

KENDALL COUNTY PLANNING, BUILDING & ZONING COMMITTEE
Kendall County Office Building
Rooms 209 and 210
111 W. Fox Street, Yorkville, Illinois
6:30 p.m.
Meeting Minutes of September 13, 2021

CALL TO ORDER

The meeting was called to order by Chairman Gengler at 6:30 p.m.

ROLL CALL

Committee Members Present: Elizabeth Flowers, Scott Gengler (Chairman), Judy Gilmour (Vice-Chairwoman), Dan Koukol (Arrived at 6:31 p.m.), and Robyn Vickers

Committee Members Absent: None

Also Present: Matt Asselmeier (Senior Planner), Adam Theis, JoAnn Bright-Theis, Boyd Ingemunson, Dan Kramer, Peter Pasteris, Greg Dady, and Bob Baish

APPROVAL OF AGENDA

Member Flowers made a motion, seconded by Member Gilmour, to approve the agenda as presented. With a voice vote of four (4) ayes, the motion carried.

APPROVAL OF MINUTES

Member Koukol arrived at this time (6:31 p.m.).

Member Gilmour made a motion, seconded by Member Vickers, to approve the minutes of the August 9, 2021, meeting. With a voice vote of five (5) ayes, the motion carried.

PUBLIC COMMENT

None

EXPENDITURE REPORT

The Committee reviewed the expenditure report from August 2021. Member Vickers made a motion, seconded by Member Koukol, to approve the expenditure report. With a voice vote of five (5) ayes, the motion carried.

The Committee reviewed the quarterly expenditure update. Member Vickers made a motion, seconded by Member Flowers, to approve the quarterly expenditure update. With a voice vote of five (5) ayes, the motion carried.

PETITIONS

Petition 21-26 Robert Bright on Behalf of the Madison Trust and Castle Bank N A and JoAnn Bright-Theis

Mr. Asselmeier summarized the request.

On August 27, 2019, the County Board adopted Ordinance 2019-23 which granted a special use permit for a banquet facility at 10978 Crimmin Road. The special use permit included seventeen (17) conditions. The Petitioners would like to change their use of the approximately

nineteen thousand seven hundred (19,700) square foot building to allow for smaller events and allow for events throughout the year.

The application materials and Ordinance 2019-23 were provided.

The property was approximately thirty-eight (38) acres in size.

Crimmin Road was a Major Collector Road and is also classified as a Scenic Route. There were no trails planned in the area.

A riverine wetland was located along the southwest edge of the subject property.

The adjacent land uses were agricultural, religious, and the Millington Forest Preserve.

The adjacent zoning districts were A-1.

The Future Land Use Map called for the area to be Rural Residential, Agricultural, and Forest Preserve.

The nearby zoning districts were A-1, A-1 SU, R-2, and R-3.

The special use permit to the west is for the operation of a fur-bearing animal farm.

Based on the aerial of the site, there are six (6) homes within a half mile of the subject property.

An aerial of the property was provided.

The Illinois Natural Heritage Database shows the following protected resources may be in the vicinity of the project location:

- Millington Fen INAI Site

- Millington Railroad Fen Natural Landmark

- Tucker-Millington Fen Natural Preserve

- River Redhorse (*Moxostoma carinatum*)

EcoCat related materials were provided, including notice of consultation termination.

The LESA Score was 181 indicating a low level of protection. The NRI report was provided.

The Fox Township Planning Commission reviewed this Petition at their meetings on July 6, 2021, and July 21, 2021. The Fox Township Planning Commission recommended in favor of dividing the space and setting the maximum number of guests for Event Space A at two hundred eighty (280) and sixty (60) for Event Space B. They recommended against deleting the requirement that the barn doors close at 7:00 p.m. They recommended that weekday events conclude by 10:00 p.m. with guests allowed one (1) extra hour to vacate the property; weekend events concluded at 11:00 p.m. with guests allowed one (1) extra hour to vacate the property. They defined weekends as Fridays and Saturdays. They recommended keeping the maximum number of large events at thirty (30) per year and the small event space be available to rent on weekends on an unlimited basis. The above recommendations were approved unanimously of the three (3) Commissioners in attendance on July 21st. The Commission also recommended

that the smaller event space be available to rent on weekdays on an unlimited basis by a vote of two (2) in favor and one (1) in opposition; two (2) Commissioners were absent. The Commissioner that voted no felt that allowing an unlimited number of events at the property would transform the property from a primarily agricultural use to a primarily non-agricultural business use. The minutes of the July 6, 2021, meeting were provided. The summary of the July 21, 2021, meeting was provided.

The Fox Township Board reviewed this proposal at their meeting on July 12, 2021. The Township Board had concerns regarding whether or not the Petitioners were following the current restrictions, the direction of speakers, extending the hours of operation, extending the operating season, noise level, and traffic. The unapproved minutes of this meeting were provided.

Newark Fire Protection District was emailed information on June 24, 2021. No comments were provided.

The Village of Newark was emailed information on June 24, 2021. No comments were provided.

ZPAC reviewed this proposal at their meeting on July 6, 2021. The Health Department noted that the Petitioners were working with them to ensure that the septic system was sized appropriately. The septic system was severely undersized. There has not been a failure of the septic system. The septic system has been mapped and a design was proposed. The Health Department requested a condition in the special use permit stating that the Petitioners shall submit an application and secure a permit for the septic system renovation with the Kendall County Health Department before approval of the amendment by the County Board. A permit could be secured in one (1) or two (2) weeks. The Petitioners did not object to the condition be added to the list of conditions. The Health Department also noted that the well qualified as a non-community well and must follow the rules of that program. Discussion occurred regarding having live music events at the property. Live music events have occurred ancillary to other banquet center events and can occur inside the building. ZPAC recommended approval of the requested amendments by a vote of six (6) in favor and zero (0) in opposition; four (4) members were absent. The minutes of this meeting and an email stating that the Petitioners applied for septic permit was provided.

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on July 28, 2021. The Petitioners agreed to change the end time of events from Midnight to 11:00 p.m. Guests would still have one (1) hour to leave the property. Steve Knutson, Fox Township Planning Commission Chairman, explained the Commission's opinion on the proposal. Kurt Buhle stated that he moved to the area for peace and quiet; the banquet facility was not a quiet operation. He stated that the north barn doors were currently not closed, events were occurring during the non-operating time of the year, and events were occurring after 10:00 p.m. John Vogt expressed concerns about noise and increase traffic. Robert Bright invited everyone, including his neighbors, onto the subject the property and that installing the sound system was on the priority list. Members Rodriguez and Wormley visited the subject property. Member Nelson suggested planting additional evergreen type trees in addition to the plantings required by the landscaping plan. The Petitioners were agreeable with this suggestion. Member Wilson suggested installing a fence in addition to the evergreens. The Kendall County Regional Planning Commission recommended approval of the Petition with the requirement that the

Petitioners submit a landscaping plan with evergreen type trees planted and a timeframe for planting the evergreens. The landscaping plan should be submitted prior to the Kendall County Planning, Building and Zoning Committee meeting. The vote was eight (8) in favor and zero (0) in opposition with two (2) members absent. Member Wilson made a motion to add the fencing requirement, but that motion died for lack of second. The minutes of the meeting were provided.

