

ORDINANCE NUMBER 2021- 11

**GRANTING A SPECIAL USE PERMIT FOR THE PRODUCTION AND SALE OF WINE AND SIMILAR ITEMS UTILIZING CROPS GROWN ON THE SAME PROPERTY OR IN COMBINATION WITH CROPS GROWN OFF-SITE WHERE SUCH PRODUCTION TAKES PLACE ON THE PREMISES AT 9396 PLATTVILLE ROAD AND IDENTIFIED BY PARCEL IDENTIFICATION NUMBER 08-09-200-003 IN LISBON TOWNSHIP**

*WHEREAS*, Section 13:08 of the Kendall County Zoning Ordinance permits the Kendall County Board to issue special use permits and place conditions on special use permits and provides the procedure through which special use permits are granted; and

*WHEREAS*, Section 7:01.D.45 of the Kendall County Zoning Ordinance permits the production and sale of wine and similar items utilizing crops grown on the same property or in combination with crops grown off-site where such production takes place on the premises with certain restrictions in the A-1 Agricultural Zoning District; and

*WHEREAS*, the property which is the subject of this Ordinance has been, at all relevant times, and remains currently located within the A-1 Agricultural Zoning District and consists of approximately 3.19 acres located at 9396 Plattville Road (PIN: 08-09-200-003) in Lisbon Township. The legal description for the subject property is set forth in Exhibit A attached hereto and incorporated by reference, and this property shall hereinafter be referred to as “the subject property”; and

*WHEREAS*, the subject property is currently owned by Laura Denges and shall hereinafter be referred to as “Petitioner”; and

*WHEREAS*, on or about March 22, 2021, Petitioner filed a petition for a special use permit allowing the for the production and sale of wine and similar items utilizing crops grown on the same property or in combination with crops grown off-site where such production takes place on the premises at the subject property; and

*WHEREAS*, following due and proper notice by publication in the Kendall County Chronicle on April 7, 2021, the Kendall County Zoning Board of Appeals conducted a public hearing on May 3, 2021, at 7:00 p.m., in the Third Floor Courtroom of the Kendall County Historic Courthouse at 109 W. Ridge Street in Yorkville, at which the Petitioner presented evidence, testimony, and exhibits in support of the requested special use permit and zero members of the public testified in favor or in opposition to the proposal; and

*WHEREAS*, based on the evidence, testimony, and exhibits, the Kendall County Zoning Board of Appeals has made their Findings of Fact and recommended approval of the special use permit with conditions as set forth in the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, dated May 3, 2021, a true and correct copy of which is attached hereto as Exhibit B; and

*WHEREAS*, the Kendall County Planning, Building and Zoning Committee of the Kendall County Board has reviewed the testimony presented at the aforementioned public hearing and has considered the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, and has forwarded to the Kendall County Board a recommendation of approval of the requested special use permit with conditions; and

*WHEREAS*, the Kendall County Board has considered the recommendation of the Planning, Building and Zoning Committee and the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, and has determined that said petition is in conformance with the provisions and intent of the Kendall

WHEREAS, this special use permit shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property; and

NOW, THEREFORE, BE IT ORDAINED, BY THE COUNTY BOARD OF KENDALL COUNTY, ILLINOIS, as follows:

1. The Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals attached hereto as Exhibit B is hereby accepted and the Findings of Fact set forth therein are hereby adopted as the Findings of Fact and Conclusions of this Kendall County Board.
2. The Kendall County Board hereby grants approval of Petitioner's petition for a special use permit for the production and sale of wine and similar items utilizing crops grown on the same property or in combination with crops grown off-site where such production takes place on the premises on the subject property subject to the following conditions:
  - A. The site shall be developed substantially in accordance with the site plan attached hereto as Exhibit C. An overflow parking lot may be installed east of the red barn.
  - B. The parking lot shown on the site plan attached hereto as Exhibit C shall be setback at least fifty-nine feet (59') from the centerline of Plattville Road; the same distance as the existing house. The business allowed by this special use permit shall not commence operations until the parking lot shown on the site plan attached hereto as Exhibit C is installed.
  - C. Tasting, wholesale, and retail sale of wines shall be permitted.
  - D. The sale of ancillary items related to the business allowed by this special use permit shall be permitted.
  - E. The total retail sales area on site within any building or combination of buildings shall not exceed one thousand (1,000) square feet. Sales shall be restricted to inside the barn identified on the site plan attached hereto as Exhibit C.
  - F. Seasonal outdoor displays related to the business allowed by this special use permit shall be permitted.
  - G. The business allowed by this special use permit may operate no earlier than Noon and no later than 9:00 p.m. any day of the week. The operators of the business allowed by this special use permit may conduct property maintenance outside the hours of operation. Business related deliveries may occur between 8:00 a.m. and 9:00 p.m. any day of the week.
  - H. The maximum number of employees of the business allowed by this special use permit shall be ten (10), including the business owners.
  - I. The maximum number of people allowed on the property in relation to the business allowed by this special use permit at any given time shall be sixty (60).
  - J. The owners of the business allowed by this special use permit may install one (1) business related sign along Plattville Road in substantially the location shown on the site plan attached hereto as Exhibit C. The sign shall not be illuminated. If the owner(s) or operator(s) of the business allowed by this special use permit want to install an illuminated sign in the future, the owner(s) or operator(s) of the business allowed by this special use permit must secure a variance

to allow the placement of an illuminated sign. An amendment to this special use permit shall not be required for the placement of an illuminated sign.

- K. All trash and garbage generated by uses allowed by this special use permit shall be stored in the garbage areas designated on the site plan attached hereto as Exhibit C. The owner(s) or operator(s) of the business allowed by this special use permit shall ensure that garbage and trash shall be removed from the property at least one (1) time per week or as necessary to maintain the property clear of garbage and trash.
  - L. No music shall originate outside of any structure related to the operation of the business allowed by this special use permit.
  - M. The noise regulations are as follows:
    - Day Hours: No person shall cause or allow the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential land which exceeds sixty-five (65) dBA when measured at any point within such receiving residential land, provided; however, that point of measurement shall be on the property line of the complainant.
    - Night Hours: No person shall cause or allow the emission of sound during nighttime hours (10:00 P.M. to 7:00 A.M.) from any noise source to any receiving residential land which exceeds fifty-five (55) dBA when measured at any point within such receiving residential land provided; however, that point of measurement shall be on the property line of the complainant.
    - EXEMPTION: Powered Equipment: Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted from the noise regulations between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.
  - N. None of the buildings associated with the business allowed by this special use permit shall be considered agricultural exempt structures. Applicable building and occupancy permits shall be secured for all new structures related to the business allowed by this special use permit. A new certificate of occupancy must be issued for the existing barn.
  - O. The owner(s) or operator(s) of the business allowed by this special use permit shall live at the subject property as their primary place of residence.
  - P. The owner(s) or operator(s) of the uses allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
  - Q. The owner(s) or operator(s) of the uses allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of use.
  - R. 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.
  - S. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
3. This special use permit shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property.

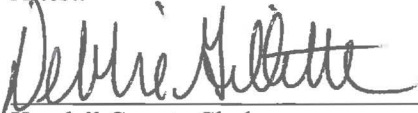
State of Illinois  
County of Kendall

Zoning Petition  
#21-14

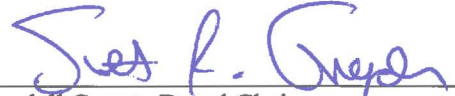
4. The Zoning Administrator and other appropriate County Officials are hereby authorized and directed to amend the Official Zoning Map of Kendall County to reflect this special use permit.

IN WITNESS OF, this ordinance has been enacted by a majority vote of the Kendall County Board and is effective this 18<sup>th</sup> day of May, 2021.

Attest:



Kendall County Clerk  
Debbie Gillette



Kendall County Board Chairman  
Scott R. Gryder



Exhibit A

LEGAL DESCRIPTION OF PARCEL ONE

That Part of the Northeast Quarter of Section 9, Township 35 North, Range 7 East of the Third Principal Meridian, being described by Commencing at the Northeast Corner of said Northeast Quarter; thence Westerly along the North Line of said Northeast Quarter, a distance of 1820.0 feet to the point of beginning; thence Southerly at right angles to said North Line, a distance of 385.0 feet; thence Westerly parallel to said North Line, a distance of 397.0 feet; thence Northerly at right angles to the last described course, a distance of 385.0 feet to a point on said North Line, said point being 387.0 feet Westerly of the point of beginning; thence Easterly along said North Line, 397.0 feet to the point of beginning, in the Township of Lisbon, Kendall County, Illinois.

