside these dates, weather permitting. The majority of events would be on weekends. However, she would like the ability to have weekday events as well. She seemed open to capping the number of events per week. The proposed hours of operation for events would be from 4:00 p.m. until Midnight. Setup for events would start at 10:00 a.m. and take down from events would be completed by 1:00 a.m.

Ms. Hoddy plans to have two (2) hostesses and four (4) servers at a maximum.

In the event of a security issue, Ms. Hoddy would call 911. The Sheriff's Department had no objections to this plan.

All events would be catered, both food and drink.

The reserving party would be responsible for securing applicable insurance. Ms. Hoddy will also have insurance.

The banquet hall will be used for weddings, birthdays, retirement parties, and similar events.

Ms. Hoddy and her husband live on the property. She has over twenty (20) years of experience as a waitress and banquet related work. She has taken CPR classes in the past and plans to take a refresher course.

Ms. Hoddy reported that she has received at least four (4) phone calls requesting weddings at the property. She had her wedding at the property. One (1) niece had a wedding at the property and another niece is planning a wedding at the property.

Ms. Hoddy agreed to follow all applicable laws related to this type of business and she also agreed to follow the Kendall County Right to Farm Clause.

If approved, Ms. Hoddy would like to start having events in May 2019.

A Change of Occupancy Permit will be required for each existing structure that will be used in conjunction with the proposed banquet facility.

Ms. Hoddy indicated that all water used for events will be brought into the site; no well water will be used. Porta-potties will be used for events. According to the site plan, one (1) handicapped accessible porta-potty and two (2) other porta-potties will be located to the northeast of the barn. Refuse containers and a dumpster will be located near the porta-potties. An ADA approved path from the barn to the handicapped accessible porta-potty will be installed with lights.

The Fox Township Highway Commissioner informed the Kendall County Highway Engineer that he had no issues with the proposed use at the subject property.

Ms. Hoddy submitted a parking plan showing sixty-three (63) parking spaces including four (4) handicapped parking spaces. The parking area is planned to be grass except for the handicapped parking spaces; Ms. Hoddy is requesting a variance to allow this type of parking. Parking will be to the south of the house west of the driveway and to the east of the driveway. No parking will encroach in the required setbacks. The site plan was revised prior to the Kendall County Regional Planning Commission meeting to reflect concerns by the Health Department regarding the location of the septic field.

Staff discussed the lack of paved parking areas with WBK. If the grass is maintained correctly, no parking or erosion issues related to bare soil should arise.

The ADA parking areas will be hard surfaced.

The Kendall County Sheriff's Department expressed no concerns regarding the internal traffic circulation pattern as it relates to public health and safety concerns at the site.

Ms. Hoddy submitted a photometric plan and lighting is shown on the parking plan. According to the plan, two (2) new lights would be added for the parking lot west of the driveway. Two (2) new lights would be added to the parking lot east of the driveway. One (1) new light would be installed north of the handicapped parking area. Eight (8) solar powered lights will be installed on the walkway between the barn and the handicapped parking area. Ms. Hoddy indicated additional lighting could be installed along the south and east sides of the barn. The photometric and site plans were revised prior to the Kendall County Regional Planning Commission meeting to reflect concerns by the Health Department regarding the location of the septic field.

A non-illuminated sign is proposed on the west side of the driveway as shown on the site plan. The sign will be approximately thirty-two (32) square feet in size and two (2) faced. The location and type of sign proposed meet the requirements of the Kendall County Zoning Ordinance.

Ms. Hoddy does not plan to install any additional landscaping.

The barn would not be air conditioned and the doors on the south and east sides would likely be open during events.

Ms. Hoddy indicated that no music related to events would originate outside the barn except for music related to a wedding ceremony.

Ms. Hoddy agreed to follow the Kendall County noise regulations. However, she did not provide a method for tracking noise.

Kendall County previously granted a special use permit at 13889 Hughes Road (Ordinance 2016-05) for a banquet facility. This banquet facility is approximately one point two (1.5) miles

from the nearest major collector road (Newark Road via Hollenback Road). The proposed banquet facility at the subject property is approximately one point two (1.2) miles from Route 71.