The Kendall County Zoning Board of Appeals held a public hearing on this proposal on August 2, 2021. The Petitioners reiterated their reasons for requesting the amendments. Chairman Mohr and Member Clementi expressed concerns that the Petitioners were not following the existing regulations regarding hours of operation and having the barn doors closed. The Petitioners provided an updated landscaping plan and stated that the new trees would be planted by November 30, 2021. Steve Knutson, Fox Township Planning Commission Chairman, explained the Commission's recommendations. Steve Knutson, as a private resident, felt that the Petitioners have not been following the existing regulations completely and neighbors should be given a right to have at least a few nights of quiet. Kurt Buhle expressed concerns regarding the Petitioners not following existing regulations; he was also concerned about noise, traffic, safety, security, and property values. The Kendall County Zoning Board of Appeals recommended approval of the request by vote of four (4) in favor and zero (0) in opposition with three (3) members absent subject to the following conditions:

1. The building shall be divided as requested by the Petitioners.
2. The landscaping plan shall be amended to reflect the planting of the twelve (12) cedar trees as shown on the revised landscaping plan. The trees shall be approximately twelve feet (12') tall at the time of planting and shall be planted by November 30, 2021.
3. As requested by the Petitioners, the maximum number of guests in Event Space A shall be two hundred eighty (280) and the maximum number of guests in Event Space B shall be sixty (60). There shall be only one (1) event on the property at a given time and the total allowable number of guests shall not exceed two hundred eighty (280) guests.
4. The Petitioners' request that the barn doors be open after 7:00 p.m. be denied.
5. A condition should be added requiring musicians and disc jockeys to plug into a sound system provided and controlled by the business owners.
6. Events in either space should conclude by 10:00 p.m. on weekdays and 11:00 p.m. on weekends with customers given one (1) hour to vacate the premises. Tours of the facility shall be by appointment. The definition of weekend and weekday would not change from the existing ordinance.
7. As requested by the Petitioners, setup for events in either space would start at 9:00 a.m. on the day of the event.
8. As requested by the Petitioners, Event Space A would close on November 1st and reopen April 1st. Event Space B may operate year round.

9. As requested by the Petitioners, the cap on the number of events per weekend and the cap on the number events in a season should be removed.
10. All other conditions and restrictions in Ordinance 2019-23 shall remain effective.
11. Failure to comply with one or more of the above conditions or restrictions or the conditions and restrictions contained in Ordinance 2019-23 could result in the amendment or revocation of the special use permit.
12. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

The minutes of the hearing were provided.

Ordinance 2019-23 placed the following restrictions on the special use permit for a banquet facility at the subject property:

- A. The site shall be developed substantially in accordance with the Site Plan attached hereto as Exhibit C, Landscaping Plan attached hereto as Exhibit D, and Parking Illumination Plan attached hereto as Exhibit E.
- B. Permanent restroom facilities shall be installed by 2021. When the permanent restroom facilities are installed, the portable bathrooms shown on the attached site plan shall be removed.
- C. A maximum of two hundred eighty (280) guests in attendance at a banquet center related event may be on the subject property at a given time.
- D. The subject parcel must follow the site plan configuration with the exception of the right-of-way dedication listed in condition L.
- E. Off-street parking, lighting and landscaping shall be provided in accordance with the provisions of Section 11 of the Zoning Ordinance.
- F. All signage shall comply with the provisions of Section 12 of the Kendall County Zoning Ordinance. The signage shall be developed in accordance to the attached site plan. Any signage provided will not be illuminated. The owners of the business allowed by this special use permit may install additional non-illuminated traffic directional signs not shown on the approved site plan within their property.
- G. Retail sales are permitted as long as the retail sales will be ancillary to the main operation.
- H. 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.

- I. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings. For events with music, the north and south barn doors shall close by 7:00 p.m.
- J. Events shall be held on weekends only and shall conclude by 10:00 p.m. Only one (1) event per weekend may occur. For the purposes of this special use permit, weekends shall be Fridays, Saturdays, Sundays, Mondays, and any Federal or State Holiday falling on a Thursday or Tuesday. Tours of the facility for prospective customers shall be by appointment and could occur outside the listed hours of operation. Setup for events would start at 9:00 a.m. on the day prior to the event and 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. The facility would close on November 1st and reopen April 1st. The number of events per year shall be capped at thirty (30).
- K. A new certificate of occupancy must be issued for the barn.
- L. Within ninety (90) days of the approval of this special use permit ordinance, the owners of the subject property shall dedicate a strip of land along the entire western boundary of the property at a depth of forty-five feet (45') as measured from the centerline of Crimmin Road to Fox Township to be used as Crimmin Road right-of-way.
- M. No patron or other entity associated with the business allowed by this special use permit shall be allowed to park on Crimmin Road.
- N. The operator(s) of the banquet facility acknowledge and agree to follow Kendall County's Right to Farm Clause.
- O. The operator(s) of the banquet facility allowed by this special use permit shall follow all applicable Federal, State, and Local laws including, but not limited to Fox Township's laws, related to the operation of this type of business.
- P. 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.
- Q. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

As noted in the application materials, the Petitioners would like to divide the nearly nineteen thousand seven hundred (19,700) square foot building into Event Space A with nine thousand six hundred (9,600) square feet, Event Space B with two thousand nine hundred (2,900) square feet, and the remaining seven thousand two hundred forty-two (7,242) square feet as non-

project space. The Petitioners would like to utilize Event Space B year-round for smaller events.

In order to accommodate this proposed change in business operations, the Petitioners were requesting the following changes to the special use permit (changes marked in red):

- C. A maximum of two hundred eighty (280) guests **shall be allowed** in attendance ~~at a banquet center related event may be on the subject property at a given time.~~ within Event Space A at a given time. **A maximum of sixty (60) guests shall be allowed in attendance within Event Space B at a given time. There shall only be one (1) event taking place at a given time and the total allowable guests shall not exceed a total of two hundred eighty (280) guests.**
- I. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings. ~~For events with music, the north and south barn doors shall close by 7:00 p.m.~~
- J. ~~Events shall be held on weekends only and shall conclude by 10:00 p.m. Only one (1) event per weekend may occur. For the purposes of this special use permit, weekends shall be Fridays, Saturdays, Sundays, Mondays, and any Federal or State Holiday falling on a Thursday or Tuesday. Tours of the facility for prospective customers shall be by appointment and could occur outside the listed hours of operation. Setup for events would start at 9:00 a.m. on the day prior to the event and 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. The facility would close on November 1st and reopen April 1st. The number of events per year shall be capped at thirty (30). Events in either event spaces shall conclude by 11:00 p.m. Tours of the facility for prospective customers shall be by appointment. Setup for events in either event spaces would start at 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. Event Space A would close on November 1st and reopen April 1st. Event Space B may operate year round.~~

The Petitioners provided a comparison of certain restrictions on banquet centers.

The Petitioners have no plans to change the site plan or parking illumination plan approved as part of Ordinance 2019-23. Also, other than Conditions C, I, J, and the landscaping plan to include more evergreen type trees, the Petitioners do not propose any other changes to the requirements of the special use permit.

Member Gilmour asked if the restrooms had been installed per condition B. Mr. Asselmeier responded, to his knowledge, yes.

Member Koukol asked how long the special use permit has been in existence and how many events they have had on the property. Boyd Ingemunson, Attorney for the Petitioners, provided a history of the special use permit. The special use permit was granted in 2019. The Petitioners felt that certain restrictions in the special use permit were unreasonable compared to other special use permits for similar facilities.

Member Koukol reviewed Mr. Ingemunson's letter of September 7, 2021.

Member Koukol asked about the number of events. Mr. Ingemunson said the Petitioners were limited to thirty (30) events per year.

Member Vickers noted that the events outlined in the letter occurred since the last Planning, Building and Zoning Committee meeting.

An updated Occupancy Permit will be required reflecting the change of use.

The Petitioners were working with Environmental Health regarding the size of the septic system.

The property fronts Crimmin Road.

According to the site plan approved with Ordinance 2019-23, patrons will enter the property through the driveway north of the existing house. Traffic will drive southeast along the one (1) way driveway to the existing barn, a distance of approximately seven hundred feet (700'). There are thirty-four (34) parking spaces and four (4) additional handicapped accessible parking spaces by the barn. An additional seventy-five (75) parking spaces are located east of the barn and will be accessible via a gravel driveway; these parking spaces will be served by shuttle. Traffic will exit the property through a one (1) way driveway leading to the north end of the property.

Two (2) new lights were proposed for the site. According to the parking illumination plan approved with Ordinance 2019-23, no light will leave the property. All lights will be turned off within one (1) hour of the conclusion of events.

