

KENDALL COUNTY
ZONING AND PLATTING ADVISORY COMMITTEE
111 West Fox Street • Rooms 209 and 210 • Yorkville, IL • 60560
(630) 553-4141 Fax (630) 553-4179

AGENDA

November 7, 2017 - 9:00 a.m.

CALL TO ORDER

ROLL CALL: **County Board:** Robert Davidson, PBZ Committee Chair; **County Highway Department:** Fran Klaas, County Engineer; **Wills Burke Kelsey:** Greg Chismark, Stormwater Consultant; **County Health Department:** Aaron Rybski, Director Environmental Health; **Forest Preserve District:** David Guritz, Director; **SWCD:** Megan Andrews, Resource Conservationist; **Sheriff's Office:** Commander Jason Langston; **GIS:** Don Clayton; **PBZ:** Brian Holdiman, Code Official; Matt Asselmeier, Senior Planner

APPROVAL OF AGENDA

APPROVAL OF MINUTES: Approval of the October 3, 2017 ZPAC Meeting Minutes. (Pages 2-6)

PETITIONS:

1. **17-33 – Kendall County Planning, Building and Zoning Committee (Page 7-18)**
Request: Text Amendments to Sections 4.19, 5.08, 6.7.G.2, 7.01, 8.02, 8.03, 10.01.C.27, 10.03.I and 13 of the Kendall County Zoning Ordinance Transferring the Authority to Hear Applications, Major Amendments and Revocations of Special Use Permits from the Hearing Officer to the Kendall County Zoning Board of Appeals and Related Citation Amendments
Purpose: Transfers the Authority to Hear Applications, Amendments and Revocations of Special Use Permits from the Hearing Officer to the Zoning Board of Appeals. Also, Makes Citation Changes to Various Sections of the Zoning Ordinance to Reflect this Transfer.

REVIEW OF PETITIONS THAT WENT TO COUNTY BOARD

None

OLD BUSINESS/ NEW BUSINESS

1. Update on Petition 17-29-Text Amendment Increasing Notification Requirement from Five Hundred Feet (500') to Two Thousand Six Hundred Feet (2,600') for Applications for Special Use Permits on Properties Zoned A-1 and Clarifying that Only Adjoining Properties must be Notified on Special Use Permit Applications for Properties not Zoned A-1

PUBLIC COMMENT

ADJOURNMENT- Next meeting on December 5, 2017

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.

**ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC)
October 3, 2017 – Unapproved Meeting Minutes**

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

Present:

Megan Andrews – Soil and Water Conservation District
Jason Langston – Sheriff's Office
Aaron Rybski – Health Department
David Guritz – Forest Preserve
Don Clayton – GIS (Arrived at 9:01 a.m.)
Fran Klaas – Highway Department
Matt Asselmeier – PBZ Department

Absent:

Greg Chismark – WBK Engineering, LLC
Robert Davidson – PBZ Committee Chair
Brian Holdiman – PBZ Department

Audience:

None

AGENDA

Mr. Guritz made a motion, seconded by Ms. Andrews, to approve the agenda as proposed. With a voice vote of all ayes the motion carried.

Mr. Clayton arrived at this time (9:01 a.m.).

MINUTES

Mr. Rybski made a motion, seconded by Mr. Guritz, to approve the August 1, 2017 meeting minutes. With a voice vote of all ayes the motion carried.

PETITIONS

17-28 Kendall County Planning, Building and Zoning Committee – Text Amendments to Sections 7.01.D.32 (Specials Uses in A-1 Agricultural District), 7.01.D.33 (Special Uses in A-1 Agricultural District) and 10.03.B.4 (Special Uses in M-3 Aggregate Materials Extraction, Processing and Site Reclamation District) of the Kendall County Zoning Ordinance Pertaining to Regulations of Outdoor Target Practice or Shooting Ranges (Not Including Private Shooting in Your Own Yard)

Mr. Asselmeier provided a summary of this proposed text amendment. Staff mailed this proposal to each existing outdoor gun range and all townships on September 25th. The existing outdoor gun ranges would be grandfathered and governed by their applicable special use permits or the regulations in place the date they commenced operations. No existing outdoor gun range complies with this proposed text amendment. The proposed regulations would not apply to properties owned by the Kendall County Forest Preserve or the State of Illinois on land used for parks. The proposed regulations addressed berming, baffling, downrange safety area, the minimum acreage of the property, narrative description of the range use, role of range supervisors, regulation of range flags, hours of operation, fencing, the timing of the submittal of a lead management plan, distance from adjoining properties, restroom facilities, hearing and vision protection, insurance, access to public roads and noise.

Mr. Guritz asked about the handling of lead management plan documents. Mr. Asselmeier stated that he was unsure how lead management plan documents were handled previously. The existing ranges were governed by their special use permit. If a Federal or State law existed that superseded the local law, then the gun range would have to follow those requirements.

Mr. Klaas asked how many outdoor gun ranges existed in Kendall County. The answer was five (5) not counting the State park.

Discussion occurred regarding the size of the downrange safety area and the control of the downrange safety area. The consensus was that, in an urbanizing county, the downrange regulations were appropriate.

Indoor shooting range regulations already exist in the Zoning Ordinance.

Mr. Guritz made a motion, seconded by Mr. Rybski, to forward the petition onto the Plan Commission with a favorable recommendation.

With a voice vote of all ayes, the motion passed. This matter will go before the Kendall County Regional Planning Commission on October 25th.

17-29 Kendall County Planning, Building and Zoning Committee – Text Amendment to Section 13.08.H of the Kendall County Zoning Ordinance by Increasing the Notification Requirements for Applications for Special Use Permits on A-1 Agricultural Zoned Property and Clarifying Notification Requirements for Special Use Permits on Properties not Zoned A-1 Agricultural

Mr. Asselmeier provided a summary of this proposed text amendment. The amendment would increase the notification requirement from five hundred feet (500') to two thousand six hundred feet (2,600') for applications for special use permits on properties zoned A-1 and clarifying that only adjoining properties must be notified on special use permit applications for properties not zoned A-1.