Based on the Kendall County GIS, the barn at the subject property is approximately six hundred two feet (602') from the house at 14838 Hughes Road. The parking area east of the driveway is approximately two hundred twenty-four feet (224') from the house at 14838 Hughes Road. In comparison, the closest barn at 9111 Ashley Road is approximately six hundred twenty-four feet (624') from the house across the street and the parking area is approximately four hundred eleven feet (411') from the house across the street. The impact of noise and light on the adjoining property are concerns.

Member Kellogg requested information on the control board used at the Pasteris banquet facility to control noise. Peter Pasteris provided information about his system; every disc jockey is required to plug into the system. Boyd Ingemunson, attorney for the Petitioner, expressed concerns regarding the cost of installing a sound system.

The doors of the barn have rolling doors.

A tent will be used for larger events. The dance floor is in the barn.

Discussion occurred regarding regulating the capacity at the property.

The consensus of the Committee was to allow the Petitioner to use the loft in the barn if the occupancy permit is amended and the building code requirements are met.

Discussion occurred regarding allowing the Petitioner to have non-amplified music in the tent during dinner.

The consensus of the Committee was to have the special use permit run for the land.

Motion by Member Kellogg, seconded by Member Gilmour, to forward the proposal to the Committee of the Whole with the change to the loft requirement if used for events.

Yeas (4): Davidson, Gilmour, Gryder, and Kellogg  
Nays (0): None  
Abstain (0): None  
Absent (1): Cullick

The motion carried. This matter will go to the Committee of the Whole on September 13<sup>th</sup>.

*Petition 18-28-Kendall County Planning, Building and Zoning Committee*

Mr. Asselmeier summarized the request.

The Kendall County State's Attorney's Office recently completed the proposed draft Inoperable Vehicle Ordinance.

The proposal would allow the Kendall County Planning, Building and Zoning Department to issue citations in cases of inoperable vehicles.

The proposal removes the authority to allow the Kendall County Sheriff's Department to tow inoperable vehicles.

The proposal could apply to inoperable farm machinery that meets the definition of "motor vehicle".

Discussion occurred regarding pro-active citations instead of complaint-based enforcement.

Member Gryder indicated that a possibility exists for an intergovernmental agreement with Oswego Township for code enforcement assistance from Oswego Township.

Discussion occurred about home-based business regulations.

Discussion occurred about the definition of inoperable in relation to having insurance and licensed.

Discussion occurred regarding the definition of storage.

Motion by Member Gryder, seconded by Member Kellogg, to forward the proposal to the Committee of the Whole with the amendment to Section 2 exempting any motorized equipment used in production of agriculture.

Yeas (4): Davidson, Gilmour, Gryder, and Kellogg  
Nays (0): None  
Abstain (0): None  
Absent (1): Cullick

The motion carried. This matter will go to the Committee of the Whole on September 13<sup>th</sup>.

## **NEW BUSINESS**

*Approval of Agricultural Impact Mitigation Agreement Between Kendall County and 312 Solar Development, LLC c/o Borrego Solar Systems, Inc. for a Solar Panel Project at 16400 Newark Road-Committee Could Refer the Agreement to the State's Attorney's Office*

Mr. Asselmeier summarized the proposal.

When the County Board approved the special use permit allowing solar panels at 16400 Newark Road (Ordinance 2018-15), they included a requirement that the operator of the solar field and the owner of the property sign an Agricultural Impact Mitigation Agreement (AIMA) similar to the one approved by the State of Illinois.

This agreement differs from the special use permit in the following ways:

1. The special use permit required decommissioning within six (6) months of the commencement of the decommissioning plan (restriction H); this proposed AIMA allows a maximum twelve (12) month for decommissioning to occur (17.B).
2. The special use permit required a decommissioning bond be posted for the duration of the special use permit (restriction F); this proposed AIMA allows decommissioning Financial Assurance to be phased over the first eleven (11) years (17.D).

Staff recommends the AIMA be forwarded to the State's Attorney's Office for review.

Motion by Member Kellogg, seconded by Member Gryder, to forward the proposal to the State's Attorney's Office with the requirements that decommissioning take six (6) months and to have a bond run for the duration of the special use permit.

Yeas (4): Davidson, Gilmour, Gryder, and Kellogg  
Nays (0): None  
Abstain (0): None  
Absent (1): Cullick

The motion carried. The proposal will be forwarded to the State's Attorney's Office.

*Approval of Agricultural Impact Mitigation Agreement Between Kendall County and the Nancy L. Harazin Trust Number 101 for a Solar Panel Project at 16400 Newark Road-Committee Could Refer the Agreement to the State's Attorney's Office*

Mr. Asselmeier summarized the proposal.

