

**KENDALL COUNTY  
REGIONAL PLANNING COMMISSION**

*Kendall County Historic Courthouse  
East Wing Conference Room  
110 W. Madison Street (109 W. Ridge Street), Yorkville, Illinois*

**Meeting Minutes of February 24, 2021 - 7:00 p.m. (Hybrid Meeting)**

Chairman Ashton called the meeting to order at 7:02 p.m.

**ROLL CALL**

Members Present: Bill Ashton, Roger Bledsoe, Tom Casey (Attended Remotely), Dave Hamman (Attended Remotely), Karin McCarthy-Lange (Attended Remotely), Larry Nelson, Ruben Rodriguez, Bob Stewart, and Claire Wilson (Attended Remotely Starting at 7:06 p.m.)

Members Absent: None

Staff Present: Matthew H. Asselmeier, Senior Planner

Others Present: Dan Kramer, Pam Nelson, Scott Mulliner, Scott Gengler (Attended Remotely), Lucas Robinson (Attended Remotely), and Robert Long (Attended Remotely)

**APPROVAL OF AGENDA**

Member Rodriguez made a motion, seconded by Member Stewart, to approve the agenda.

The votes were as follows:

Ayes (8): Ashton, Bledsoe, Casey, Hamman, McCarthy-Lange, Nelson, Rodriguez, and Stewart

Nays (0): None

Absent (1): Wilson

The motion carried.

**APPROVAL OF MINUTES**

Member Rodriguez made a motion, seconded by Member Bledsoe, to approve the minutes of the January 27, 2021, meeting and the February 6, 2021, annual meeting.

The votes were as follows:

Ayes (8): Ashton, Bledsoe, Casey, Hamman, McCarthy-Lange, Nelson, Rodriguez, and Stewart

Nays (0): None

Absent (1): Wilson

The motion carried.

**PETITIONS**

**Petition 20-32 Cindy Gates on Behalf of the Cindy Gates Trust and Mark Cox on Behalf of Cox Landscaping, LLC**

Mr. Asselmeier summarized the request.

Cindy Gates, on behalf of the Cindy Gates Trust, currently leases the subject property to Mark Cox of Cox Landscaping, LLC for use as a landscaping business.

Prior to the COVID-19 closures, the County received a complaint that a landscaping business was operating at the subject property without proper zoning. Efforts to determine if the use qualified for grandfathering were

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unsuccessful and the Petitioner decided to pursue a map amendment and special use permit. The COVID-19 closures and efforts to obtain stormwater information caused the application to be delayed.

The subject property is split zoned between A-1 and B-3. The request makes the entire frontage of the parcels B-3 and establishes a special use permit for a landscaping business over the area zoned B-3.

The application materials, aerial of the site portion of the property, site plan, and the plat of the area proposed for rezoning were provided.

The property is approximately two point five (2.5) acres.

The County's Future Land Use Map calls for the property to be Suburban Residential. Yorkville's Future Land Use Map calls for the property to be Agricultural.

Route 34 is a State-maintained arterial highway. There is a trail along Route 34.

There are no floodplains or wetlands on the property.

Member Wilson arrived at this time (7:06 p.m.).

The adjacent land uses are agricultural to the north, east, and west, and commercial to the south.

The adjacent zonings are A-1, R-3 and B-3 and Planned Development B-3 and O in Yorkville.

The County's Future Land Use Map calls for the area to be Suburban Residential and the Yorkville Future Land Use Map calls for the area to be Suburban Neighborhoods and Mid-Density Residential.

Ms. Belville started attending the meeting remotely at this time (9:05 a.m.).

Zoning Districts within one half (1/2) mile include A-1, R-3, B-3 in the County and Planned Development R-3 and O in Yorkville.

Pictures of the property were provided.

Four (4) residential subdivisions are located within one half (1/2) mile of the subject property.

EcoCAT Report submitted and found the Fox River INAI Site, Yorkville Forested Seep and Fen INAI Site, and the River Redhorse in the area. Adverse impacts were unlikely and consultation was terminated.

The LESA Score was 115 indicating a low level of protection.

The Petitioners appeared before the Bristol Township Board on February 5, 2020, prior to submitting an application with the County. The Bristol Township Board voted in favor of the request. The minutes of this meeting were provided. Petition information was sent to Bristol Township on January 20, 2021.