## Exhibit B

The Kendall County Zoning Board of Appeals approved the following Findings of Fact and Recommendation at their meeting on May 3, 2021, by a vote of six (6) in favor and zero (0) in opposition. Member Clementi was absent.

### FINDINGS OF FACT

§ 13:08.J of the Zoning Ordinance outlines findings that the Zoning Board of Appeals must make in order recommend in favor of the applicant on special use permit applications.

*That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, or general welfare, provided that the site is developed in accordance with an approved site plan and conditions are placed in the special use permit governing hours of operation, noise levels, and number of people allowed on 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 proposed use could be injurious to the enjoyment of other property in the immediate vicinity due to noise created from the proposed use. However, these negative impacts could be mitigated by restrictions related to hours of operation, noise regulations, and setting the maximum number of people allowed on the property.*

*That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. True, the property has appropriate access from Plattville Road. The Petitioners are planning to install the necessary utilities. Drainage will not be an issue based on the proposed use and site plan.*

*That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. This is true. The Petitioner is 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 3-6 of the Kendall County Land Resource Management Plan which states as an objective "Encourage Agriculture and Agribusiness."*

### RECOMMENDATION

Approval of the request special use permit subject to the following conditions and restrictions:

1. The site shall be developed substantially in accordance with the submitted site plan. An overflow parking lot may be installed east of the red barn.
2. The parking lot shown on the submitted site plan shall be setback at least fifty-nine feet (59') from the centerline of Plattville Road; the same distance as the existing house. The business allowed by this special use permit shall not commence operations until the parking lot shown on the submitted site plan is installed.

3. Tasting, wholesale, and retail sale of wines shall be permitted.
4. The sale of ancillary items related to the business allowed by this special use permit shall be permitted.
5. The total retail sales area on site within any building or combination of buildings shall not exceed one thousand (1,000) square feet. Sales shall be restricted to inside the barn identified on the submitted site plan.
6. Seasonal outdoor displays related to the business allowed by this special use permit shall be permitted.
7. The business allowed by this special use permit may operate no earlier than Noon and no later than 9:00 p.m. any day of the week. The operators of the business allowed by this special use permit may conduct property maintenance outside the hours of operation. Business related deliveries may occur between 8:00 a.m. and 9:00 p.m. any day of the week.
8. The maximum number of employees of the business allowed by this special use permit shall be ten (10), including the business owners.
9. The maximum number of people allowed on the property in relation to the business allowed by this special use permit at any given time shall be sixty (60).
10. The owners of the business allowed by this special use permit may install one (1) business related sign along Plattville Road in substantially the location shown on the submitted site plan. The sign shall not be illuminated. If the owner(s) or operators(s) of the business allowed by this special use permit want to install an illuminated sign in the future, the owner(s) or operator(s) of the business allowed by this special use permit must secure a variance to allow the placement of an illuminated sign. An amendment to this special use permit shall not be required for the placement of an illuminated sign.
11. All trash and garbage generated by uses allowed by this special use permit shall be stored in the garbage areas designated on the submitted site plan. The owner(s) or operator(s) of the business allowed by this special use permit shall ensure that garbage and trash shall be removed from the property at least one (1) time per week or as necessary to maintain the property clear of garbage and trash.
12. No music shall originate outside of any structure related to the operation of the business allowed by this special use permit.
13. The noise regulations are as follows:

Day Hours: No person shall cause or allow the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential land which exceeds sixty-five (65) dBA when measured at any point within such receiving residential land, provided; however, that point of measurement shall be on the property line of the complainant.

Night Hours: No person shall cause or allow the emission of sound during nighttime hours (10:00 P.M. to 7:00 A.M.) from any noise source to any receiving residential land which exceeds fifty-five (55) dBA when measured at any point within such receiving residential land provided; however, that point of measurement shall be on the property line of the complainant.