When the County Board approved the special use permit allowing solar panels at 16400 Newark Road (Ordinance 2018-15), they included a requirement that the operator of the solar field and the owner of the property sign an Agricultural Impact Mitigation Agreement (AIMA) similar to the one approved by the State of Illinois.

This agreement differs from the special use permit in the following ways:

1. The special use permit required decommissioning within six (6) months of the commencement of the decommissioning plan (restriction H); this proposed AIMA allows a maximum twelve (12) months for decommissioning to occur (17.B).
2. The special use permit required a decommissioning bond be posted for the duration of the special use permit (restriction F); this proposed AIMA allows decommissioning Financial Assurance to be phased over the first eleven (11) years (17.D).

Staff recommends the AIMA be forwarded to the State's Attorney's Office for review.

Motion by Member Kellogg, seconded by Member Gryder, to forward the proposal to the State's Attorney's Office with the requirements that decommissioning take six (6) months and to have a bond run for the duration of the special use permit.

Yeas (4): Davidson, Gilmour, Gryder, and Kellogg  
Nays (0): None  
Abstain (0): None  
Absent (1): Cullick

The motion carried. The proposal will be forwarded to the State's Attorney's Office.

*Request for Guidance Regarding a Special Use Permit for the Yarn Foundation at 71 Boulder Hill Pass (Ordinance 2012-10)*

Mr. Asselmeier summarized the request.

On June 19, 2012, the Kendall County Board approved a special use permit allowing the operation of the Yarn Foundation, Inc. at 71 Boulder Hill Pass (Ordinance 2012-10).

One (1) of the WHEREASes states, “if the Yarn Foundation Inc. was to move out of the building the special use would dissolve at that time.”

On July 18, 2018, Staff sent the owners of the Yarn Foundation, Inc. an email asking if the business was still located at the subject property. The owners responded on July 18<sup>th</sup> stating they are no longer operational at that address. Staff emailed a request to the owners asking them if they would like to revoke the special use permit. Staff has not received correspondence from the owners since July 18<sup>th</sup>.

Ordinance 2012-10 and the correspondence between Staff and the owners of Yarn Foundation, Inc. were provided.

Staff requested guidance as to how to proceed.

Motion by Member Kellogg, seconded by Member Gryder, for Staff to send notification letters to the property and tenant revoking the special use permit.

Yeas (4): Davidson, Gilmour, Gryder, and Kellogg  
Nays (0): None  
Abstain (0): None  
Absent (1): Cullick

The motion carried.

*Request for Guidance Regarding Redacting Personal and Private Information from Zoning Related Applications Placed on the County’s Website-Committee Could Approve a Policy on the Matter*

Mr. Asselmeier summarized the issue.

In an effort to improve transparency, in 2017, the Kendall County Planning, Building, and Zoning Department started posting petition information on the County’s website. This information included the application for the petition and comments submitted by neighbors on the petition.

Staff was instructed by the previous County Administrator to redact information that would normally be redacted as part of a Freedom of Information Act request (i.e. personal signatures, personal addresses, personal email addresses, and personal phone numbers, etc.) The current County Administrator favored continuing this practice.

Staff received a complaint from several members of the Kendall County Regional Planning Commission that information about applicants and individuals that spoke at zoning related meetings should not be redacted.

Accordingly, Staff requests guidance as to how the Planning, Building and Zoning Committee would like to proceed (i.e. does the Committee still want Staff to redact this information?).

The Illinois Open Meetings Act does not require a speaker to state their address. Staff prepared a revised meeting sign-in sheet. This sheet would be used at all zoning related meetings except

the Kendall County Zoning Board of Appeals, which hearing where speakers must be sworn-in prior to providing testimony.

The consensus of the Committee was to keep the policy the same and continue redacting information allowed for redaction under the Freedom of Information Act and to make it voluntary for people to provide personal information at meetings.

*Request for Guidance Regarding the Collection and Release of Personal and Private Information at Zoning Related Public Meetings-Committee Could Approve a Policy on the Matter*  
Mr. Asselmeier summarized the issue.

The consensus of the Committee was to keep the policy the same and continue redacting information allowed for redaction under the Freedom of Information Act and to make it voluntary for people to provide personal information at meetings.