Mr. Clayton presented two (2) scenarios. One (1) property near Aurora would have to mail three hundred ninety-two (392) notices under the current rules and would have to mail notices to one thousand nine hundred one (1,901) parcels if the text amendment was approved. In the case of Hideaway Lakes, sixty-three (63) parcels would have to be notified presently. If the proposal was approved, five hundred thirty-seven (537) parcels would need to be notified.

The cost for return receipt is Two Dollars and Seventy-Five Cents (\$2.75). This cost is paid by the petitioner.

Will, LaSalle and Kane Counties notify adjacent property owners only. Grundy County notifies up to five hundred feet (500'). DeKalb County notifies up to two hundred fifty feet (250'). DuPage County notifies up to three hundred feet (300').

Neighbors beyond five hundred feet (500') express concerns that they were not notified when odor or noise impacts their property.

Several Committee members felt that the two thousand six hundred foot (2,600') requirement was arbitrary.

Mr. Asselmeier explained the application process. When someone submits an application for a special use permit on A-1 zoned property, the GIS Department prepares a list of addresses that need to be notified. Any applicable municipality and township are added to the list. Staff then checks off the address list when the applicant presents green cards.

Discussion occurred about having different distance requirements for different special uses. Mr. Asselmeier stated that Staff does not know when an application is submitted if that application will be controversial. The more specificity in the Ordinance, the less likely the decision of who received notification and who did not receive notification could be viewed as arbitrary.

Mr. Guritz made a motion, seconded by Mr. Langston, to request that the Planning, Building and Zoning Committee leave the notification requirement at five hundred feet (500').

Ayes: Langston, Rybski and Guritz (3)
Nays: Klaas (1)
Abstain: Andrews, Clayton and Asselmeier (3)
Absent: Chismark, Holdiman and Davidson (3)

The reasons members voted yes were because of the added expense to the petitioner, the added time for the applicant to mail the notices, added review time for Staff to process the green cards, the proposed regulations were

larger than the notification requirements of other Counties and regardless of the distance requirement no method exists to notify everyone that thinks they should be notified. Mr. Klaas stated that he would like the notification requirement to be set at one thousand feet (1,000') maximum. Several Committee members concurred with Mr. Klaas, but felt that one thousand feet (1,000') was arbitrary.

Mr. Asselmeier will inform the Planning, Building and Zoning Committee of ZPAC's request.

17-30 Kendall County Planning, Building and Zoning Committee – Text Amendments to Section 3.02 (Definitions), Section 10.01.C.10 and Section 10.01.C.11 (Special Uses in the M-1 Limited Manufacturing District and M-2 Heavy Industrial District) of the Kendall County Zoning Ordinance By Extending the Expiration Deadline from January 1, 2018 to July 1, 2020 for the County's Medical Cannabis Related Regulations

Mr. Asselmeier provided a summary of this proposed text amendment. The proposal changes the expiration date only and does not change any other portion of the medical cannabis related zoning regulations. July 1, 2020 is the expiration date for the Compassionate Use of Medical Cannabis Pilot Program Act.

Mr. Klaas made a motion, seconded by Mr. Rybski, to forward the petition onto the Plan Commission with a favorable recommendation.

With a voice vote of all ayes, the motion passed. This matter will go before the Kendall County Regional Planning Commission on October 25th.

REVIEW OF PETITIONS THAT WENT TO COUNTY BOARD

Petitions 17-16, 17-19, 17-21 and 17-22 were approved by the County Board.

OLD BUSINESS/NEW BUSINESS

Mr. Asselmeier presented a letter dated August 16, 2017 from Anna R. Kuperstein to Matt Asselmeier regarding the Sandwich Compressor at 6650 Sandy Bluff. The property has a special use permit for a pipeline. TransCanada is expanding their facility at that location. The letter argues that they should be exempt from local zoning regulations because of federal energy regulations. The Planning, Building and Zoning Committee and State's Attorney's Office concurred with this opinion; no amendment to the special use permit will be required for any work governed by the Federal Energy Regulatory Commission.

Mr. Asselmeier presented the fiscal year 2017-2018 meeting calendar.

Mr. Guritz made a motion, seconded by Mr. Clayton, to approve the meeting calendar. With a voice vote of all ayes the motion carried.

PUBLIC COMMENT

None

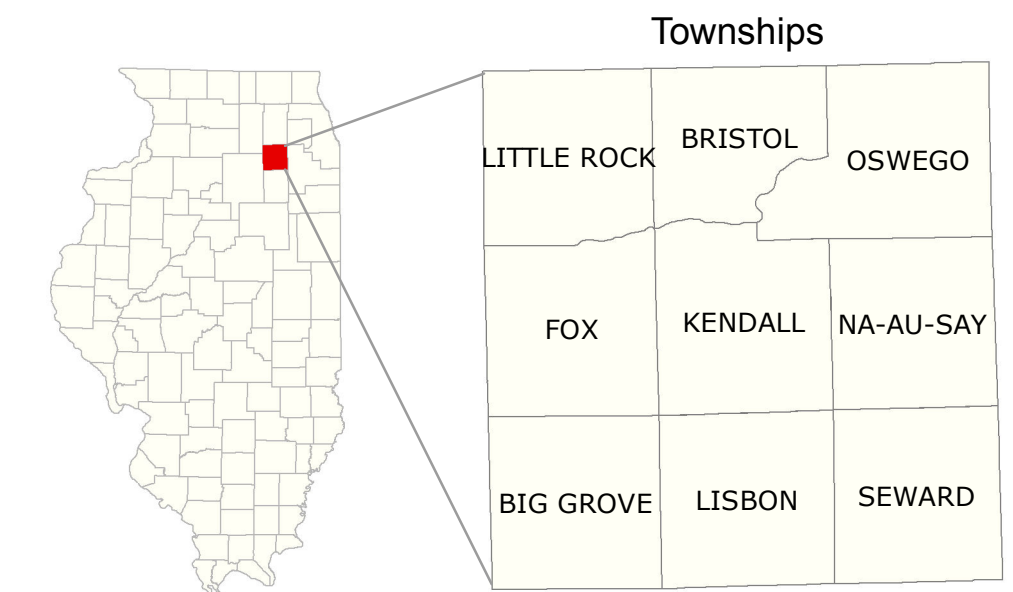
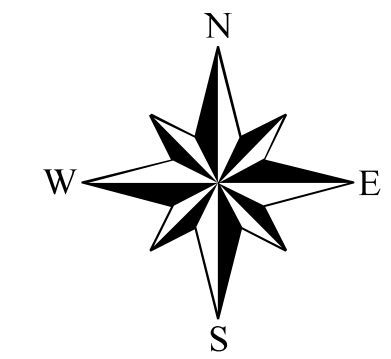
ADJOURNMENT

Mr. Guritz made a motion, seconded by Mr. Klaas, to adjourn. With a voice vote of all ayes, the motion carried. The ZPAC, at 10:08 a.m., adjourned.