One entrance and one exit sign are shown on the site plan attached to Ordinance 2019-23. The signs will be approximately four hundred thirty-two (432) square inches. Neither sign will be illuminated.

As shown on the site plan attached to Ordinance 2019-23, the site contains approximately one hundred sixty-six (166) trees of varying heights encircling the venue. The Petitioners submitted a revised landscaping plan showing the planting of twelve (12) additional cedar trees that will be approximately twelve feet (12') in height at the time of planting. The planting of the cedar trees will occur in the fall of 2021.

All music and noise shall originate inside the venue except for processions and recessions at weddings. The facility shall follow the noise regulations for banquet facilities. Speakers will face inside the building and speakers on the ceiling will be pointed downward. The Petitioners will also require disc jockeys to plug into the venue's sound system so the Petitioners can control the noise level.

With the combination of distance, plantings and control of the sound system, the Petitioners believed noise will not be an issue.

Since the issuance of the special use permit in 2019, the Kendall County Sheriff's Department has responded to one (1) noise complaint at the property. The Sheriff's Department responded to the complaint, but the decibel level was not confirmed to be in violation of the special use permit.

The Findings of Fact were as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. The Kendall County Zoning Board of Appeals did not make a finding of this fact. **Chairman Mohr and Member**

Thompson voted for a positive finding and Members Clementi and Fox voted for a negative finding.

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 will be injurious to the enjoyment of other property in the immediate vicinity due to noise, light created from the proposed use, and increased traffic. Some of the negative impacts of the proposed use on properties in the immediate vicinity cannot be mitigated by establishing restrictions related to the number of guests allowed on the property, the days and hours of operation, and buffering within the ordinance granting the special use permit and major amendment to the special use permit. Chairman Mohr and Members Clementi and Fox voted for the negative finding and Member Thompson voted for a positive finding.

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 Petitioner's approved site plan from Ordinance 2019-23 addresses utilities, drainage, and points of ingress and egress. Finding approved by all members present.

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 site conforms to the regulations of the A-1 Agricultural Zoning District. Members Clementi, Fox, and Thompson voted for the positive finding and Chairman Mohr voted for a negative finding.

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." Chairman Mohr and Members Clementi and Fox voted for the positive finding and Member Thompson vote for a negative finding.

Staff recommended approval of the requested major amendment to an existing special use permit subject to the following conditions and restrictions:

1. The approximately nineteen thousand seven hundred (19,700) square foot building shall be divided in substantial the way shown on Attachment 1, Page 5.
2. The landscaping plan referenced in Condition 2.A is amended to include the amended landscaping provided at the Zoning Board of Appeals hearing. The twelve (12) cedar trees shall be approximately twelve feet (12') in height at the time of planting. The trees shall be planted by November 30, 2021. (Added at ZBA)
3. Condition 2.C of Ordinance 2019-23 shall be deleted and replaced with the following:
 - C. A maximum of two hundred eighty (280) guests shall be allowed in attendance within Event Space A at a given time. A maximum of sixty (60) guests shall be allowed in

- attendance within Event Space B at a given time. There shall only be one (1) event taking place at a given time and the total allowable guests shall not exceed a total of two hundred eighty (280) guests.
4. Condition 2.I of Ordinance 2019-23 shall be deleted and replaced with the following:
 - I. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings. **Musicians and disc jockeys shall be required to plug into a sound system provided and controlled by the owners of the business allowed by the special use permit. (Added at ZBA)**
 5. Condition 2.J of Ordinance 2019-23 shall be deleted and replaced with the following:
 - J. Events in either event spaces shall conclude by 11:00 p.m. Tours of the facility for prospective customers shall be by appointment. Setup for events in either event spaces would start at 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. Event Space A would close on November 1st and reopen April 1st. Event Space B may operate year round.
 6. All other conditions and restrictions contained in Ordinance 2019-23 shall remain effective.
 7. Failure to comply with one or more of the above conditions or restrictions or the conditions and restrictions contained in Ordinance 2019-23 could result in the amendment or revocation of the special use permit.
 8. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

The draft ordinance was provided.

Member Flowers left at this time (6:53 p.m.).

Member Koukol asked if the intention of the additional trees was to muffle sound. Mr. Asselmeier responded yes.

Member Gilmour asked if any of the additional trees were planted. Mr. Asselmeier responded that he did not believe any of the additional trees had been planted. The deadline to plant the trees has not passed.

Member Flowers returned at this time (6:54 p.m.).

Member Koukol made a motion, seconded by Member Gilmour, to forward the proposal to the October Committee of the Whole with a positive recommendation.

Member Flowers asked about the septic system. Chairman Gengler said that he has not heard from the Health Department.

Chairman Gengler noted the economic activity generated by wedding venues and the neighbor's concerns.

Member Flowers left at this time (6:57 p.m.).

Chairman Gengler noted that the Petitioners live on the property. The major issues were noise and traffic.

Member Koukol noted that people play music outdoors every weekend near his house. He encouraged neighbors to work together to handle issues.

Member Flowers returned at this time (7:00 p.m.).

Member Gilmour asked if the Petitioners favored closing the barn doors at 7:00 p.m. Mr. Ingemunson noted the health and safety of patrons. Customers wanted the doors open. Neither of the barns face the neighbors across Crimmin Road. There have been no founded noise complaints at the property.

Member Gilmour asked about stopping events at 10:00 p.m. Mr. Ingemunson stated the Petitioners favored stopping events at 11:00 p.m. with patrons given one (1) hour to vacate the premises. He stated that he would discuss the 10:00 p.m. closure with the Petitioners.

Mr. Ingemunson noted pointed the speakers downward and the planting of additional trees as methods to soften noise levels.

Mr. Ingemunson said that he was not aware of the neighbors discussing the matter with the Petitioners.

The proposed ordinance called for events to end by midnight, which was the original proposal.

Member Koukol expressed concerns about closing the facility too early in the evening.

Member Vickers made a motion, seconded by Member Flowers, to amend the original motion to send the proposal to the October Committee of the Whole meeting with a neutral recommendation to give other County Board members the opportunity to weigh-in on the proposal. With a voice vote of five (5) ayes, the motion for the amendment carried.

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

The proposal goes to the Committee of the Whole on October 14, 2021, with a neutral recommendation to allow the other County Board members to weigh-in.

Petition 21-27 Paul Kovacevich on Behalf of Tri-Star Development, Inc.

Mr. Asselmeier summarized the request.

Paul Kovacevich, on behalf of Tri-Star Development, Inc., is requesting a map amendment rezoning approximately seven point two (7.2) acres property from A-1 to R-1 in order to construct one (1) house on the subject property.

At the time of application submittal, the subject property was part of a larger parcel that was approximately forty (40) acres in size. The Petitioner has already secured an agricultural housing allocation for the property. If the map amendment was approved, the Petitioner planned to divide the property using a Plat Act exemption. The western tract would retain A-1 zoning and the agricultural housing allocation. The eastern tract would be rezoned to R-1. A total of two (2) houses, one (1) on the A-1 zoned portion of the property and one (1) on the R-1 zoned portion of the property, would be constructed on the present forty (40) acre parcel.

The application materials, aerial of the entire property in its configuration at the time of application submittal, aerial of the property subject to the rezoning request, the plat of survey for the entire property, and the aerial of the entire property showing floodplains and wetlands were provided.

The property was on the south side of Route 52 across from 2735 Route 52.

The application materials, the aerial of the entire property in its configuration at the time of application submittal, the aerial of the property subject to the rezoning request, the plat of survey for the entire property, and the aerial of the entire property showing floodplains and wetlands was provided.

The existing land uses were Agricultural/Wooded.

The Future Land Use Map called for this area to be Rural Residential.

U.S. 52 was a State maintained arterial.

Joliet has trails planned along Route 52 and Minooka has trails planned along the Aux Sable Creek.