### **OLD BUSINESS**

*Approval to Forward Amended Petition 18-03 Pertaining to Removing the Requirements for the Zoning, Platting and Advisory Committee and the Kendall County Regional Planning Commission to Meet and Issue Recommendations on Proposed Map Amendments, Special Use Permits, Major Amendments to Special Use Permits, and Text Amendments on Matters Not Involving the Powers and Duties of the Zoning, Platting and Advisory Committee or the Kendall County Regional Planning Commission and Related Zoning Text Citation Amendments to the Kendall County Zoning Board of Appeals for Public Hearing-Committee Could Also Vote to Amend or Withdraw the Petition*

Mr. Asselmeier summarized the request.

At the May 7, 2018, meeting, the Kendall County Planning, Building and Zoning Committee laid over the subject petition until its September meeting. Staff requests that the Committee determine if the proposal should be advanced to the Zoning Board of Appeals for public hearing (in its present form or amended) or if the proposal should die.

At their meetings on March 28<sup>th</sup> and April 25<sup>th</sup>, the Kendall County Regional Planning Commission reviewed this proposal and unanimously recommended denial. The reasons for their denial recommendation were as follows:

1. The Kendall County Regional Planning Commission would like the proposal to go to the Comprehensive Land Plan and Ordinance Committee to work out issues.
2. The Kendall County Regional Planning Commission had concerns regarding the due process for petitions.
3. The Kendall County Regional Planning Commission felt that Kendall County Regional Planning Commission meetings were the appropriate setting for creating conditions and restrictions for special use permits (express the values of the community).
4. Removing the Kendall County Regional Planning Commission meeting from the timeline for adoption does not slow down the approval process; the Senior Planner indicated that no extra time was needed for Kendall County Regional Planning Commission meetings.

5. The Kendall County Regional Planning Commission had concerns about a lack of thorough vetting of the implications of proposals if the Kendall County Regional Planning Commission did not meet and review proposals.

Commissioner Larry Nelson circulated a draft email to the Planning, Building and Zoning Committee and requested input from Commissioners. A copy of this draft email was provided. Commissioner Nelson wanted to ensure that the Planning, Building and Zoning Committee possessed a history of the process and role of the Commission. One (1) Commissioner also requested that the Planning, Building and Zoning Committee be informed of the level of experience on the Commission.

According to the original proposal, ZPAC and the Kendall County Regional Planning Commission would not have formal meetings for the following applications:

1. Map Amendments
2. Special Use Permits
3. Major Amendments to Special Use Permits
4. Text Amendments to the Zoning Ordinance Not Impacting the Powers and Duties of ZPAC and/or Kendall County Regional Planning Commission

Members of ZPAC and the Kendall County Regional Planning Commission would continue to receive notifications of the above types of applications and individual members of these committees could submit comments on the proposals, but neither body would be required to meet and issue recommendations on these types of applications.

ZPAC would continue to meet for the following types of applications:

1. Site Plan Reviews
2. Text Amendments to the Zoning Ordinance Impacting Its Powers and Duties
3. Amendments to the Kendall County Subdivision Control Ordinance
4. Preliminary Plat Approval
5. Final Plat Approval
6. RPD Related Plat Approvals

The Kendall County Regional Planning Commission would continue to meet for the following types of applications:

1. Text Amendments to the Zoning Ordinance Impacting Its Powers and Duties
2. Changes to the Land Resource Management Plan
3. Amendments to the Kendall County Subdivision Control Ordinance
4. Preliminary Plat Approval
5. Final Plat Approval
6. RPD Related Plat Approvals
7. Requests by the County Board and/or Planning, Building and Zoning Committee for Research on Planning, Zoning, and Development Related Topics

A redlined narrative of the proposed text amendments and flow charts of applications was provided.

The Committee of the Whole discussed this proposal at their meeting on December 14<sup>th</sup> and no one objected to the proposal.



The Planning, Building and Zoning Committee reviewed this matter at their meeting on January 8<sup>th</sup> and unanimously recommended approval of initiating the text amendment as proposed.

ZPAC reviewed this proposal on February 6<sup>th</sup> and unanimously recommended approval.

The Kendall County Regional Planning Commission reviewed this proposal on March 28<sup>th</sup> and unanimously recommended denial.

Motion by Member Kellogg, seconded by Chairman Davidson, to withdraw Petition 18-03.

Yeas (4): Davidson, Gilmour, Gryder, and Kellogg

Nays (0): None

Abstain (0): None

Absent (1): Cullick

The motion carried.