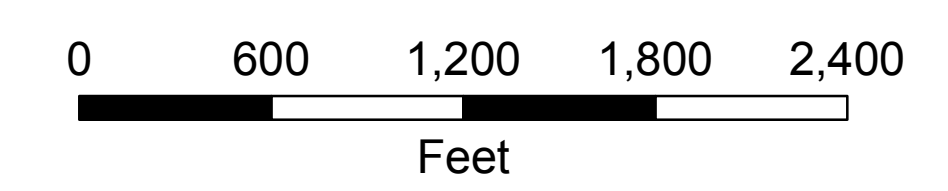
Respectfully Submitted,
Matthew H. Asselmeier, AICP
Senior Planner

**Buffer Scenario
500ft vs 2600 ft
Oswego Twp
KENDALL COUNTY
- 2017 -**

<http://www.co.kendall.il.us>

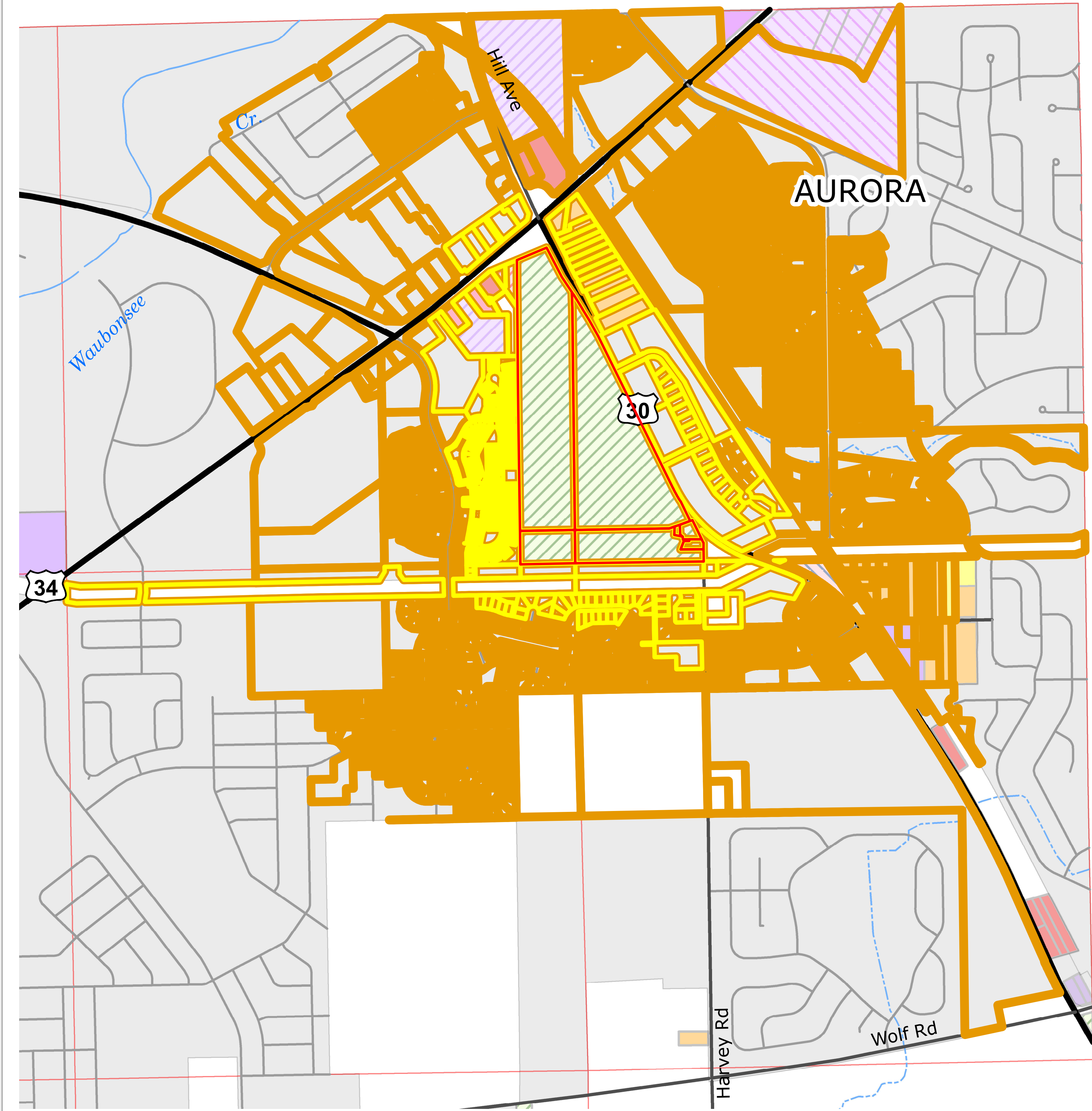


Scale: 1 in = 600 feet



Legend

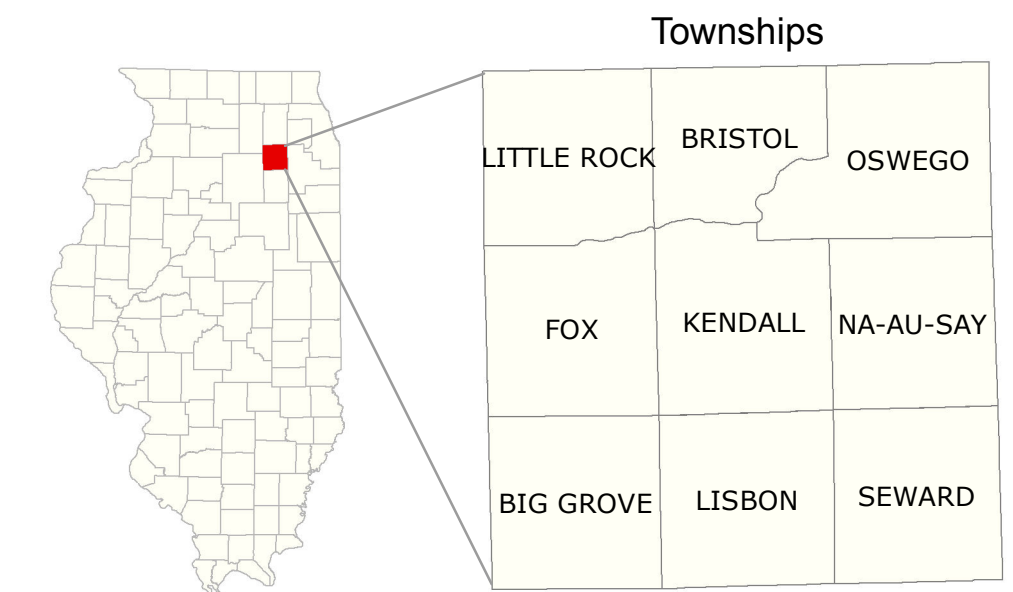
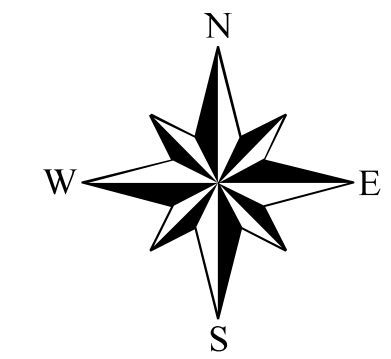
- 500 ft Buffer - 388 Parcels
- 2600 ft Buffer - 1892 Parcels
- Subject Property



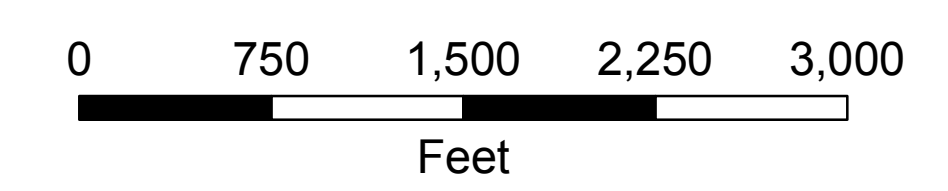
Kendall County GIS
111 West Fox Street - Room 308
Yorkville, Illinois 60560-1498
630.553.4030