There was a 100-year floodplain of the Aux Sable Creek on the south and southeast sides of the Tri-Star property. There was also palustrine (freshwater forested shrub) and riverine wetlands on the south and southeast sides of the property.

The adjacent land uses were Agricultural Farmstead/Special Use for Products Not Grown on the Premises, Wooded, Single-Family Residential, and the Baker-Woods Forest Preserve.

The adjacent zoning districts were A-1, A-1 SU, and R-1.

The Land Resource Management Plan called for the area to be Rural Residential and Forest Preserve.

The zonings within one half (1/2) mile were A-1, A-1 CU, A-1 SU, R-1, R-1 PUD, and R-3.

The A-1 special use permit to the north is for the sale of products not grown on the premises. The A-1 conditional use permit to the south is for one (1) single-family home on A-1 zoned property less than forty (40) acres. The A-1 special use permit to the west is for a horse training facility with groomsman's quarters.

EcoCAT Report submitted for both properties and noted the presence of the following protected resources in the vicinity: Aux Sable Creek INAI Site and Greater Redhorse (*Moxostoma valenciennesi*). Adverse impacts were considered unlikely and consultation was terminated.

The LESA Score for the Tri-Star property was 189 indicating a low level of protection. The NRI was provided.

The Seward Township Planning Commission reviewed the proposal on August 12, 2021, and recommended approval of the Petition by a vote of three (3) in favor and zero (0) in opposition with two (2) members absent. The minutes of this meeting were provided.

The Village of Shorewood submitted an email on August 20, 2021, stating they had no concerns or comments regarding the proposal. The email was provided.

Petition information was sent to the Minooka Fire Protection District on July 7, 2021.

ZPAC reviewed the proposals at their meeting on August 3, 2021. The comments on both proposals were the same. The Kendall County Soil and Water Conservation District requested that the Petitioner secure the necessary permits from IDNR and Corps of Engineers. They requested that the proper NPDES Permit from IEPA be secured and to have soil and erosion control plan. They also noted that the entire parcel has issues related to having a residential home on the property and also suggested having a wetland delineation. The Kendall County Health Department noted the site would greatly impact the use of traditional septic systems. ZPAC recommended approval of the request by a vote of seven (7) in favor and zero (0) in opposition with three (3) member absent. The minutes of the meeting were provided.

The Kendall County Regional Planning Commission reviewed the proposals at their meeting on August 25, 2021. The Kendall County Regional Planning Commission recommended approval of both proposals by a vote of six (6) in favor and zero (0) in opposition with four (4) members absent. The minutes of the meeting were provided.

The Kendall County Zoning Board of Appeals held a public hearing on this proposal on August 30, 2021. Zero (0) members of the public testified in favor or in opposition to the request. The Kendall County Zoning Board of Appeals recommended approval by vote of six (6) in favor and zero (0) in opposition with one (1) member absent. The minutes of the hearing were provided.

The Petitioner desired to rezone the subject property in order to build one (1) house on the subject property and build one (1) house on the property that retains the A-1 zoning classification.

Any new homes or accessory structures would be required to meet applicable building codes.

No public or private utilities were onsite.

The property fronted Route 52. Staff had no concerns regarding the ability of Route 52 to support the proposed map amendment.

Any new driveways constructed would be for residential purposes. Any new driveways would have to meet applicable regulations and secure proper permits.

No new odors were foreseen.

Any new lighting would be for residential use only.

Any fencing, landscaping, or screening would be for residential purposes.

Any signage would be residential in nature.

No noise was anticipated.

Any new homes would have to be constructed per Kendall County's Stormwater Management Ordinance.

The Findings of Fact were as follows:

Existing uses of property within the general area of the property in question. The surrounding properties are used for agricultural purposes or larger lot single-family residential uses. A forest preserve is located in the vicinity.

The Zoning classification of property within the general area of the property in question. The surrounding properties are zoned A-1 and R-1. The A-1 property to north has a special use permit for sale of products not grown on the premises.

The suitability of the property in question for the uses permitted under the existing zoning classification. The property is presently zoned A-1. The property is presently heavily wooded. Floodplain and wetlands will greatly restrict the area where a new single-family home could be built.

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 in the area is a mix of agricultural and single-family residential uses found in rural settings.

Consistency with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. The Future Land Use Map in the Land Resource Management Plan classifies this property as Rural Residential. The R-1 One Family Residential District is consistent with the Rural Residential classification.

Staff recommended approval of the proposed map amendment because the proposal was consistent with the Land Resource Management Plan.

The draft ordinance was provided.

Dan Kramer, Attorney for the Petitioner, explained the history of the property as a site for a potential golf course. He noted the buildable area on the site. He noted the existence of a wetland delineation study.

Member Vickers asked about impact fees. Mr. Kramer noted that land cash fees will be paid.

Chairman Gengler made a motion, seconded by Member Koukol, to recommend approval of the proposal to the County Board.

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

The proposal goes to the County Board on September 21, 2021, on the regular agenda.

Petition 21-28 Brian and Jennifer Gore
Mr. Asselmeier summarized the request.

Brian and Jennifer Gore are requesting a map amendment rezoning approximately twelve point six (12.6) more or less acres from A-1 to R-1 in order to construct two (2) houses on the subject property after rezoning.

At the time of application submittal, the subject property was part of a larger parcel that is approximately forty (40) acres in size. The Petitioner has already secured an agricultural housing allocation for the property. If the map amendment was approved, the Petitioner planned to divide the property using a Plat Act exemption. Tract 3, which was approximately twenty-seven point three (27.3) acres would retain A-1 zoning and the agricultural housing allocation. Tracts 1 and 2 would be rezoned to R-1. Tract 1 was approximately seven (7) acres in size. Tract 2 was approximately five point six (5.6) acres in size. A total of three (3) houses, one (1) on each Tract, would be constructed on the present forty (40) acre parcel with a private forty foot (40') wide road easement connecting Tract 3 to Jughandle Road.

The application materials, the aerial of the entire property in its configuration at the time of application submittal, the aerial of the property subject to the rezoning request, the plat of survey for the entire property, and the aerial of the entire property showing floodplains and wetlands was provided.

The property was located on the west side of Jughandle Road across from 14776 Jughandle Road.

The existing land uses were Agricultural/Wooded.

The Future Land Use Map called for this area to be Rural Residential.

Jughandle Road was a Township maintained local road.

Minooka has trails planned along the Aux Sable Creek.

There was a 100-year floodplain of the Aux Sable Creek on the south side of the Gore property. Approximately, 4.8 acres of Tract 1 and 3.0 acres of Tract 2 were outside the 100-year floodplain. There was a riverine on the southeast corner of the property.

The adjacent land uses were Agricultural Farmstead/Special Use for Products Not Grown on the Premises, Wooded, Single-Family Residential, and the Baker-Woods Forest Preserve.

The adjacent zoning districts were A-1, A-1 SU, and R-1.

The Land Resource Management Plan called for the area to be Rural Residential and Forest Preserve.

The zonings within one half (1/2) mile were A-1, A-1 CU, A-1 SU, R-1, R-1 PUD, and R-3.

The A-1 special use permit to the north is for the sale of products not grown on the premises. The A-1 conditional use permit to the south is for one (1) single-family home on A-1 zoned property less than forty (40) acres. The A-1 special use permit to the west is for a horse training facility with groomsman's quarters.

EcoCAT Report submitted for both properties and noted the presence of the following protected resources in the vicinity: Aux Sable Creek INAI Site and Greater Redhorse (*Moxostoma valenciennesi*). Adverse impacts were considered unlikely and consultation was terminated.

The LESA Score for the Gore property was 191 indicating a low level of protection. The NRI was provided.

The Seward Township Planning Commission reviewed the proposal on August 12, 2021, and recommended approval of the Petition by a vote of three (3) in favor and zero (0) in opposition with two (2) members absent. The minutes of this meeting were provided.

The Village of Shorewood submitted an email on August 20, 2021, stating they had no concerns or comments regarding the proposal. The email was provided.