*Update on Removal of Culvert Crossing an Aux Sable Creek near 13360 McKanna Road: Property is Owned by Mark Antos*

Mr. Asselmeier provided updated pictures of the bridge.

*Update on 21 Dawn Avenue*

Mr. Asselmeier provided information. Discussion occurred regarding drainage tile law.

**REVIEW VIOLATION REPORT**

The Committee reviewed the violation report.

*Update on Violation of Inoperable Vehicle at 93 Longbeach Road, Montgomery*

Mr. Asselmeier stated the inoperable vehicles are still at the property and the case will be forwarded to the State's Attorney's Office on September 14<sup>th</sup>.

*Update on Violation of Zoning Ordinance at 790 Eldamain Road*

Mr. Asselmeier provided a letter from the attorney for the property owner. The consensus of the Committee was to give the property owner time to install the fence as outlined in the letter.

**REVIEW NON-VIOLATION REPORT**

The Committee reviewed the non-violation report.

**UPDATE FOR HISTORIC PRESERVATION COMMISSION**

The Historic Preservation Commission is planning a meeting with other historic preservation groups for February 13, 2019, at La Salle Manor.

**REVIEW PERMIT REPORT**

The Committee reviewed the permit report.

**REVIEW REVENUE REPORT**

The Committee reviewed the revenue report.

### **CORRESPONDENCE**

None

### **PUBLIC COMMENT**

Paul Pope, Village President of the Village of Lisbon, invited Committee members to attend their September 17<sup>th</sup> at 7:00 p.m. at 114 Canal Street in Lisbon.

Jim Williams, Boulder Hill, discussed a business operating out of a house across the street from his property.

### **COMMENTS FROM THE PRESS**

None

### **EXECUTIVE SESSION**

None

### **ADJOURNMENT**



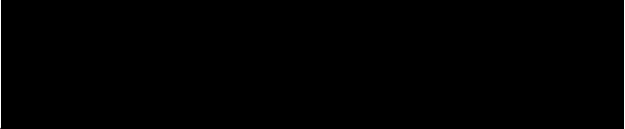
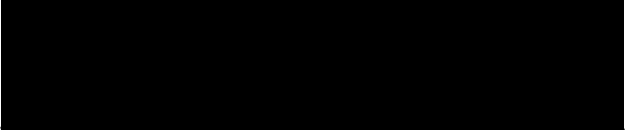
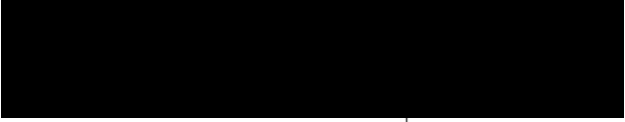
Motion by Member Kellogg, seconded by Member Gryder, to adjourn. With a voice vote of four (4) ayes the motion passed unanimously. Chairman Davidson adjourned the meeting at 9:35 p.m.

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

Encs.