Petition information was sent to the United City of Yorkville on January 20, 2021. Yorkville will be reviewing this proposal at their March meetings.

Petition information was sent to the Bristol-Kendall Fire Protection District on January 20, 2021.

ZPAC reviewed this proposal at their meeting on February 2, 2021. Discussion occurred regarding the lack of a septic system on the property. The Petitioner's Attorney noted that porta-john was on the property and no customers are invited on the property. Employees do not linger on the property. Based on the current use and proposed use of the property, restroom facilities are not required. The well on the property had previously been used to water plants related to the former nursery business at the property. ZPAC recommended approval of the

proposed map amendment and special use permit with a vote of eight (8) in favor and zero (0) in opposition; two (2) members of the Committee were absent. The minutes of the meeting were provided.

The subject property has been used as a landscaping business without proper zoning for many years and the Petitioners would like to become compliant with the Zoning Ordinance.

According to the submitted business plan, Cox Landscaping, LLC provides general landscaping services to commercial and residential customers. The business has a maximum fifteen (15) employees. Employees arrive at the property at approximately 6:45 a.m., go to work sites, and return to the property by 5:30 p.m. The business operates at maximum capacity from April 1<sup>st</sup> through Thanksgiving. A smaller number of employees work for the business from November through April.

The subject property is used for offices and storage of landscaping materials.

The subject property is used for wholesale purposes only; no customers come onto the property.

The property presently consists of one (1) one thousand thirty (1,030) square foot steel building. An approximately fifty-three (53) square foot metal shed is located northeast of the steel building. A metal storage bin is located to the southeast of the steel building. An approximately one hundred twenty (120) square foot frame shed is also located southeast of the steel building. A new shed is shown on the site plan; the new shed will be approximately eight feet (8') tall. Any new structures would require applicable building permits.

The property also has one (1) two hundred fifty-two (252) square foot concrete storage area, one (1) two hundred sixteen (216) square foot concrete storage area, one (1) seven hundred fourteen (714) square foot concrete storage area, and one (1) five hundred forty-four (544) square foot wood storage bay. The height of the storage areas is twelve feet (12').

One (1) diesel tank is located on the property.

The property is served by well. There is no septic on the premises.

The property drains to the southeast.

The main parking area consists of gravel and crushed asphalt.

A pulverized black dirt pile will be located on the northern portion of the property.

A stormwater management permit will be required. The stormwater information was provided.

The property has two (2) accesses off of Route 34.

One (1) two thousand five hundred (2,500) square foot gravel parking area is located west of the steel building and one (1) five thousand (5,000) square foot parking lot is located north of the steel building. There are twelve (12) parking spaces in the gravel parking area west of the steel building with an additional twelve (12) parking spaces to the east of the steel building.

Lights are presently located on the property by the sign, flagpole, and on the steel building. One (1) freestanding light is also located on the property next to the steel building. No additional lighting is planned.

The site has less than thirty (30) parking spaces. Therefore, a photometric plan is not required.

A sign is already located on the property. The sign is five feet (5') wide and two feet (2') tall. The sign is three point eight feet (3.8') off of the ground for a total height of slightly under six feet (6'). A light exists next to the sign and flagpole.

A wooden fence six feet (6') in height is located between the steel building and the berm. The Petitioners plan to install a cyclone mesh fence with slats to prevent viewing by the public. The fence will be approximately six feet (6') in height. A new fence gate is visible on the site plan.

Security cameras are also located on the steel building.

The Petitioners also plan to have a three foot (3') maximum height berm with black dirt and mulch with landscaping in the location shown on the site plan.

A berm already exists parallel to Route 34.

No additional plantings are planned for either berm.

No information was provided regarding noise control.

No new odors are foreseen by the proposed use.

If approved, this would be the twelfth (12<sup>th</sup>) special use permit for a landscaping business in unincorporated Kendall County.

The proposed Findings of Fact for the map amendment were as follows:

Existing uses of property within the general area of the property in question. The surrounding properties are used for agricultural and commercial purposes. The subject property has been used for a nursery and landscaping business for several years.

The Zoning classification of property within the general area of the property in question. The surrounding properties have business, office, residential, and agricultural zoning classifications. The subject property is split zoned A-1 Agricultural District and B-3 Highway Business District.