Petition information was sent to the Minooka Fire Protection District on July 7, 2021.

ZPAC reviewed the proposals at their meeting on August 3, 2021. The comments on both proposals were the same. The Kendall County Soil and Water Conservation District requested that the Petitioner secure the necessary permits from IDNR and Corps of Engineers. They requested that the proper NPDES Permit from IEPA be secured and to have soil and erosion control plan. They also noted that the entire parcel has issues related to having a residential home on the property and also suggested having a wetland delineation. The Kendall County Health Department noted the site would greatly impact the use of traditional septic systems. ZPAC recommended approval of the request by a vote of seven (7) in favor and zero (0) in opposition with three (3) member absent. The minutes of the meeting were provided.

The Kendall County Regional Planning Commission reviewed the proposals at their meeting on August 25, 2021. The Kendall County Regional Planning Commission recommended approval of both proposals by a vote of six (6) in favor and zero (0) in opposition with four (4) members absent. The minutes of the meeting were provided.

The Kendall County Zoning Board of Appeals held a public hearing on this proposal on August 30, 2021. Zero (0) members of the public testified in favor or in opposition to the request. The Kendall County Zoning Board of Appeals recommended approval by vote of six (6) in favor and zero (0) in opposition with one (1) member absent. The minutes of the hearing were provided.

The Petitioner desired to rezone the subject property in order to build two (2) houses on the subject property and build one (1) house on the property that retains the A-1 zoning classification.

Any new homes or accessory structures would be required to meet applicable building codes.

No public or private utilities were onsite.

The property fronted Jughandle Road.

Any new driveways constructed would be for residential purposes.

No new odors were foreseen.

Any new lighting would be for residential use only.

Any fencing, landscaping, or screening would be for residential purposes.

Any signage would be residential in nature.

No noise was anticipated.

Any new homes would have to be constructed per Kendall County's Stormwater Management Ordinance.

The Findings of Fact were as follows:

Existing uses of property within the general area of the property in question. The surrounding properties are used for agricultural purposes or larger lot single-family residential uses.

The Zoning classification of property within the general area of the property in question. The surrounding properties are zoned A-1. There are R-1, R-1 PUD, and R-3 zoned parcels within one half (1/2) mile of the subject property.

The suitability of the property in question for the uses permitted under the existing zoning classification. The property is presently zoned A-1. The property is presently heavily wooded. Floodplain and wetlands will greatly restrict the area where new single-family homes could be built.

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 in the area is a mix of agricultural and single-family residential uses found in rural settings.

Consistency with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. The Future Land Use Map in the Land Resource Management Plan classifies this property as Rural Residential. The R-1 One Family Residential District is consistent with the Rural Residential classification.

Staff recommended approval of the proposed map amendment because the proposal was consistent with the Land Resource Management Plan.

The draft ordinance was provided.

Member Gilmour asked about the location of Aux Sable Creek. Mr. Asselmeier highlighted the location of the Aux Sable Creek.

Chairman Gengler made a motion, seconded by Member Koukol, to recommend approval of the proposal to the County Board.

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

The proposal goes to the County Board on September 21, 2021, on the regular agenda.

Mr. Koukol left at this time (7:28 p.m.).

Petition 21-34 James and Denise Maffeo on Behalf of Four Seasons Storage, LLC

Dan Kramer, Attorney of the Petitioner, provided a history of the development and the history of the financing for the project.

Member Koukol returned at this time (7:29 p.m.).

Mr. Kramer said the Petitioners cannot install the fencing or landscaping until the buildings were complete.

Mr. Asselmeier summarized the request.

On September 15, 2020, the Kendall County Board approved Ordinance 2020-14, granting a special use permit for an indoor/outdoor storage business approximately 0.15 miles north of the intersection of Route 52 and County Line Road on the west side of County Line Road in Seward Township.

Condition 4.B of the Ordinance stated that the fencing and landscaping had to be installed within two hundred forty (240) days of the approval of the special use permit ordinance. A copy of Ordinance 2020-14 was provided.

On April 12, 2021, the Kendall County Planning, Building and Zoning Committee approved a minor amendment to Ordinance 2020-14 extending the deadline for installation of the fencing and landscaping to October 31, 2021, and allowing the Kendall County Planning, Building and Zoning Committee to extend the deadline if requested by the property owner. A copy of this minor amendment was provided.

On September 1, 2021, the property owner's attorney submitted a request to extend the deadline to June 1, 2022. A copy of this letter was provided.

Petition information was sent to Seward Township and the Village of Shorewood on September 1, 2021. The Village of Shorewood had no objections to this request.

Staff recommended approval of the requested extension because of the unique situation caused by the COVID pandemic.

The draft amendment was provided.

Member Koukol asked about the adjoining property to the south. Mr. Kramer discussed the forester business to the south. The site was balanced and they were working on the ponds.

Mr. Kramer discussed the availability of retail sites east of the storage unit area.

Member Flowers made a motion, seconded by Member Vickers, to approve the extension deadline to June 1, 2022.

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

Petition 21-35 Peter and Laurie Pasteris on Behalf of the Peter J. Pasteris Jr Revocable Declaration of Trust

Mr. Asselmeier summarized the request.

On April 21, 2015, the Kendall County Board approved Ordinance 2015-06, granting a special use permit for a banquet facility at 1998 Johnson Road. Condition 8 of the Ordinance stated that events could run from May 1st through November 15th and the temporary tent can be erect from May 1st through November 15th. A copy of Ordinance 2015-06 was provided.

On April 8, 2019, the Planning, Building and Zoning Committee granted minor amendments to the special use permit allowing the porta-johns to be on the premises the entire season and

allowing the tent to be erected from April 15th to November 15th. A copy of this minor amendment was provided.

On November 9, 2020, the Planning, Building and Zoning Committee granted a minor amendment to the special use permit to allow events to be held starting on April 8th and ending November 30th in 2021 only. The tent could be erected during the same time period. The amendment also allowed the Planning Building and Zoning Committee to renew this option, if requested by the property owner. A copy of this minor amendment was provided.

On September 2, 2021, the Petitioner submitted a formal request to renew the minor amendment granted in November 2020 for the 2022 operating season. A copy of this request was provided.

Petition information was sent to the Kendall County Health Department, Sheriff's Department, Na-Au-Say Township, Village of Plainfield, and Plainfield Fire Protection District on September 1, 2021. As of the date of September 7, 2021, the Sheriff's Department, Village of Plainfield, and Plainfield Fire Protection District expressed no concerns regarding this proposal. The Health Department also had not expressed concerns regarding the proposal.

The draft amendment was provided.

Peter Pasteris explained that they were requesting the extension because Newark High School wanted to hold their prom at the property.

Member Koukol noted the successful communication between the Petitioner and their neighbors.

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

Chairman Gengler asked about the number of events. Mr. Pasteris responded around forty (40).

Mr. Pasteris mentioned they were considering having a permanent structure.

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

NEW BUSINESS

Approval to Change the October 2021 Kendall County Planning, Building and Zoning Committee Meeting Date and Time

Mr. Asselmeier summarized the request.

The normal October meeting would be October 11th which is a holiday.

After discussing moving the meeting to October 7th and earlier in the day on October 12th, the consensus of the Committee was to have the meeting on October 12th at 6:30 p.m.

Request from Greg Dady on Behalf of DTG Investments, LLC to Allow an Excavation Business at 3485 Route 126 (PIN: 06-09-400-005) in Na-Au-Say Township

Mr. Asselmeier summarized the request.

The Planning, Building and Zoning Department received a request for an excavation business at 3485 Route 126. The letter explaining proposed operations was provided.

An excavation business was previously located at the subject property. The business was allowed at this location by court order; a copy of the court order was provided. The previous use at the property expired when the owners at the time of the court order sold the property.

Excavation businesses are not presently allowed on A-1 zoned property. They are allowed as part of construction services and shops as conditional uses in the B-2 and B-3 Districts and are permitted uses in the M-1 and M-2 Districts. In the B-2 and B-3 Districts, all equipment and materials must be stored indoors.