Buffer Scenario 500ft vs 2600 ft Oswego Twp KENDALL COUNTY - 2017 -

<http://www.co.kendall.il.us>

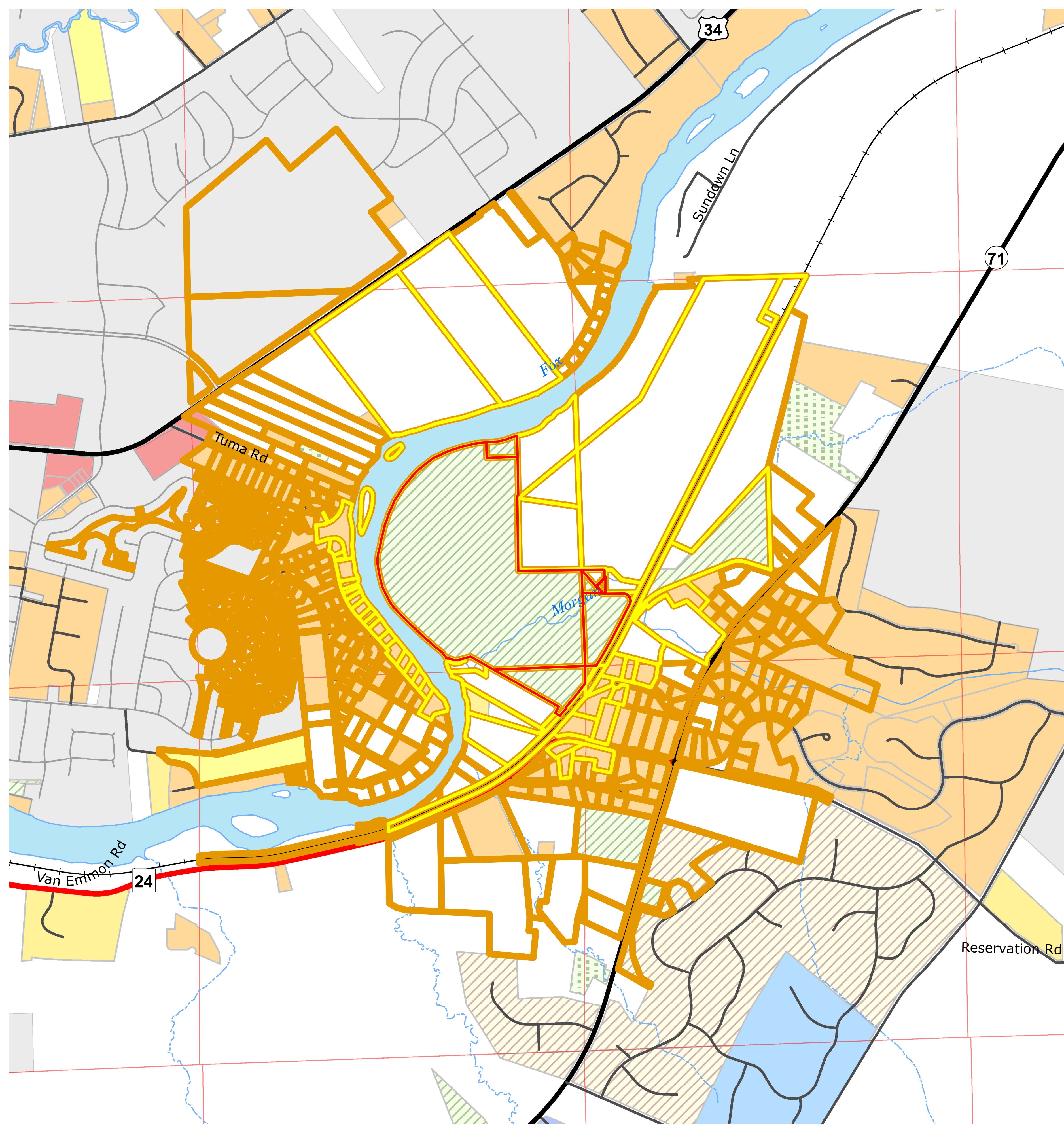


Scale: 1 in = 750 feet

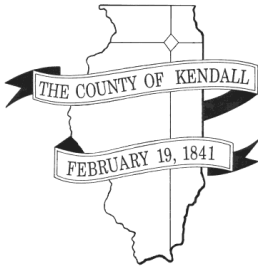


Legend

- 500 ft Buffer - 59 Parcels
- 2600 ft Buffer - 533 Parcels
- Subject Property



Kendall County GIS
111 West Fox Street - Room 308
Yorkville, Illinois 60560-1498
630.553.4030



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 and Platting Advisory Committee
From: Matthew H. Asselmeier, AICP, Senior Planner
Date: October 25, 2017
Re: 17-33 Proposed Text Amendments Transferring Certain Powers and Duties from the Hearing Officer to the Zoning Board of Appeals

At their meeting on October 10, 2017, the Kendall County Planning, Building and Zoning Committee approved initiating text amendments to various sections of the Kendall County Zoning Ordinance transferring the duties and responsibilities for hearing applications for special use permits, major amendments to special use permits and involuntary revocation of special use permits from the Hearing Officer to the Kendall County Zoning Board of Appeals. The Hearing Office would still conduct administrative adjudication hearings.

Kendall County established a Hearing Officer in 2004 following the *Klaeren v. Village of Lisle* court decision. This court decision declared that the issuance of special use permits was an administrative decision and not a legislative decision. In the intervening years, the General Assembly and Governor approved legislation declaring the issuance of special use permits were legislative decisions (55 ILCS 5/5-12012.1). The power to create a Hearing Officer is found in State law (55 ILCS 5/5-12015).

Currently, the Hearing Officer holds hearings on special use permit applications, major amendments to special use permits and non-owner initiated special use permit revocations. Within 30 days of the hearing, the Special Use Hearing Officer issues a recommendation to the County Board.

Prior to 2004, the Zoning Board of Appeals held hearings on special use permit applications.

The Hearing Officer is paid \$350 for the first hour of a hearing and \$100 per hour for subsequent hours. This fee is paid by the petitioner. The Hearing Officer meets on the same day and time as the Zoning Board of Appeals.

DuPage County and DeKalb County are the only neighboring counties that use a hearing officer; their hearing officers can also hear variance applications.

A worksheet of proposed changes posed language is enclosed. Proposed changes are shown in red and are bolded.

If you have any questions prior to the November 7th meeting on this topic, please let me know.

Thanks,

MHA

ENC

Ref: Ordinance 2004-13 (Created Hearing Officer)

Ref: 55 ILCS 5/5-12009.5 (Gives ZBA Authority to Hear Special Uses)

4.19 TEMPORARY USES PERMITTED