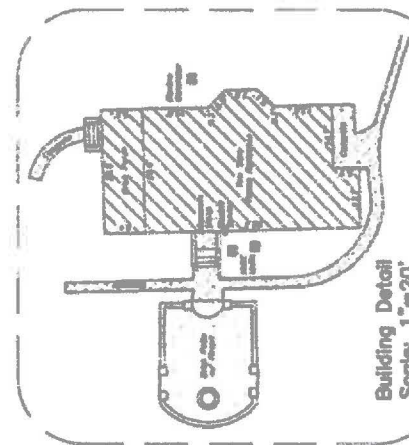
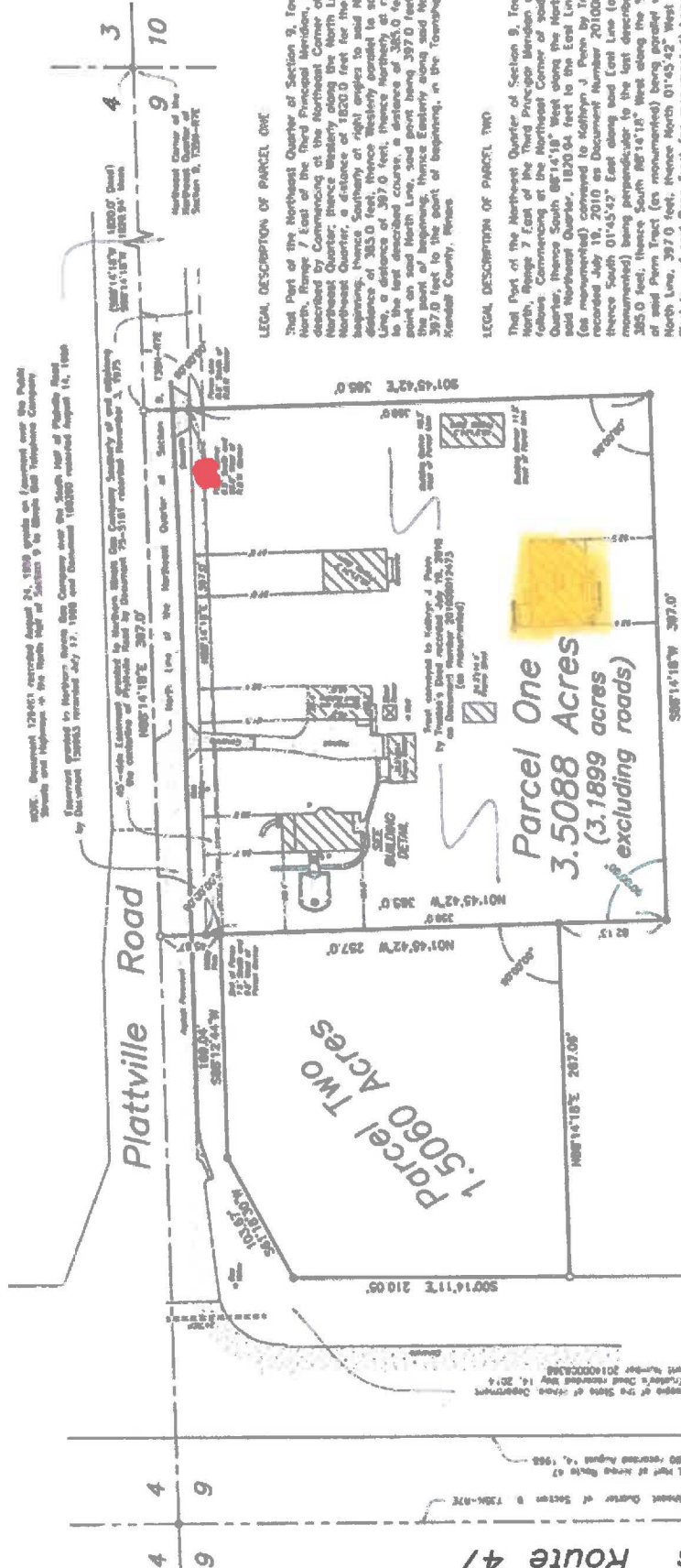
EXEMPTION: Powered Equipment: Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted from the noise regulations between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.
14. None of the buildings associated with the business allowed by this special use permit shall be considered agricultural exempt structures. Applicable building and occupancy permits shall be secured for all new structures related to the business allowed by this special use permit. A new

certificate of occupancy must be issued for the existing barn.