**KENDALL COUNTY  
PLANNING, BUILDING, & ZONING COMMITTEE  
SEPTEMBER 10, 2018**

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

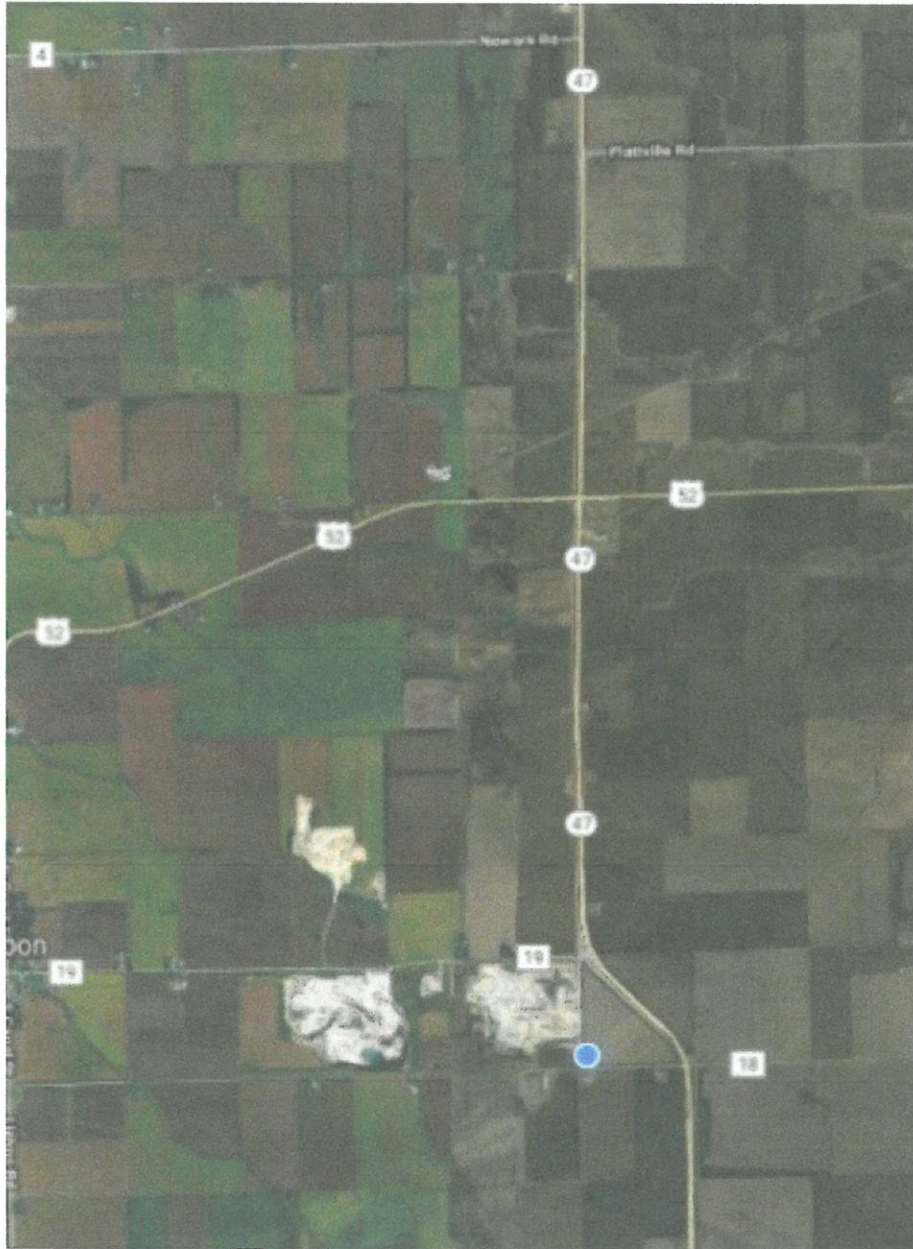
NAME	ADDRESS (OPTIONAL)	EMAIL ADDRESS (OPTIONAL)
Laura Hubbard		
Boyd Ingemanson		
Mark Caldwell		
JERRY CALLAGHAN	(#18-07)	
Linda Tosen		
Kirk Friestad		
Bob Friestad		
Madeline Friestad		