An owner seeking an approval of a permitted temporary use shall submit an application for a temporary use to be acted upon by the Zoning Administrator. The Zoning Administrator may, at his or her discretion, refer the request for a temporary use to the Planning, Building and Zoning Committee of the County Board for recommendation prior to taking action. In addition, the petitioner may appeal the decision of the Zoning Administrator or his/her deputies in the review of a temporary use to the PBZ Committee. In such instances the PBZ Committee shall be the final authority in deciding upon such requests. Any permitted temporary use may be treated as a special use (per the procedures contained in Section 13.007) if the stated time limit is to be exceeded.

5.08 CONVERSION TO SPECIAL USE

Any non-conforming use may be made a Special Use by the granting of a Special Use Permit as authorized by sub-section 13.007, if the use meets the requirements and standards applicable to Special Use approval, and if the use is authorized by the provisions of the Kendall County Zoning Ordinance.

6.07 Pipelines

G.2 All pipelines which cross a regulatory floodplain must obtain a special use pursuant to Section 13.007 of this Ordinance.

7.01 A-1 Agricultural District

D. The following special uses may be permitted only if specifically authorized by the County Board as allowed in Section 13.007:

7.01 A-1 Agricultural District

D. SPECIAL USES PERMITTED

53 . Wind Farms, Commercial, subject to the following:

- d. Fees - All applications for a Commercial Wind Farm shall be accompanied by a fee for a Commercial Wind Farm Special use in accordance with fee structure as established by the County Board and as amended from time to time. The County Board may, at its discretion, retain the services of attorneys and professional consultants to assist the Board and County staff in the amendment and zoning process. The application fee shall serve as an initial deposit from which any costs and expenses incurred by the county as a result of the application for amendment and the hearing process set forth herein shall be deducted. Such costs shall include, but not be limited to, the fees and costs of: County employees or staff review time, attorney's fees, expert

witnesses, scientific testing, records or other investigations, data searches, notices, court reporters, transcription costs, consultants, the **Zoning Board of Appeals hearing officer**, and other expenses incurred by the County in reviewing the application, the public hearing, and decision, or any issues raised at any time during any hearings up to and including the County Board decision. If the actual costs incurred by the County in conducting its review and recommendation of the requested map amendment exceed the amount of the application fee deposit, the applicant shall be billed and shall be required to pay any and all additional costs incurred by the County in the completion of their review and recommendation of the special use. Costs in excess of the application fee deposit are required to be paid in full by the applicant prior to scheduling the matter for action by the County Board.

8.02 R-1 ONE-FAMILY ESTATE RESIDENCE DISTRICT

C. The following uses may be allowed by special use permit in accordance with the provisions of Section 13.0**07**:

8.03 RPD-1 RESIDENTIAL PLANNED DEVELOPMENT - ONE

H.1. The following uses may be allowed by a special use permit in accordance with the provisions of Section 13.0**07** if approved with the Planned Development or as an amendment to a Planned Development.