15. The owner(s) or operator(s) of the business allowed by this special use permit shall live at the subject property as their primary place of residence.
16. The owner(s) or operator(s) of the uses allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
17. The owner(s) or operator(s) of the uses allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of use.
18. 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.
19. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.



PLAT OF SURVEY OF  
PART OF THE NORTHEAST QUARTER OF SECTION 9, T35N-R7E, 3rd PM  
LISBON TOWNSHIP KENDALL COUNTY ILLINOIS



SCALE 1" = 60'

● Indicates Iron Stake Found  
○ Indicates Iron Stake Set  
--- Indicates Line of Fence

NOTE: The property is currently owned by Phillip D. Young and Associates, Inc.

State of Illinois } 85  
County of Kendall }

I, Phillip D. Young, an Illinois Professional Land Surveyor and an officer of Phillip D. Young and Associates, Inc., state that I have surveyed and located the visible improvements upon the above described tract as shown by the plat hereon drawn which is a representation of said survey. Field work completed November 30, 2020. This professional service conforms to the current Illinois minimum standards for a boundary survey.

Dated December 1, 2020 at Yorkville, Illinois

*Phillip D. Young*

LEGAL DESCRIPTION OF PARCEL ONE

That Part of the Northeast Quarter of Section 9, Township 35 North, Range 7 East of the Third Principal Meridian, being described by Commencing at the Northeast Corner of said Northeast Quarter; thence Westerly along the North Line of said Northeast Quarter, a distance of 1820.0 feet to the point of beginning; thence Southwesterly at right angles to said North Line, a distance of 385.0 feet; thence Westerly parallel to said North Line, a distance of 197.0 feet; thence Southwesterly at right angles to said North Line, a distance of 385.0 feet; thence Southwesterly at right angles to said North Line, a distance of 385.0 feet; thence Southwesterly at right angles to said North Line, a distance of 385.0 feet; thence Southwesterly at right angles to said North Line, a distance of 385.0 feet; thence Southwesterly at right angles to said North Line, a distance of 385.0 feet to the point of beginning; thence Easterly along said North Line, 387.0 feet to the point of beginning, in the Township of Lisbon, Kendall County, Illinois.

LEGAL DESCRIPTION OF PARCEL TWO

That Part of the Northeast Quarter of Section 9, Township 35 North, Range 7 East of the Third Principal Meridian described as follows: Commencing at the Northeast Corner of said Northeast Quarter; thence South 88°14'18" West along the North Line of said Northeast Quarter, 1820.04 feet to the East Line of a Tract (as monumented) conveyed to Kathryn J. Penn by Trustee's Deed recorded July 18, 2010 as Document Number 201000012423; thence South 01°45'42" East along said East Line (as monumented) being perpendicular to the last described course, 385.0 feet; thence South 88°14'18" West along the South Line of said Penn Tract (as monumented) being parallel with said North Line, 397.0 feet; thence North 01°45'42" West along the West Line of said Penn Tract (as monumented) being perpendicular to the last described course, 82.13 feet for the point of beginning; thence continuing North 01°45'42" West along the West Line of said Penn Tract (as monumented), 257.0 feet to a Southerly Line of a Tract conveyed to the People of the State of Illinois, Department of Transportation recording May 14, 2014 as Document Number 201340006306; thence South 88°12'44" West along said Southerly Line, 189.04 feet; thence South 81°18'30" West along said Southerly Line, 103.67 feet; thence South 07°14'11" East along an Easement Line of said Department of Transportation tract, 210.05 feet to a long drawn line, parallel with the North Line of said Northeast Quarter, from the point of beginning; thence North 88°14'18" East parallel with said North Line, 267.00 feet to the point of beginning, in Lisbon Township, Kendall County, Illinois.





parking

garage

septic

field  
septic

Pottsville Rd  
Exhibit C, Page 2

Plattville Rd