The suitability of the property in question for the uses permitted under the existing zoning classification. The property is presently split zoned A-1 and B-3. Landscaping businesses are special uses within both zoning classifications. However, from a regulatory and use standpoint, having a consistent zoning classification across both uses removes the possibilities of inconsistent and conflicting regulations that exist when a property possesses more than one (1) zoning classification.

The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was in its present zoning classification. The Zoning Board of Appeals shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and is not solely for the interest of the applicant. The Zoning Board of Appeals may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification than that requested by the applicant. For the purpose of this paragraph the R-1 District shall be considered the highest classification and the M-2 District shall be considered the lowest classification. The trend of development along this portion of Route 34 is commercial, retail, office, similar related business uses.

Consistency with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. The Land Resource Management Plan calls for the subject property to be Suburban Residential and the Yorkville Comprehensive Plan calls for the property to be Agricultural even though a portion of the property has been zoned for business uses since the 1970s.

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

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. The operation of the special use will not be detrimental to the public health, safety, morals, comfort, or general welfare. The owners of the business allowed by the special use permit will not invite the public onto the 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 subject property has been used as a landscaping business for a number of years. Appropriate restrictions may be placed in the special use permit to regulate the number of employees, hours of operation, and aesthetics of the operations at the property. Therefore, the neighboring property owners should not suffer loss in property values and will not negatively impact the adjacent land uses.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. This is true. The property has two (2) points of access off of Route 34. The site has adequate utilities and no customers of the business allowed by the special use permit will be invited onto the property. The owners of the business allowed by the special use permit have applied for applicable stormwater permits.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. True, the Petitioners are not requesting any variances.

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

Staff recommended approval of the requested map amendment. Staff also recommends approval of the requested special use permit for a landscaping business subject to the following conditions and restrictions:

1. The site shall be developed substantially in accordance with the site plan.
2. Any new structures constructed on the property shall not be considered for agricultural purposes and must secure applicable building permits.
3. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated storage areas shown on the site plan.
4. Equipment and vehicles related to the business may be stored outdoors.

5. Within six (6) months of approval of the ordinance allowing the special use for a landscaping business at the subject property, the owners or operators of the business allowed by this special use permit shall install a cyclone mesh fence approximately six (6') in height in substantially the location depicted on the site plan
6. One (1) business related sign five feet (5') wide by two feet (2') tall shall be allowed on the subject property as shown on the site plan. The sign can be a maximum four feet (4') off of the ground. The sign may be illuminated.
7. The owners of the business allowed by this special use permit may install necessary lighting for security purposes. All lights shall follow the lighting provisions contained in the Kendall County Zoning Ordinance.
8. The owners of the business allowed by the special use permit shall maintain the parking area shown on the site plan and in substantially the same location as depicted on the site plan. The parking area shall be gravel.
9. A berm three feet (3') in height as measured from the top of the berm to the base of the berm shall be installed and maintained in substantially the same location as shown on the site plan.
10. No landscape waste generated off the property can be burned on this site.
11. A maximum of fifteen (15) employees of the business allowed by this special use permit may report to this site for work. No employees shall engage in the sale of landscaping related materials on the property.
12. No customers of the business allowed by this special use permit shall be invited onto the property by anyone associated with the use allowed by this special use permit.
13. The hours of operation of the business allowed by this special use permit shall be Monday through Saturday from 6:45 a.m. until 5:30 p.m.
14. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
15. The property owner and operator of the business allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business.
16. 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.
17. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
18. This special use permit shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property.

Member McCarthy-Lange requested clarification on the rezoning request. Mr. Asselmeier responded that the area where the business was operating was split zoned. This proposal would bring the business area under one (1) zoning classification and would grant a special use permit for the landscaping business.

Member Wilson asked why the berm area did not screen the dirt pile. She also asked if any fencing would be around the dirt pile. Mr. Asselmeier responded that fencing would not be around the dirt pile. Dan Kramer, Attorney for the Petitioner, said the dirt pile was behind the berm. Mr. Kramer said more landscaping would be planted on the berm in the spring. The berm and dirt pile were not near the nearby residences. The dirt pile varies in size as projects occur.

Chairman Ashton expressed his frustration that applicants are submitting applications after starting operations without proper zoning.