H.2. The following uses may be allowed by special use permit in accordance with the provisions of Section 13.0**07** without inclusion in the Planned Development or a subsequent amendment.

10.01 M-1 LIMITED MANUFACTURING DISTRICT

C. SPECIAL USES.

27. Wind Farms, Commercial, subject to the following:

d. Fees - All applications for a Commercial Wind Farm shall be accompanied by a fee for a Commercial Wind Farm Special use in accordance with fee structure as established by the County Board and as amended from time to time. The County Board may, at its discretion, retain the services of attorneys and professional consultants to assist the Board and County staff in the amendment and zoning process. The application fee shall serve as an initial deposit from which any costs and expenses incurred by the county as a result of the application for amendment and the hearing process set forth herein shall be deducted. Such costs shall include, but not be limited to, the fees and costs of: County employees or staff review time, attorney's fees, expert witnesses, scientific testing, records or other investigations, data

searches, notices, court reporters, transcription costs, consultants, the **Zoning Board of Appeals hearing-officer**, and other expenses incurred by the County in reviewing the application, the public hearing, and decision, or any issues raised at any time during any hearings up to and including the County Board decision. If the actual costs incurred by the County in conducting its review and recommendation of the requested map amendment exceed the amount of the application fee deposit, the applicant shall be billed and shall be required to pay any and all additional costs incurred by the County in the completion of their review and recommendation of the special use. Costs in excess of the application fee deposit are required to be paid in full by the applicant prior to scheduling the matter for action by the County Board.

Wind Farming, Commercial is also a special use in M-2.

SECTION 10.03 M-3 AGGREGATE MATERIALS EXTRACTION, PROCESSING AND SITE RECLAMATION

I. FEES

All applications for an M-3 zoning designation shall be accompanied by a fee for map amendments in accordance with fee structure as established by the County Board and as amended from time to time. The County Board may, at its discretion, retain the services of attorneys and professional consultants to assist the Board and County staff in the amendment and zoning process. The application fee shall serve as an initial deposit from which any costs and expenses incurred by the county as a result of the application for amendment and the hearing process set forth herein shall be deducted. Such costs shall include, but not be limited to, the fees and costs of: County employees or staff review time, legal fees, expert witnesses, scientific testing, records or other investigations, data searches, notices, court reporters, transcription costs, consultants, the **Zoning Board of Appeals hearing-officer**, and other expenses incurred by the County in reviewing the application, the public hearing, and decision, or any issues raised at any time during any hearings. If the actual costs incurred by the County in conducting its review and recommendation of the requested map amendment exceed the amount of the application fee deposit, the applicant shall be billed and shall be required to pay any all additional costs incurred by the County in the completion of their review and recommendation of the zoning map amendment. Costs in excess of the application fee deposit will need to be paid in full by the applicant prior to scheduling the matter for action by the County Board.

13.01 ADMINISTRATIVE OFFICERS

A. THE ZONING ADMINISTRATOR

2. Powers and Duties. The Zoning Administrator shall administer and enforce this ordinance, and in addition thereto and in furtherance of said authority he shall:
 - e. Receive, file and forward applications for zoning map and text amendments, special uses, variances, planned developments and other matters which under this ordinance require referral to the Regional Plan Commission, the Zoning Board of Appeals, ~~the Hearing Officer as appointed by the County Board in subsection D of this Section 13.01~~, the Zoning, Platting Advisory Committee (ZPAC), the Planning, Building and Zoning Committee (PBZ), or the full County Board.

B. ZONING BOARD OF APPEALS

8. Rules and Procedures. The Zoning Board of Appeals shall adopt such rules concerning the filing of appeals and applications for amendments, and variances, **and special use permits**, giving of notice and conduct of hearings as shall be necessary to carry out their duties as defined herein. The Board shall keep minutes of its proceedings, keep records of its examinations and other official acts, and shall record the vote on all actions taken. All minutes and records shall be filed in the Office of the Zoning Board of Appeals and shall be a public record.
10. Powers and Duties. The Zoning Board of Appeals shall:
 - e. **To hear all applications for special use permits, major amendments to special use permits and revocation of special use permits in the manner prescribed by, and subject to, the standards established herein, and report said findings and recommendations to the County Board.**
 - ef. Hold public hearings and submit to the County Board a report and recommendation on each proposed ordinance for the amendment, supplement, change or repeal of the Zoning Ordinance as set forth herein.
 - fg. No rehearing shall be held on a denied appeal or application for variance or special use or on a recommendation to deny a proposed amendment to the Zoning Ordinance for a period of twelve months from the date of said denial or recommendation to deny.

- 11. Jurisdiction. The concurring vote of three members of a Board consisting of five members or the concurring vote of four members of a board consisting of seven members is necessary to reverse any order, requirements, decision or determination of the Zoning Administrator, or to decide in favor of the applicant any matter upon which it is authorized by this amended ordinance to render decisions.
 - a. Judicial Review. All decisions and findings of the Zoning Board of Appeals, on appeals, application for variations, **special use permits** or amendments, shall, after a hearing, be subject to review by court as by law may be provided.

D. HEARING OFFICER.

A Hearing Officer shall be appointed by the County Board on the basis of training and experience which qualifies them to conduct hearings, make recommendations or findings of fact and conclusions on the matters heard and otherwise exercise and perform the powers, duties and functions delegated in accordance with this Section. The Hearing Officer shall receive such compensation as the County Board shall provide, and the County Board may establish a schedule of fees to defray the costs of providing a hearing officer.

- 1. Powers and Duties. Hearing Officer shall be responsible for:
 - ~~a) Conducting hearings and making recommendations to the PBZ and County Board on all Special Use applications. The procedures for conducting such hearings and recommendations shall be as specified in Section 13.07. herein. (Amended 8/17/04)~~
 - a) Conducting hearings and performing all other duties as assigned under the terms and provisions of the applicable ordinances and codes established by the County Board regarding the creation of a Code Hearing Unit charged with the enforcement and administrative adjudication of violations to the provisions of this and all other applicable codes and ordinances of the County.