**KENDALL COUNTY  
PLANNING, BUILDING, & ZONING COMMITTEE  
SEPTEMBER 10, 2018**

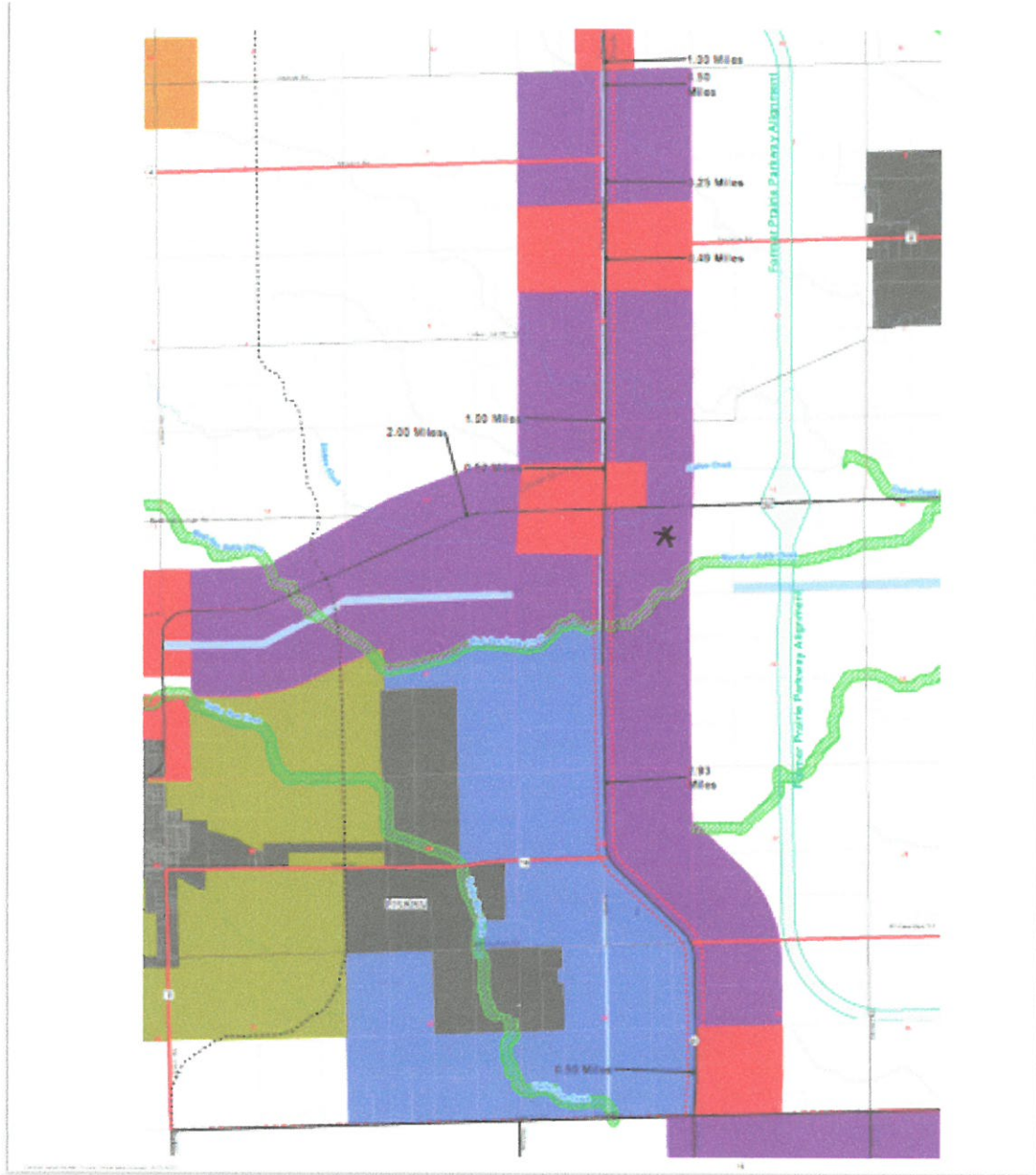
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NAME	ADDRESS (OPTIONAL)	EMAIL ADDRESS (OPTIONAL)
Scott Friestad		
Linette Halcomb		
Kristin Friestad		
Don Andersson		

# Current Satellite Map



# Future Land Usage Map



# Overlay



# Future Satellite Map









To members of the Kendall County Planning, Building and Zoning Committee:

Re: Proposed changes Lisbon Township long range plan

As a Lisbon Township landowner. I have many thoughts about the proposed changes but will focus only on the two of most concern.

#### **RETENTION OF THE PRAIRIE PARKWAY:**

I am told it is kept for “historic” purposes. If so, why have other approved but unbuilt roads not been shown? I am aware of at least one unbuilt Lisbon Township road that is not shown on the Lisbon Township LRP map. If the Prairie Parkway remains on the LRP, citizens will make land use decisions based on it, even though no planning justification for its inclusion in the LRP has been given to the public. Since its retention on the LRP has not been an item of discussion at public meetings, and no information given of a planning purpose for its retention, keeping it on the LRP seems to be both misleading and legally questionable.

I ask that it be removed. If you choose to keep it for unspecified “historic” purposes, include the other “historic” unbuilt roads in the township as well. If you keep it because of long range planning needs, define those needs and send it back to the County’s Regional Planning Board for a public hearing.

#### **THE M PLANNING CLASSIFICATION NORTH ALONG RT. 47 FROM SHERRELL ROAD TO TOWNHOUSE ROAD.**

The allowed uses in the M planning classification cover 6 single spaced pages, yet the justification for using it so extensively is the existing quarrying operations at Rt 47 and Joliet Road. We are told mineral rights take precedence over other uses, but the rich agricultural soil at that location is as much a natural resource as the limestone and should have equal priority.