Member Nelson made a motion, seconded by Member Rodriguez, to recommend approval of the map amendment and special use permit with the conditions proposed by Staff.

The votes were as follows:

Ayes (9): Ashton, Bledsoe, Casey, Hamman, McCarthy-Lange, Nelson, Rodriguez, Stewart, and Wilson  
Nays (0): None  
Absent (0): None

The motion carried.

The proposal goes to the Kendall County Zoning Board of Appeals on March 1, 2021.

Member Nelson recused himself at this time (7:26 p.m.).

**Petition 21-03 Larry Nelson on Behalf of the L and P Nelson Trust 103**

Mr. Asselmeier summarized the request.

In October 2016, the Kendall County Board granted a special use permit for a banquet facility, nano brewery, micro distillery, year round seasonal festival with petting zoo, production and sale of sweet cider, and related variances at 15888 Frazier Road in Little Rock Township.

The Petitioner, Larry Nelson on Behalf of the L and P Nelson Trust 103, would like to expand the operations allowed by the special use permit in 2016 to the adjacent property on the east side of Creek Road. In addition to the structures already allowed, the Petitioner would like to construct some parking areas and thirty thousand (30,000) square feet of additional buildings on the east side of Creek Road. The Petitioner would like the conditions and variances previously approved in 2016 to apply to the expanded uses on the east side of Creek Road. The Petitioner would also like to remove the requirement setting the number of buildings at three (3); no non-agricultural building would be larger than ten thousand (10,000) square feet in size.

The application materials, concept plan, Ordinance 2016-21, and aerial of the property were provided.

The expansion area is approximately thirty-one (31) acres in size.

The Future Land Use Plan calls for the property to be Rural Estate Residential and Countryside Residential.

Creek Road is a Township maintained Local Road. The County has a trail planned along Creek Road north of Frazier Road.

The One (100)-Year Floodplain of Little Rock Creek is located on the far east and south sides of the property. A freshwater forested shrub wetland is located on the east side of the subject property. The proposed uses are outside of the floodplain and wetland.

The adjacent land uses are Agricultural and an outlot to a residential subdivision.

The adjacent zonings are A-1 and A-1 SU in the County and AG-1 in Plano.

The County's Future Land Use Map calls for the area to be Agricultural, Countryside Residential, Rural Estate Residential, and Commercial. Plano's Future Land Use Map calls for the area to be Open Space, Low-Density Residential, and General Business.

The nearby zoning districts include A-1, A-1 SU, and R-3 in the County and AG-1, F-1, R-5, B-2, and B-5 in Plano.

The A-1 special uses to the west are for Woody's Orchard and communication uses.

Unit 6 of Lakewood Springs and Unit 2 of Woodwind Subdivision are located near the subject property.

EcoCat submitted on January 5, 2021, and consultation was terminated.

NRI application submitted on January 8, 2021. The LESA Score was 188 indicating a low level of protection. The NRI Report was provided.

Little Rock Township was emailed information on January 19, 2021. The Township reviewed this proposal at their meeting on February 17, 2021. Overall, the Township was in favor of the proposal, but had concerns regarding the well and septic for the expansion area, the protocol for the people mover, and safety signage along Creek Road. The Township was working on a letter officially stating their position.

Little Rock Fox Fire Protection District was emailed information on January 19, 2021.

The City of Plano was emailed information on January 19, 2021. The Plano Planning Commission reviewed this proposal at their meeting on February 15, 2021. They recommended approval of the proposal on the condition that a traffic study of the intersection of Creek Road and Little Rock Road occur. Mr. Asselmeier read a letter from Tom Karpus of the City of Plano explaining the City's approval and concerns.

ZPAC reviewed this proposal at their meeting on February 2, 2021. Discussion occurred regarding patrons crossing Creek Road to access amenities and facilities on the west of Creek Road. The Petitioner indicated that some form of people mover would be used to transport people across Creek Road. No pedestrian crossings were foreseen. The Petitioner noted that development of the property on the east side of Creek Road would take several years. ZPAC recommended approval of the proposal with a vote of eight (8) in favor and zero (0) in opposition; two (2) members of the Committee were absent. The minutes were provided.