13.08 SPECIAL USES & PLANNED DEVELOPMENTS

A. PURPOSE. The development and execution of this ordinance is based upon the division of the County which is subject to County Zoning into districts, within which districts the uses of land and structures and the bulk and location of structures in relation to the land are substantially uniform. It is recognized, however, that there are other uses which, because of their unique characteristics, cannot be properly classified in any particular district without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use of this particular location. **Special uses may include, but are not limited to, public and quasi-public uses affecting the public interest; uses that have a unique, special, or unusual impact upon the use or enjoyment of neighboring property; and uses that affect planned development. A use may be permitted in one or more zoning districts and may be a special use in one or more other zoning districts.**

C. PROCESSING.

- 1. An application for a special use shall be filed with the Zoning Administrator.
- 2. A copy of such application shall be forwarded to the Zoning and Platting Advisory Committee (ZPAC) for review, comment, and recommendation
- 3. A copy of such application and the committee report from the Zoning and Platting

Advisory Committee (ZPAC) shall thereafter be forwarded to the Planning Commission for review, comment, and recommendation.

4. A copy of such application and the reports from the Zoning and Platting Advisory Committee (ZPAC) and Planning Commission shall thereafter be forwarded to the **Zoning Board of Appeals Hearing Officer** with a request to hold a public hearing and submit to the County Board a report of its findings and recommendations.

5. The recommendation and findings of the **Zoning Board of Appeals Hearing Officer** shall be forwarded to the Planning, Building and Zoning (PBZ) Committee of the County Board for review and recommendation prior to final action by the County Board.

D. **CONDITIONS AND GUARANTEES.** Prior to or after the granting of a special use, the **Zoning Board of Appeals Hearing Officer** may recommend and the County Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation thereof as deemed necessary to protect the value, utilization and enjoyment of the neighboring properties, and to secure compliance with the standards and requirements specified in this section. In cases in which a special use is granted, the County Board may require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be in compliance. Failure to comply with such conditions or restriction imposed shall constitute a violation of this ordinance.

E. **DECISIONS.**

1. **The Zoning Board of Appeals shall report to the County Board a finding of fact using the criteria listed in Section 13.08.J of this ordinance and a recommendation as to whether the County Board should deny, grant or grant subject to conditions the special use.**

24. The County Board, upon report of the **Zoning Board of Appeals Hearing Officer** and without further public hearing, may grant or deny a proposed special use, or may refer back to the **Zoning Board of Appeals Hearing Officer** for further consideration.

32. The County Board shall act to grant, deny, or amend the recommendations for every Special Use pertaining to a regulated use within 30 days of the date of those recommendations.

F. **REVOCATION.** In any case where a special use has not been established within two (2) years from the date of granting thereof, then, the County Board may revoke the special use, or if the special use has been discontinued for a continuous period of two (2) years, the County Board may revoke the special use. If a revocation is proposed, the **Zoning Board of Appeals Hearing Officer** shall hold a public hearing (following procedures outlined in Section 13.087.H below) and submit to the County Board a report of **their his/her** findings and recommendations. The current property owner shall be provided notice at least 15 days in advance of the hearing.

If the special use permit holder wishes to discontinue the special use, he or she may request revocation of said special use, no matter the duration of time that the special use has been discontinued. The owner shall submit to the PBZ Department, in writing, a request to the County Board to revoke said special use. Such a request shall be signed by the owner. No public hearing shall be required for an owner initiated revocation. Said revocation shall be discussed by the PBZ Committee for review and recommendation to the County Board. A revocation shall not become effective unless approved by the County Board.

H. **HEARING ON APPLICATION.** Upon receipt in proper form of the application and statement referred to in paragraph 13.08.G 7-2 of this **ordinance Section**, the **Zoning Board of Appeals Hearing Officer** shall hold at least one public hearing in the township in which the property is located, or in the County Office Building. Provided, that if the owner of any property affected by such proposed special use so requests in writing, such hearing shall be held in the

township affected by the terms of such proposed amendment. At least fifteen (15) days in advance of each hearing, notice of the time, ~~and~~ place ~~and~~ date of such hearing shall be published in a newspaper published **in the township or road district where the property is located. If there is no newspaper published in the township or road district where the property is located, the notice must be published in a newspaper of general circulation in Kendall County. The notice must also contain:**

1. **The particular location of the property for which the special use is requested by legal description and by street address, or if there is no street address, by locating the property with reference to any well-known landmark, highway, road, thoroughfare, or intersection.**
2. **Whether the petitioner or applicant is acting for himself or herself or as an agent, alter ego, or representative of a principal and the name and address of the principal.**
3. **Whether the petitioner or applicant is a corporation, and if so, the correct names and addresses of all officers and directors of the corporation and of all stockholders or shareholders owning any interest in excess of 20% of all of the outstanding stock or shares of the corporation.**
4. **Whether the petitioner or applicant, or his or her principal, is a business or entity doing business under an assumed name, and if so, the name and residence of all actual owners of the business or entity.**
5. **Whether the petitioner or applicant, or his or her principal, is a partnership, joint venture, syndicate, or an unincorporated voluntary association, and if so, the names and addresses of all partners or members of the partnership, joint venture, syndicate, or unincorporated voluntary association.**
6. **A brief statement of the proposed special use. ~~of general circulation in Kendall County.~~**

In addition to any other notice required by this Section, the Zoning Board of Appeals must give at least fifteen (15) days notice before the hearing to any municipality whose boundaries are within 1-1/2 miles of any part of the property proposed as a special use and the owner or owners of any land adjacent to or immediately across any street, alley, or public right-of-way from the property proposed as a special use. The petitioner or applicant must pay the costs of the publication of the notice required by this Section.

An audio recording of the proceedings shall be made by the County and shall be retained for a period of one year from the date of hearing. The petitioner at his or her discretion may elect to provide a court reporter, at his or her own expense, for the purposes of making a formal transcript of the proceedings. In addition to the application fee, the petitioner shall be responsible for the cost of the **Zoning Board of Appeals Hearing Officer** in conducting the hearing in accordance with the schedule of fees as established by the County Board.