If the Committee is in favor of this use at the subject property, then the property owner would need to apply for a text amendment adding construction services and shops to the list of special uses in the A-1 District and would need to apply for a special use permit for this use at the subject property.

Greg Dady explained the reasons for the request. The potential use would be a long-term lease with an option to purchase the property. The use would have minimal traffic.

Mr. Asselmeier noted that Mr. Dady would still need to go through the text amendment and special use process.

Mr. Asselmeier explained that excavation businesses were not included on the list of permitted and special uses on A-1 zoned land.

Mr. Dady said it was difficult to find the fit for the property.

Member Koukol asked about mailings at the property and at Caterpillar. Discussion about addressing occurred.

Member Koukol asked about the text amendment process. Mr. Asselmeier explained the text amendment and special use processes.

Member Koukol asked about the base for concrete. Mr. Asselmeier said that the Petitioner has not submitted a site plan. Outside storage would have to be addressed by the special use permit and, depending on height of piles, could need a stormwater management permit.

Mr. Dady said the property would be used for offices and storage.

Member Koukol noted the floodplain on the property and the need for bins for storage.

Bob Baish explained his business operations and the items stored on the property. Some items will be stored outside. He has twenty-five (25) employees. He invited everyone to his existing property. Everything would be moved to the property on Route 126.

Chairman Gengler discussed the traffic volume and speed on Route 126. Mr. Baish did not think traffic would be impacted.

Mr. Baish ultimately wanted to purchase the property.

Member Gilmour expressed concerns about adding this type of business to allowable uses in the A-1 District. She requested that Mr. Dady focus on uses allowed in the A-1 District. Mr. Dady discussed potential uses including cannabis growing operations.

Member Koukol noted the number of trucking companies operating in the unincorporated area illegally.

It was noted that Oswego School District probably would not build at the subject property in the near future.

Member Vickers expressed concerns regarding traffic volumes on Route 126.

Mr. Dady said they could submit the site plan and other application materials by the September 21, 2021, timeline. If they submitted by September 21st, the earliest the County Board could vote on the proposal is the middle of December.

The business has been in existence for thirty-five (35) years. They have had five (5) different locations.

Chairman Gengler made a motion, seconded by Member Flowers, for a positive recommendation to move forward with the text amendment and special use processes.

The votes were as follows:

Yeas (2): Gengler and Vickers
Nays (2): Flowers and Gilmour
Abstain (1): Koukol
Absent (0): None

The property owner may submit petitions for a text amendment and special use permit with the knowledge of the above votes.

Member Koukol encouraged Mr. Dady to find businesses that could be placed on the property by a permitted or special use.

Member Koukol provided a history of the previous excavating business located on the property.

Discussion Leaf Burning Regulations (Ordinance 97-12); Committee Could Initiate Changes to this Ordinance

Mr. Asselmeier summarized the issue.

In 1997, the Kendall County Board adopted Ordinance 1997-12 which outlawed leaf burning on properties zoned R-6 and R-7 in townships with a population in excess of fifteen thousand (15,000) people based upon the last official census. A copy of Ordinance 1997-12 was provided.

As of the 2020 Census, only Oswego and Bristol Townships met the population criteria. Both townships met the population criteria after the 2010 Census. These two (2) townships were also the only townships that had properties zoned R-6 or R-7. As such, these are only the only townships where this regulation is enforced. A map showing the R-6 and R-7 zoned areas was provided. The township populations map was also provided.

Staff was wondering if the Committee wanted to review this regulation based on the 2020 Census figures.

The consensus of the Committee was to leave the regulation unchanged because there was no one calling to request changes.

Member Flowers left at this time (8:36 p.m.)

Discussion of Amendments to the Kendall County Zoning Ordinance Pertaining to the Garden Act; Committee Could Initiate Text Amendments to the Kendall County Zoning Ordinance Related to the Garden Act

Mr. Asselmeier summarized the issue.

Earlier in 2021, the Illinois General Assembly passed and the Governor signed Public Act 102-0180 (formerly House Bill 0633) also known as the Garden Act.

The Garden Act allows people to plant vegetable gardens as the primary use on residential pieces of property. Further, no county in Illinois can prevent people from using residential property for the purpose of vegetable gardens. The Garden Act becomes effective January 1, 2022. A copy of Public Act 102-0180 was provided.

Presently, farming is a permitted use on A-1, RPD-1, RPD-2, and RPD-3 zoned property in unincorporated Kendall County. Below please find a proposal amending various sections of the Kendall County Zoning Ordinance to allow vegetable gardening on R-1, R-2, R-3, R-4, R-5, R-6, and R-7 zoned property:

8:02.A Permitted Uses in the R-1

5. Lands and buildings used for horticulture or farm purposes **including vegetable gardens as defined by the Garden Act.**

8:06.A Permitted Uses in the R-2

1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:

a. Lands and buildings used for horticultural or farm purposes, **not including vegetable gardens as defined by the Garden Act,**

8:07.A Permitted Uses in the R-3

1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:

a. Lands and buildings used for horticultural or farm purposes, **not including vegetable gardens as defined by the Garden Act,**

8:08.A Permitted Uses in the R-4, R-5, R-6, and R-7 Districts

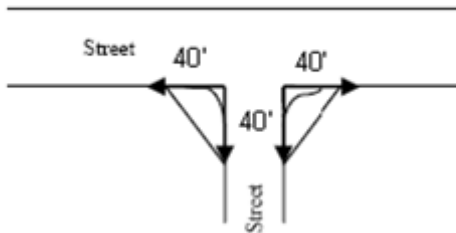
6. Vegetable Gardens as defined by the Garden Act

Amendment to Appendix 9, Table of Uses to reflect the addition of Vegetable Gardens as a Permitted Use in all Residential Zoning Districts.

If this amendment is adopted as proposed, roadside stands would remain permitted uses on A-1, R-1, RPD-1, RPD-2, and RPD-3 Districts only.

Also, per Section 4:05.B of the Kendall County Zoning Ordinance, gardens may encroach up to all property lines. **Section 11:02.F.11** should be clarified as follows regarding sight triangles:

11. Landscape sight triangle. No landscaping including berms **and vegetable gardens as defined by the Garden Act** shall be planted within a forty foot (40') sight triangle measured at the intersection of two public streets.



The consensus of the Committee was to allow roadside stands that sold produce grown on the premises on any residential zoned district ten feet (10') from the right-of-way. The Committee also favored keeping the sight triangles. The Committee was agreeable to initiate the text amendment.

The proposal goes to ZPAC on October 5, 2021.

Discussion of Amendments to the Kendall County Zoning Ordinance Pertaining to the Agricultural Experiences Act: Committee Could Initiate Text Amendments to the Kendall County Zoning Ordinance Related to the Agricultural Experiences Act

Mr. Asselmeier summarized the issue.

Earlier in 2021, the Illinois General Assembly passed and the Governor signed Public Act 102-0492 (formerly House Bill 3650) also known as the Agricultural Experiences Act. A copy of Public Act 102-0492 was provided.

The Agricultural Experiences Act defines an agricultural experience, as “. . . any agricultural-related activity, as a secondary use in conjunction with agricultural production, on a farm which activity is open to the public with the intended purpose of promoting or educating the public about agriculture, agricultural practices, agricultural activities, or agricultural products.” Crucially, the Act forbids a county from requiring conditional use permits, special use permits, or variances for this type of use.

The definition of agricultural experience in State law is similar to the County's definition of seasonal festivals. Seasonal festivals, as defined in the Zoning Ordinance, are defined as follows:

“A temporary event held during a specified time of the year which is designed to enhance the sales of seasonal crops and related products produced in conjunction with existing agricultural businesses such as orchards, vineyards, nurseries and similar agricultural operations. Related activities may include, but are not limited to, corn mazes, wagon rides, pony rides, farm animal petting zoos, and pumpkin patches. Activities including amusement park rides, live music concerts, truck and tractor pull competitions are specifically prohibited from Seasonal Festivals.”