According to the business information provided, the Petitioner would like to expand operations of Woody's Orchard to the property they own on the east side of Creek Road. The Petitioners would like to construct approximately three (3) buildings with a total of thirty thousand square feet in substantially the locations shown on the concept plan. The concept plan also calls for two (2) parking areas and two (2) access points off of



Creek Road. Traffic circulation would be one (1) way throughout the property. The concept plan also calls for an apple tree area on the north side of the property.

The Petitioner would like the conditions and variances imposed by Ordinance 2016-21 to carry over to the new area of operations. The conditions from Ordinance 2016-21 are as follows:

1. The property shall be developed in substantial compliance with the submitted concept plan.
2. The maximum number of patrons for banquets shall be limited to two hundred twenty-five (225), including any vendors working on the property for a banquet.
3. No event activity shall start earlier than 7:00 a.m. any day of the week, and shall end no later than 10:00pm, Monday thru Wednesday and no later than 11:30 pm Thursday thru Sunday. Banquets may end no later than midnight.
4. Lighting shall comply with Section 11:02.F.12 of the Zoning Ordinance.
5. Parking reserved for ADA accessibility shall be marked and constructed with a hard surface adjacent to the proposed retail store/bakery.
6. Any food prepared or sold on site, shall conform to the regulations of the Kendall County Health Department.
7. Retail sales are permitted provided that the retail sales will be ancillary to the main operation. Such sales may occur year around.
8. Noise generated by non-agricultural activities on-site shall comply with the following:
  - a. 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 residential property line of the complainant.
  - b. 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 residential property line of the complainant.
  - c. 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 7:00 a.m. and 10:00 p.m.
9. All applicable Federal (including the Alcohol and Tobacco Tax and Trade Bureau), State (including the Illinois Liquor Control Commission), and County rules and regulations shall apply.
10. A waste management plan shall be submitted to and approved by the Kendall County Health Department prior to operation of the micro distillery.
11. The petting zoo shall provide adequate hand sanitation devices as determined by the Department of Health.

12. There shall be a maximum of three (3) new buildings, with a maximum size of ten thousand (10,000) square feet each, for the banquet hall, bakery/retail store, and other commercial uses. This maximum number of buildings excludes agricultural buildings such as barns or sheds.
13. Signs shall comply with sign standards for Business Districts in the Kendall County Zoning Ordinance (Section 12:10), and may only be externally illuminated.
14. Adequate parking on site shall be provided in such a way that no on-street parking is necessary. Parking shall be setback a minimum of thirty feet (30') from the right-of-way of Frazier Road.
15. Accessory uses including but not limited to temporary vendors engaged in the sale of ancillary items not produced on site but which are related to products produced on site or associated with the season shall be permitted.

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

The variances from Ordinance 2016-21 are as follows:

1. That a Banquet Hall, Micro-Distillery, Nano-Brewery shall have direct access to Creek Road and Frazier Road (neither of which is designated as a collector or higher on the County's Transportation Plan).
2. The retail sales areas may exceed one thousand (1,000) square feet, but shall not exceed ten thousand (10,000) square feet per building.
3. That parking be allowed within thirty feet (30') of the Frazier Road right-of-way (reduced from the one hundred foot (100') agricultural setback).

According to the business plan information, the proposed use is "a hybrid use of agriculture, entertainment, food and family fun." Some commodities are grown onsite while others are grown offsite. Family friendly activities are also offered on the property.

No information was provided, either in the current application or in Ordinance 2016-21, regarding number of employees or number of events. Condition 3 of Ordinance 2016-21 stated that events cannot start prior to 7:00 a.m. any day of the week and shall end no later than 10:00 p.m. on Mondays thru Wednesdays and no later than 11:30 p.m. Thursdays thru Sundays. Banquets may end no later than midnight. Condition 2 of Ordinance 2016-21 stated that the maximum number of patrons at a banquet is limited to two hundred twenty-five (225), including vendors working at the property for a banquet.

The Petitioner did not indicate when they would start construction on the expansion, if the special use amendment was approved.

Building permits will be required for the proposed structures.

The Petitioner would like to amend Condition 3 of Ordinance 2016-21 by removing the three (3) building maximum. The total allowable square footage would remain at thirty thousand (30,000) and no non-agricultural building would be larger than ten thousand (10,000) square feet.