Rather than the M classification along those three miles MOL, I strongly suggest the most intense M level (actual mining operations) be applied to the location of the quarry operations at Rt 47 and Joliet Road to recognize existing activity. From the County line north to the actual mining designation at Joliet Road, and north from that M designation denoting actual mining, to Townhouse Road, a

combination of intense commercial, agriculture business and less intense uses found in M 1 and M2 designations would be much more appropriate, and much less detrimental to continued agriculture use.

That approach would focus the actual Mining designation at and around the existing use, and step down less intense uses away from it to the north and south along Rt 47.

Because conflict between agriculture and more intense uses in the area will continue and intensify, I suggest you make changes to the Planning and Zoning Ordinances to give the County and its citizens more control over future development and to minimize its negative impact on the practice of agriculture.

A long term commitment by members of the County Board to seek out and adopt strategies other Illinois counties use to help agricultural and non-agricultural uses co-exist would be very helpful to current residents and to the long term future of the County. Don't overlook what other states have done to help agriculture co-exist with other uses – for example New Jersey has a sizable agricultural economy.

Ruth Bell



## **Matt Asselmeier**

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**From:** James Webb  
**Sent:** Tuesday, August 21, 2018 3:53 PM  
**To:** Matt Asselmeier; Scott Koeppel  
**Cc:** Eric Weis; Leslie Johnson  
**Subject:** RE: Notification Question for SAO

We were asked to review whether the Regional Planning Commission or county board is required to provide any particular notice (such as mailing) to property owners when considering a change to the county's Land Resource Management Plan (LRMP). Several citizens appeared at the August 13 PBZ meeting and lodged the complaint that the RPC had petitioned for a change to the LRMP map for the area near the 47 and 52 intersection without sending notice to all the property owners in that area. 50 ILCS 805/1 – 805/9 give a county board the authority to adopt an LRMP. However, there is no provision requiring a notice of the plan be sent to property owners. Likewise, 55 ILCS 5/5-14001 – 5-14008, which authorize the county board to create a planning commission, also contain no notice requirements for LRMPs. Further, Section 5/5-14004 states a planning commission's plans are advisory only. Therefore, there is no specific statutory authority requiring property owners be notified of proposed changes to the county's LRMP. That being said, in the interest of being a good neighbor, there is certainly nothing to prohibit the RPC from notifying property owners (including owners outside the remapped area but who might still be impacted) of proposed changes to the LRMP, particularly because an LRMP, as courts have recognized, is often a precursor to a zoning amendment and can be the means a county uses to support the reasonableness of a zoning amendment. In addition, of course, any action the board, PBZ, RPC, or other county body takes in regard to adopting a new LRMP would be subject to the typical Open Meetings Act requirements of posted agendas, open sessions, etc.

Steve Halcomb (sp?) contacted our office several times after the August 13<sup>th</sup> PBZ meeting. ASA Johnson spoke with him. Mr. Halcomb wanted to confirm that we received the request to provide a legal opinion to the PBZ Committee about the notice requirements. ASA Johnson explained that we had received the request and that we were researching the matter for the Committee. Mr. Halcomb requested that someone from the County call him back to let him know whether such notice is statutorily required and/or if the County would be sending the notices. ASA Johnson told Mr. Halcomb that she would pass along his request to you. If you or someone else from the County would like to speak with Mr. Halcomb about this issue, the telephone number he provided us is (815) 258-6813.

Please let me know if there are further questions.

James A. Webb  
Assistant State's Attorney  
Kendall County, Illinois  
807 W. John Street  
Yorkville, Illinois 60560  
630-553-4157

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Law Offices  
of  
***Daniel J. Kramer***

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

Daniel J. Kramer

Kelly A. Helland  
D.J. Kramer

September 10, 2018

Matthew H. Asselmeier  
Kendall County Planning, Building & Zoning

Via Fax & Email

RE: Jets Towing

Dear Mr. Asselmeier:

Please be advise that I did speak to my client who indicated that the fence has been ordered and is in, they are going this week to pick it up. My clients plan on installing the fence 50 ft. back from the property line in the front yard in accordance with the setback requirements, and along the property line on the Northside of the property.

The Petitioners were inquiring as to whether the County would require the fence to be installed enclosing the pasture area which is not being used as anything at this time. The Petitioners are in agreement that if industrial storage or use occurs in that area fencing will be required.

The chain link fence will have blackout matting so that you cannot see through it.

Very truly yours,

*Kelly A. Helland*

Attorney at Law

KAK:rg