Seasonal festivals are conditional uses in the A-1 District Agricultural and are permitted uses in the B-4 Commercial Recreation District. The conditions for seasonal festivals are as follows:

- a) Adequate parking on site shall be provided in such a way that no on-street parking is necessary.
- b) Event areas, stands, booths, parking and other uses and facilities appurtenant to the site shall not be located within 150 feet of a residential district, or residential structure located off the subject zoning lot unless written consent from the effected residents is provided to the Planning, Building and Zoning Office.
- c) The operator shall have adequate waste receptacles and toilet facilities on site as determined in writing from the Department of Health and Human Services.
- d) No alcohol shall be sold on the premises.
- e) Petting Zoos shall provide adequate hand sanitation devices as determined by the Department of Health and Human Services.
- f) All food prepared or sold on site shall comply with the Department of Health and Human Services requirements.
- g) Noise levels generated from non-agricultural sources shall not exceed 60 dBA as measured at the nearest occupied residential structure on an adjoining property.
- h) The operator shall provide adequate crowd control and parking direction as reasonably determined by the Kendall County Sheriff's Office.
- i) No event activity shall start earlier than 9:00 a.m. any day of the week, and shall end no later than 10:00 p.m., Monday thru Wednesday and no later than 11:30 p.m. Thursday thru Sunday.
- j) Events shall be permitted once a year unless otherwise approved by the PBZ Committee.
- k) Seasonal Festivals shall be permitted up to, but not exceed, ninety (90) consecutive days in length in one calendar year.
- l) 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 during the duration of the Seasonal Festival subject to the review and approval of the Zoning Administrator.
- m) All signage shall comply with Section 12:00 of the Zoning Ordinance.
- n) All proposed lighting shall be non-obtrusive onto adjoining properties and should not exceed 0.2 foot candles at any property line.
- o) Any Seasonal Festival which cannot meet these standards may still be permitted if approved as a Special Use. An applicant seeking an approval of the conditional use shall submit an application to be acted upon by the Zoning Administrator. The Zoning Administrator may, at his or her discretion, refer the request to the PBZ Committee of the County Board for recommendation prior to taking action. In addition, the petitioner may appeal the decision of the Zoning Administrator in the review of a Conditional Use for a Seasonal Festival to the PBZ Committee. In such instances the PBZ Committee shall be the final authority.

Presently, three (3) special uses are impacted by the Agricultural Experiences Act. The special use permits for Woody's Orchard (Ordinances 2016-21 and 2021-07), Heap's Giant Pumpkins (Ordinance 2015-11), and Keller Farms (Ordinance 2009-18) contain provisions related to Seasonal Festivals. Staff would like to point out that several of these properties have special use permits beyond agricultural experiences (i.e. Woody's Orchard and Heap's Giant Pumpkins have special use permits for banquet facilities).

Staff requested guidance as to how to proceed with text amendments to the Zoning Ordinance regarding the Agricultural Experiences Act. If the Committee wished Staff to create a text amendment, the following items need to be addressed:

1. The Agricultural Experiences Act says that the agricultural experience must be a "secondary use". Does the Committee want Staff to draft an amendment that allows Seasonal Festivals as a secondary use on land to be a permitted use in the A-1 District while retaining Seasonal Festivals as a primary use on land as conditional use in the A-1? Should a similar distinction be made for Seasonal Festivals in the B-4 District?
2. The Agricultural Experiences Act is very explicit that variances cannot be granted. In cases where Seasonal Festivals are secondary uses and have to be allowed as permitted uses, does the Committee want any restrictions placed on the use?

Member Koukol made a motion, seconded by Member Vickers, to initiate the text amendment to make seasonal festivals permitted uses in the A-1 and B-4 Districts without any restrictions.

With a voice vote of four (4) ayes, the motion carried.

Member Koukol requested that memos regarding this proposal note that the County had little choice regarding this proposal because of the new State law.

The proposal goes to ZPAC on October 5, 2021.

Discussion of Updating the Land Resource Management Plan

Mr. Asselmeier summarized the issue.

Aside from some updates to the transportation plan, policy statements, and requests for changes to the Future Land Use Map for individual parcels, Kendall County has not completed a comprehensive update to the Land Resource Management Plan since 2005. Between 1998 and 2005, Kendall County updated the sections for each township, including doing population forecasts through the 2020 Census.

A large portion of the data in the Land Resource Management Plan was outdated and, as part of the budget research process, Staff contacted Teska Associates to obtain a cost estimate to update the Land Resource Management Plan. Teska Associates' price quote and scope of work was provided. As noted in this information, the project would occur over a three (3) year period and involve at least one (1) meeting in each township.

Staff requested guidance from the Committee regarding whether or not the County should pursue an update at this time.

Member Gilmour asked if the updated was required. Mr. Asselmeier responded that the data was outdated and population projection have run their course.

Member Koukol noted that many properties facing development pressures will be annexed into municipalities.

Mr. Asselmeier explained the connection between the Land Resource Management Plan and the Zoning Ordinance.

The consensus of the Committee was to have Staff update the population figures and review the Future Land Use Map as necessary.

Discussion occurred regarding land uses along Route 47 in the southern portion of the County.

Member Gilmour made a motion, seconded by Member Chairman Gengler, to table the proposal.

With a voice vote of four (4) ayes, the motion carried.

Mr. Asselmeier will check with other counties to see if another cost estimate existed for doing Land Resource Management Plan.

Discussion of the Two (2) Year Renewal Requirement for Real Estate and Development Off Premise Advertising Signs (Billboards); Committee Could Initiate Text Amendments to the Zoning Ordinance Changing This Requirement

Mr. Asselmeier summarized the issue.

Chairman Gryder requested that the Planning, Building and Zoning Committee explore changing the regulations requiring two (2) year renewals for real estate and development billboards.

The present requirement is found in Section 12:06.A.4 (Signage Regulations – General Standards) and states the following:

“All signs shall be located on the premises for which they are advertising except where indicated otherwise under Sections 12:04 and 12:12 of this Ordinance. Real estate and development signs may be located off site for a period not to exceed two (2) years, provided that a special use is granted pursuant to Section 12:12 of this Ordinance.”

The two (2) year renewal requirement was added to the Zoning Ordinance per Ordinance 2000-39, which the County Board adopted in October 2000. A copy of this Ordinance was provided.

Unfortunately, the minutes and related documents associated with Ordinance 2000-39 do not provide any guidance as to why the deadline was imposed. However, the intent of the Ordinance was to restrict the placement of billboards. Ordinance 2000-39 restricted billboards to the M-2 and M-3 Districts and by special use permit only and established an amortization period which was later repealed. A map showing where billboards may be placed by special use permit was provided.

The renewal requirement applied only to real estate and development off premise signs and did not apply to any other billboards. Staff was aware of six (6) billboards in the unincorporated area and one (1) additional real estate and development sign. The real estate and development sign is located at Route 34 and Hafenrichter. A map showing the location of the existing billboards was provided.

The consensus of the Committee was to leave the regulations unchanged because of the small number of signs and the belief that the one (1) sign requiring renewal would be annexed before its next renewal date.

Approval of a Request from WBK Engineering to Increase the Escrow Deposit Fee for Stormwater Management Permits from \$1,200 or 2% of the Estimated Cost of the Proposed Improvements Whichever is Greater to \$2,000 or 2% of the Estimated Cost of the Proposed Improvements Whichever is Greater

Mr. Asselmeier summarized the issue.

In preparing for the budget for the next fiscal year, the County contacted WBK Engineering and asked if any fees were likely to increase. WBK Engineering advised the County that some fees would increase and suggested that the County raise the escrow deposit fee for stormwater management permit applications from One Thousand Two Hundred Dollars (\$1,200) or two percent (2%) of the estimated cost of the proposed improvement whichever is greater to Two Thousand Dollars (\$2,000) or two percent (2%) of the estimated cost of the proposed improvement whichever is greater. A copy of WBK Engineer's email was provided.