Section 7:01.D.32.g of the Kendall County Zoning Ordinance and Condition 10 of Ordinance 2016-21 requires a waste management plan be submitted and approved by the Kendall County Health Department prior to the operation of a micro distillery. Condition 11 of Ordinance 2016-21 requires adequate hand sanitation devices as determined by the Kendall County Health Department for the operation of a petting zoo. Condition 6 of Ordinance 2016-21 requires that any food prepared or sold on the property follow Kendall County Health Department regulations.

No information was provided regarding potable water availability or restroom facilities in the expansion area.

Electricity is onsite.

No information was provided for refuse control areas for refuse generated from the special uses.

The property fronts Creek Road. According to the concept plan, the way into the property would be a driveway across the street from the existing entrance to Woody's Orchard and the way out of the property would be through a driveway that lines up with Frazier Road.

The concept plan shows two (2) parking areas. No information was provided regarding the dimensions of the parking areas or the number of parking spaces. According to Condition 5 of Ordinance 2016-21, ADA parking spaces shall be marked and constructed with a hard surface. According to Condition 14 of Ordinance 2016-21, parking shall be setback a minimum of thirty feet (30') from the right-of-way of Frazier Road.

According to Condition 4 of Ordinance 2016-21, all lighting shall comply with Section 11:02.F.12 of the Zoning Ordinance. No information was provided regarding the number or location of lights.

According to Condition 13 of Ordinance 2016-21, all signage on the property shall follow the rules for signs in a Business District as outlined in Section 12:10 of the Zoning Ordinance. Signs may be externally illuminated. No information was provided regarding the number, location, or size of signs.

No specific information was provided regarding landscaping. The Petitioner indicated that they would provide additional landscaping information when applying for building permits.

No information was provided regarding specific noise control measures. The uses must follow the noise regulations in the Zoning Ordinance and the allowable noise levels listed in Ordinance 2016-21.

The proposed findings of fact for the special use permit were as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. True. The Petitioner has submitted a concept plan indicating that measures will be taken to ensure that the use will not have a negative impact on public health, safety, morals, comfort, or general welfare including a one-way traffic flow.

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

compatible with the surrounding area and/or the County as a whole. True. Conditions were included in the original special use permit ordinance that will regulate noise, lighting, and sanitation provisions.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. The project will have a one-way circulation system, with vehicles entering from Creek Road and exiting onto Creek Road at the intersection with Frazier Road. Site plan, stormwater management plans, and appropriate Health Department regulations will be reviewed and approved prior to construction for all commercial improvements.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. The Petitioner was granted variances in the original special use permit ordinance. The Petitioner would like those variances extended to cover the special use expansion area.

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

The proposed findings of fact for the variances were as follows:

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. While the subject property is not on an existing collector road, Creek Road is a well maintained Township Road which frequently accommodate truck traffic from the nearby Hillside Nursery. Commercial uses are called for in the vicinity of the subject property on the Future Land Use Maps for both Kendall County and City of Plano.

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 true. This is a unique combination of uses and is not likely to be replicated in other areas of the County.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The Petitioner did not create the setback requirements or access requirements.

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. The surrounding area is primarily agricultural, and many of the proposed uses are also agricultural in nature. Appropriate conditions have been included to ensure limits to noise and lighting to protect the public welfare.

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. The proposed variances will not impair the supply of light or air to neighboring properties. Since 2016, the Petitioner has demonstrated

no increased congestion on public streets by the uses allowed by the special use permit. There will be no increase in the danger of fire and no negative impacts to property values are foreseen.

Staff recommended approval of the requested amendment to special use permit granted by ordinance 2016-21 and the variances approved by Ordinance 2016-21 subject to the following conditions and restrictions:

1. The subject property shall be developed substantially in accordance with the concept plan. The site plan for the property on the west side of Creek Road shall be governed by the concept plan attached to Ordinance 2016-21.
2. The uses and variances previously allowed by Ordinance 2016-21 shall be allowed on and applicable to the subject property with the following exceptions:
  - a. Condition 5 of Ordinance 2016-21 shall not be applicable to the subject property. ADA accessible parking spaces shall be installed in locations and numbers required by Federal law and with a surface required by Federal law.
  - b. Condition 12 of Ordinance 2016-21 shall not be applicable to the subject property. Instead, there shall be a maximum of thirty thousand (30,000) square feet of additional buildings constructed on the subject property in substantially the locations shown on the concept plan. No individual building shall be larger than ten thousand (10,000) square feet.
3. Condition 12 of Ordinance 2016-21 shall be modified for the West Side of Creek Rd property to read: “there may be a maximum of thirty thousand (30,000) square feet of additional non-agricultural exempt buildings constructed on the property. No individual, non-agricultural exempt building shall be larger than ten thousand (10,000) square feet.”
4. Condition 3 of Ordinance 2016-21 shall be interpreted as variances to Sections 7:01.E.10.i, 7:01.E.10.j, and 7:01.E.10.k of the Kendall County Zoning Ordinance regarding the hours of operation, number, and days of operation of seasonal festivals for the subject property and the property governed by Ordinance 2016-21.
5. Condition 9 of Ordinance 2016-21 shall be interpreted as a variance to Section 7:01.E.10.d of the Kendall County Zoning Ordinance to allow the sale of alcohol at seasonal festivals.
6. The owners of the uses allowed by this special use permit acknowledge and agree to follow Kendall County’s Right to Farm Clause.
7. The owners of the uses allowed by this special use permit amendment agree to follow all applicable Federal, State, and Local laws governing these types of uses.
8. 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.
9. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

Robert Long stated that his property is approximately two thousand feet (2,000’) to the proposed banquet center location and the closest existing home is approximately one thousand two hundred feet (1,200’) to the proposed banquet center. His concern was noise, but he was generally favorable of the proposal. He was also concerned about preservation of the Little Rock Creek watershed.

Member Wilson asked about outdoor bands or outdoor weddings. Mr. Nelson said that the answer to that question was undetermined at this time. Mr. Nelson also noted the existing noise regulations and previous noise

tests that he has done on the existing business. Mr. Nelson said that he intends to abide by the conditions of the special permit. Member Wilson expressed concerns regarding the Sheriff's Department obtaining noise measurements. Mr. Nelson stated that the closest house was approximately four hundred feet (400') from the proposed uses. The County has not received any noise complaints from the existing uses.

Member Rodriguez stated that he has gone to Woody's and thinks the business is remarkable. He noted the existing trees between the subject property and the nearby houses. Mr. Long noted that the trees do not block the noise.

Mr. Nelson and Mr. Long encouraged mutual respect between the applicant and neighbors.

Mr. Nelson noted the installation of the driveway on the west side of Creek Road to address potential traffic concerns.

Mr. Nelson noted that the property is highly erodible.

Mr. Nelson requested that the noise regulations apply only to the homes in existence at the time of special use permit approval. An aerial map could be added as an exhibit to the ordinance. Mr. Long noted that vacant residential lots exist in Lakewood Springs Club.

Member Rodriguez made a motion, seconded by Member Bledsoe, to recommend approval of special use permit and variances with the conditions proposed by Staff and with the amendment that the noise regulations apply to those residential structures that existed on the date of approval of the special use permit.

The votes were as follows:

Ayes (8): Ashton, Bledsoe, Casey, Hamman, McCarthy-Lange, Rodriguez, Stewart, and Wilson  
Nays (0): None  
Absent (0): None  
Abstain (1): Nelson

The motion carried.

The proposal goes to the Kendall County Zoning Board of Appeals on March 1, 2021.

Member Nelson returned as a Member of the Commission at this time (8:04 p.m.)

#### **CITIZENS TO BE HEARD/ PUBLIC COMMENT**

None

#### **NEW BUSINESS**

None

#### **OLD BUSINESS**

**Approval to Initiate Amendments to the Future Land Use Map in the Kendall County Land Resource Management Plan by Having the Transportation Plan Correspond to the 2020-2040 Long Range Transportation Plan, Updating Municipal Boundaries, Reclassifying Islands in the Fox River from Unknown to Open Space and Reclassifying the Remaining Unknown Properties to Match Adjoining Land Use Classifications**

Mr. Asselmeier summarized the request.

In December 2019, the County Board approved a 2019-2039 Long Range Transportation Plan. In December 2020, the County Board approved a 2020-2040 Long Range Transportation Plan that was similar to the 2019-2039 Long Rang Transportation Plan.