- I. **AUTHORIZATION.** For each application for a special use the **Zoning Board of Appeals Hearing Officer** shall report to the County Board of Kendall County its findings and recommendations, including the stipulations of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. The County Board may grant or deny any application for a special use.

No proposed special use once denied by the County Board shall be again, on a subsequent petition, considered for approval within a period of twelve 12 months from the date of said denial.

- J. **STANDARDS.** No special use shall be recommended by the **Zoning Board of Appeals Hearing Officer** unless said **Zoning Board of Appeals Hearing Officer** shall make a written finding. The **Zoning Board of Appeals Hearing Officer** shall consider the following in rendering a decision, but is not required to make an affirmative finding on all items:

1. 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.

2. 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.
3. That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided.
4. That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Hearing Officer.
5. 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.

K. **CONDITIONS.** The **Zoning Board of Appeals Hearing Officer** may recommend and the County Board may provide such conditions or restrictions **reasonably necessary to meet the standards listed in Section 13.08.J** upon the construction, location and operation of a special use, including but not limited to provisions for the protection of adjacent property, the expiration of said special use after a specified period of time, off-street parking and loading, as shall be deemed necessary to secure the general objectives of this amended ordinance and to reduce injury to the value of property in the neighborhood.

O. **MAJOR AMENDMENTS:** A change to a special use that alters the intent or substantially violates the terms of compliance as specified in the approving ordinance granting the Special Use and which is not otherwise defined above as a minor amendment shall constitute a major amendment to a Special Use. Major Amendments shall be processed in accordance with the provisions of 13.08.C (Processing of Special Uses) of this ordinance. Notice that a major change is being sought shall be provided by the applicant in the manner provided for in 55 ILCS 5/5-12009.5 and additional requirements as specified in the By-Laws of the Zoning Board of Appeals (ZBA).

P. **PLANNED DEVELOPMENTS.**

3. Procedure.

d. The formal petition for a Planned Development shall be filed with the Zoning Administrator. The Zoning Administrator or his/her deputies shall be responsible for distributing the complete application to the following at the appropriate time:

- i. Zoning, Platting and Advisory Committee (ZPAC)
- ii. Members of the Regional Planning Commission
- iii. **Zoning Board of Appeals The Hearing Officer**
- iv. The County Board

The applicant shall be responsible for providing copies via certified mail return receipt request to the following as soon as possible after filling the application with the County.

- i. Township(s) affected by the application
 - ii. All municipalities within 1½ miles of the subject property
- e. The ~~Zoning Board of Appeals Hearing Officer~~ shall set a hearing date and shall cause notice of the hearing to be published at least once ~~following the procedures set forth in Section 13.08.H of this ordinance no more than thirty days nor less than fifteen days before said hearing date in one or more newspaper of general circulation in the County. If the property is zoned A-1, the applicant shall provide notice of the public hearing at least 5 days prior to the hearing date by certified mail to the tax payer of record for all parcels within five hundred feet (500'), excluding road right-of-way, of the parcel to be rezoned. For all other zoning categories, only adjacent properties must be notified directly.~~
- f. The petition shall be heard by the ~~Zoning Board of Appeals Hearing Officer~~ and reviewed by the Planning Commission and the report of each shall be submitted to the County Board. The Plan Commission shall submit its review to the ~~Zoning Board of Appeals Hearing Officer~~ prior to the public hearing. The report of the findings and recommendation shall be accompanied by such plats, exhibits and agreements as shall have been presented by the petitioner, each identified for reference by letter or number, together with any suggested changes therein.
- g. The County Board may grant a special use for a Planned Development which shall be by specific ordinance and which shall contain or to which shall be appended all terms and conditions of the special use permit, including covenants and agreements, guarantees, performance bonds, plats, and the like.

Q. SPECIAL MANUFACTURING USES - M-1 DISTRICTS.

1. In order to protect areas devoted to residential, business and light manufacturing uses from annoying or dangerous classes of industrial nuisances and hazards, Kendall County has divided into two manufacturing performance districts - M-1 and M-2 graduated respectively in terms of industrial performance standards from high to low. For practical purposes, the performance standards in the manufacturing districts have been supplemented by lists and of the uses permitted in these districts.

It is recognized, however, that among the uses first permitted in the M-2 Districts, there may be individual establishments having such high performance standards that they could safely be permitted in the M-1 District even though engaged in operations not listed as permitted in these M-1 Districts. It is consistent with the purposes of this amended ordinance and with the welfare of the community that provisions be made to allow such individual establishments of high performance to be located in the M-1 Districts.

The ~~Zoning Board of Appeals Hearing Officer~~ is hereby empowered, therefore, to authorize as a Special Use in the M-2 District, if the ~~Zoning Board of Appeals Hearing Officer~~ is satisfied beyond a reasonable doubt that all performance standards for the M-1 District, as well as all other regulations, will be complied with. In authorizing such Special Use, the ~~Zoning Board of Appeals Hearing Officer~~ may require the posting of a performance bond by the owners or operators of the proposed establishment, such bond to be subject to forfeiture and the money to be applied to the cost of any remodeling or other alterations necessary to ensure compliance with the M -1 performance standards should the establishment in fact fail to so comply.

2. Preliminary to granting a Special Use permit as prescribed in Section 13.0~~87~~.H, the ~~Zoning Board of Appeals Hearing Officer~~ shall require the applicant for a Special

Manufacturing use to furnish it with a certificate of an architect or structural engineer licensed by the State of Illinois, which certificate shall include the following: *[Amended 4/20/04]*

- a. A complete inventory of all machinery and fuel-burning equipment to be used in the conduct of the enterprise, together with any performance ratings for same which may be available from the manufacturers thereof.
- b. A statement that the proposed operation will conform with the performance standards for the M-1 Districts, and a description of the methods, structural and mechanical, which will be employed to keep any potential sources of nuisance in conformity with the said performance standards.
- c. Such other pertinent information as the **Zoning Board of Appeals Hearing Officer** shall deem necessary to assist it in making its findings and report.

Any application for a special use permit lawfully submitted prior to the date of the adoption of this text amendment shall be processed under the rules and regulations in place on the date of the application submittal.