As far as Staff can tell, the escrow deposit fee has been One Thousand Two Hundred Dollars (\$1,200) or two percent (2%) of the estimated cost of the proposed improvement whichever is greater since at least April 2009. The escrow deposit fee was mentioned in the County's original contract with WBK Engineering in April 2009. Prior to WBK Engineering's first contract in 2009, the escrow deposit fee was less than the present fee.

When the funds in an escrow account were depleted, WBK Engineering pursued escrow replenishments. Unspent funds are returned to the applicant when the permit or investigation is closed. Of the twenty-six (26) open escrow accounts, eight (8) received escrow replenishments. It was very likely that at least one (1) additional project will require an escrow replenishment in the future.

Staff requested guidance as to how to proceed.

The consensus of the Committee was to explore charging the two (2%) costs and leave the deposit unchanged. WBK will continue to pursue replenishments.

OLD BUSINESS

Review of Agenda for October 21, 2021 Kendall County Planning, Building and Zoning Committee Meeting in Boulder Hill

The Committee reviewed the draft agenda and press release.

Member Koukol stated the history of the excavation use at 3485 Route 126. Materials and equipment were to be kept inside the building. He discussed the floodplain on the property. He discussed the special uses on the property.

REVIEW VIOLATION REPORT

The Committee reviewed the violation report.

REVIEW NON-VIOLATION REPORT

The Committee reviewed the non-violation report.

UPDATE FOR HISTORIC PRESERVATION COMMISSION

Approval of a Request from the Kendall County Historic Preservation Commission to Change the Time of Regular Meetings of the Kendall County Historic Preservation Commission from 6:30 p.m. on the Third Monday of the Month to 6:00 p.m. on the Third Monday of the Month

Chairman Gengler made a motion, seconded by Member Vickers, to recommend approval of the proposal to the County Board.

With a voice vote of four ayes, the motion carried.

The proposal goes to the County Board on September 21, 2021, on the consent agenda.

Discussion of Historic Structure Survey in Kendall and Bristol Townships

Mr. Asselmeier summarized the issue.

After becoming a Certified Local Government, the Kendall County Historic Preservation Commission spent several meetings discussing their next projects. The Commission favored doing historic structure surveys in preparation for doing a preservation plan for the County. The Commission researched firms that conduct structure surveys and met with a representative of Wiss, Janney, Elstner Associates, Inc. (WJE) to discuss the process. WJE previously did structure surveys for unincorporated Will and Kankakee Counties. The Commission requested WJE prepare a proposal to do a structure survey in Bristol and Kendall Townships. The surveys would be for the unincorporated area only and would not include Helmar.

As noted in the proposal, the cost to survey Kendall Township would be Thirty Thousand Dollars (\$30,000). The cost to survey Bristol Township would be Fifteen Thousand Dollars (\$15,000). The cost to survey both townships simultaneously would be Forty-Two Thousand Five Hundred Dollars (\$42,500). The estimate included an assumption that some volunteer labor by Commissioners and other parties interested in historic preservation would be provided.

At their meeting on August 16, 2021, the Commission unanimously recommended surveying both townships as their first choice, surveying Kendall Township only as their second choice, and surveying Bristol Township only as their third choice.

The County would apply for a Certified Local Government grant to cover a portion of the project's cost. Historically, these grants covered seventy percent (70%) of the project's costs. The County would be responsible for covering the remaining thirty percent (30%). Staff and volunteer time and can be used to cover a portion of the costs.

If the County Board approved funding this project in some form, the Commission's intention was to survey the remaining townships in upcoming years.

Member Koukol noted the enthusiasm of the historic preservation organizations to undertake this project.

Discussion occurred regarding the number of historic structures in the unincorporated area.

The consensus of the Committee was to approve the project on the condition that grant funding be secured.

REVIEW PERMIT REPORT

The Committee reviewed the report.

REVIEW REVENUE REPORT

The Committee reviewed the report.

CORRESPONDENCE

None

COMMENTS FROM THE PRESS

None

EXECUTIVE SESSION

None

ADJOURNMENT

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

Chairman Gengler adjourned the meeting at 9:43 p.m.

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

Enc.

**KENDALL COUNTY
PLANNING, BUILDING, & ZONING COMMITTEE
SEPTEMBER 13, 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)
Dwain Keener 21-27 21/28 26-34		

Ingemunson Law Offices Ltd.

759 John St. Unit A
Yorkville, IL 60560
Ph (630) 553-5622
Fx (630) 553-7958
Gregg Ingemunson
Boyd Ingemunson

September 7, 2021

Matt Asselmeier
Kendall County Planning, Building, and Zoning
111 W. Fox St.
Yorkville, IL 60560

Re: Brighter Daze

Dear Matt,

I have had a chance to investigate the alleged special use violation which was recently reported to your office pertaining to an event over the weekend of August 20-21. First, I checked with the Sheriff's Department and was informed that there was not an official written report generated. After speaking with my clients they do acknowledge that the barn doors were open past 7 p.m. and the event did go longer than 10 p.m.

My clients have had problems with the local hotels and their scheduling of transportation from the events. This is exactly what happened on this occasion. Holiday Inn in Yorkville was over an hour and a half late for the transportation from the reception. My clients made a decision to keep the reception going as opposed to severely inconveniencing the guests by having them wait for a long period of time in the parking lot. My clients did close down any serving of alcohol at 10 p.m. I have attached documentation from Holiday Inn acknowledging their error.

The issue with the barn doors is becoming more and more of an untenable and unreasonable restriction. The interior barn is not air-conditioned and on hot and humid evenings it can become very unpleasant for the guests. This was exactly the case on this occasion. Further, customers are more and more conscious of air circulation due to the ongoing pandemic and keeping those doors open to promote air flow is protecting the health and welfare of all occupants.

My clients continue to monitor the decibel levels at the property line for all events and have not violated the county's noise ordinance. Upon investigation with the Sheriff's office it does not appear that a deputy measured the decibel level on the night in question. If you have any additional proof that the sound levels exceeded those allowed by the County please provide.

Once again the reason that we have petitioned to have these unreasonable restrictions removed is their inability to effectively operate their business and provide the best possible experience for their customers. My clients will continue to proactively monitor and minimize any negative impact to surrounding land owners. Thank you for your attention to this matter.

Sincerely,


Boyd Ingemunson

Fwd: **[EXTERNAL] Shuttle Experience/Appreciation for your business**

1 message

Theis, Adam <[REDACTED]>
To: Boyd Ingemunson <[REDACTED]>
Cc: Joann Bright <[REDACTED]>

Thu, Aug 26, 2021 at 7:43 AM

Adam R Theis

Begin forwarded message:

From: Brenda LeSure <[REDACTED]>
Date: August 25, 2021 9:11 AM EDT
To: "Theis, Adam" <[REDACTED]>
Subject: **[EXTERNAL]** Shuttle Experience/Appreciation for your business

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Adam,

Thank you so much for your email. I would like to first thank you for all of the business you sent our way. On the behalf of Holiday Inn Express and Suites in Yorkville, we greatly appreciate the 10 plus weddings you sent our way. It's been an absolute pleasure working with you and your family.

I also would like to take this time to apologize for the inconvenience of your business hours. Here at the Holiday Inn Express, we strive daily to provide the best service to those who we are in partnership with. I can assure you and your family that this would never happen again.

It's important that our clients/guests are aware of the round trip distance. It is 40 minutes there and back but this does not include loading and unloading the guests.

The bride and groom are to schedule drop offs and pick up times they would like our shuttle to run.

This past experience has allowed us to be more adamant about communicating with the bride and groom in order to avoid this from happening in the near future.

Again, we appreciate your business and we are looking forward to working with you in the future.

Best regards

--

Brenda LeSure

Manager

Holiday Inn Express & Suites, Yorkville
[REDACTED]