The Plan has several changes from the Future Land Use Map contained in the Land Resource Management Plan. After discussions with Fran Klaas, at their meeting on October 28, 2020, the Kendall County Comprehensive Land Plan and Ordinance Committee recommended the following changes to the Kendall County Land Resource Management Plan:

Remove

- Prairie Parkway
- Lisbon / Helmar Bypass
- Caton Farm Road West Route 71
- Fox River Drive Westerly Bypass of Village of Newark
- Whitfield Road Extension North to Griswold Springs Road
- Gates Lane West of Route 47
- County has now taken position to keep WIKADUKE Trail on the existing Stewart Road alignment all the way to Rance Road and then extend a new alignment northeasterly to Route 30 and Heggs Road, using the Village of Oswego's alignment for the WIKADUKE Trail.

Add

- Millington Road Extending North of Lions Road to Connect to Route 34
- Walker Road Relocated West of Route 71 to Make Connection to New Fox River Drive / Crimmins Road intersection
- Westerly Extension of Collins Road West of Minkler Road to Route 71
- Connecting Millbrook Road with the Millbrook Bridge by Aligning Millbrook Road and Whitfield Road behind the Existing Bank Building
- Having Douglas Road's Alignment Correspond to the Village of Oswego's Plans
- Aligning Cannonball Trail to Dickson Road and Gordon Street
- Extending Cherry Road into the Henneberry Woods Forest Preserve
- Extending Johnson Road East from Ridge Road to the County Line
- Miller Road Extended in DeKalb County

Changes in Land Use

- Changing the Suburban Residential Classification for the Properties South of the Johnson Road Extension to Mixed Use Business. Mr. Asselmeier noted that these would be the only properties in Na-Au-Say Township classified as Mixed Use Business.
- Updating the Future Land Use Map to Reflect Current Municipal Boundaries
- Correcting the Classification of the Minooka School District Property Near the Intersection of Route 52 and County Line Road
- Classifying the Parcels of Land Shown as "Unknown" on the Future Land Use Map to Match Adjoining Properties and/or Uses

The current Future Land Use Map, an updated Future Land Use Map, and updated trail map were provided. The redline version of the related text was also provided. The listing of parcels changed from unknown to a different use was also provided.

Mr. Asselmeier noted that Bristol Township submitted an email in favor of the proposal. Oswego Township submitted an email express concerns about several local roads. The County's opinion was that the concerns expressed by Oswego Township won't manifest themselves until the area is annexed by the Village of Oswego.

Member Nelson made a motion, seconded by Member Rodriguez, to initiate the amendment as proposed.

The votes were as follows:

Ayes (9): Ashton, Bledsoe, Casey, Hamman, McCarthy-Lange, Nelson, Rodriguez, Stewart, and Wilson

Nays (0): None

Absent (0): None

The motion carried.

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

Mr. Asselmeier said that Petitions 20-02 and 20-05 were withdrawn by the Petitioner. The Planning, Building and Zoning Committee will be discussing the next steps for this property at their March 8, 2021, meeting.

### **OTHER BUSINESS/ANNOUNCEMENTS**

Mr. Asselmeier said that there are four (4) agenda items for the March meeting. These include a map amendment request at the southwest corner of Galena and East Beecher Roads, a request for a special use permit for a flea market on Brisbin Road, a request for a banquet facility on Van Dyke Road, and the Land Resource Management Plan amendment.

Member Nelson stated the Comprehensive Land Plan and Ordinance Committee will be reviewing the land uses and zoning classifications for properties along Eldamain Road between the Fox River and Route 71.

### **ADJOURNMENT**

Member Wilson made a motion, seconded by Member Rodriguez, to adjourn.

The votes were as follows:

Ayes (9): Ashton, Bledsoe, Casey, Hamman, McCarthy-Lange, Nelson, Rodriguez, Stewart, and Wilson

Nays (0): None

Absent (0): None

The motion carried.

The Kendall County Regional Planning Commission meeting adjourned at 8:14 p.m.

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

Enc.



**KENDALL COUNTY  
REGIONAL PLANNING COMMISSION  
FEBRUARY 24, 2021**

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

NAME	ADDRESS (OPTIONAL)	EMAIL ADDRESS (OPTIONAL)
Dor Kov	ret. 20-32	[REDACTED]
Scott Muller	[REDACTED]	[REDACTED]