

**ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC)
October 5, 2021 – Approved Meeting Minutes**

PBZ Chairman Scott Gengler called the meeting to order at 9:00 a.m.

Present:

Matt Asselmeier – PBZ Department
Meagan Briganti – GIS Department
Scott Gengler – PBZ Committee Chair
Brian Holdiman – PBZ Department
Fran Klaas – Highway Department
Sergeant Dave Lawson – Sheriff's Department
Alyse Olson – Soil and Water Conservation District
Aaron Rybski – Health Department

Absent:

Greg Chismark – WBK Engineering, LLC
David Guritz – Forest Preserve

Audience:

Brenda Zeiter, Gregg Ingemunson, Greg Dady, Boyd Ingemunson, and John Tebrugge

AGENDA

Mr. Klaas made a motion, seconded by Mr. Rybski, to approve the agenda as presented.

With a voice vote of eight (8) ayes, the motion carried.

MINUTES

Mr. Holdiman made a motion, seconded by Mr. Rybski, to approve the September 7, 2021, meeting minutes.

With a voice vote of eight (8) ayes, the motion carried.

PETITIONS

Petition 21-36 Brenda and Gary Zeiter and Devan and Brady Woolverton

Mr. Asselmeier summarized the request.

The Petitioners would like operate a landscaping business, Zeiter Landscaping, Inc., at the subject property.

The application materials, NRI Report, site plan, topographic survey, pictures of the proposed landscaping and the aerial of the property were provided.

In 2000, Brenda and Gary Zeiter were awarded a special use permit at 16765 Hanson Road for their landscaping business. While they indicated their plans include moving the business from Hanson Road to the subject property, they would like to retain a special use permit at the Hanson Road property. The special use permit for the property on Hanson Road was provided. Since 2000, neither the Sheriff's Department nor the Planning, Building and Zoning Department have received any complaints regarding the landscaping business on Hanson Road.

If approved, the landscaping business would be addressed as 3549 Bell Road. A house for the owner/operator of the business is planned on the southern portion of the property and would be addressed as 3527 Bell Road.

The property was approximately ten (10) acres in size.

The County's Future Land Use Map called for the property to be Rural Residential (Max 0.65 DU/acre). Shorewood's Future Land Use Map called for the property to be Residential.

Bell Road is a Township maintained Minor Collector.

There were no trails planned in the area.

There are no floodplains or wetlands on the property.

The adjacent land uses were agricultural and farmstead.

The adjacent properties were zoned A-1.

Kendall County's Future Land Use Map called for the area to be Rural Residential. Shorewood's Future Land Use Map called for the area to be Residential.

The nearby properties were zoned A-1, A-1 SU and R-1.

The A-1 special use permit to the north is horse related and the special use permit to west is for an agricultural helipad.

EcoCAT Report was submitted and consultation was terminated.

The NRI application was submitted and the LESA Score was 233 indicating a high level of protection. The NRI Report was provided.

The Seward Township Planning Commission reviewed this proposal on May 13, 2021, and recommended the project move forward. The minutes of this meeting were provided.

Petition information was sent to the Village of Shorewood on September 24, 2021.

Petition information was sent to the Lisbon-Seward Fire Protection District on September 24, 2021.

Per Section 7:01.D.30 of the Kendall County Zoning Ordinance, landscaping businesses can be special uses on A-1 zone property subject to the following conditions:

1. All vehicles, equipment and materials associated with a landscaping business shall be stored entirely within an enclosed structure, unless otherwise permitted under the terms of this Special Use Permit.
2. The business shall be located on, and have direct access to, a State, County or Collector Highway as identified in the County's LRMP, having an all-weather surface, designed to accommodate loads of at least 73,280 lbs, unless otherwise approved in writing by the agency having jurisdiction over said Highway. Such approvals shall establish limitations as to the number of employees and types of vehicles coming to and from the site that are engaged in the operation of the use (including delivery vehicles). These restrictions shall be included as controlling conditions of the Special Use.
3. No landscape waste generated off the property can be burned on this site.

If the County Board approves the outdoor storage of materials, the above conditions have been met.

According to the business plan, Zeiter Landscaping, Inc. has been in business over twenty-five (25) years. The business operates from March through November and employs ten (10) people. The business is operational Monday through Saturday. Employees arrive at the property between 6:15 a.m. and 7:00 a.m., gather supplies and equipment, and leave the property for job site by 7:30 a.m. Employees return to the property between 5:00 p.m. and 6:00 p.m., unload equipment and supplies, and leave the property.

All business related vehicles and equipment would be parked inside overnight and trailers would be parked in the rear of the property.

Employee's personal vehicles would remain on the property during business hours.

Deliveries of landscaping materials by semis would occur no more than two to three (2-3) times per week.

If approved, the Petitioners plan to start operations immediately.

According to the site plan and the topographic survey, one (1) approximately two thousand four hundred (2,400) square foot house for the operators of the landscaping business is planned on the south side of the property. One (1) approximately twelve thousand (12,000) square foot metal building would be also be placed on the property. This building will be one (1) story with two (2) canopies.

According to the site plan, four (4) storage bins for landscaping materials would be located northeast of the metal building. These bins would be approximately ten feet (10') west of the eastern property line. The bins would be a total of ninety-six feet (96') wide, eighteen feet (18') in depth, and materials as high as eight feet (8') in height.

Any structures related to the landscaping business would be required to obtain applicable building permits.

Per the site plan and the topographic survey, the property is served by septic. The property also has a well. Electricity will be onsite.

Employees will be able to use the restroom inside the metal building.

There was also a propane tank on the premises located north of the metal building.

Though not shown on the site plan or topographic survey, a dumpster was planned north of the metal building.

There are three (3) natural gas pipelines going through the property.

The Petitioners plan to construct the metal building on one (1) of the highest points of the property. The northern portion of the property drains to the northwest and the southern portion of the property drains to the southeast.

The topographic survey showed several temporary dirt berms around the house. These berms will be removed when construction of the house is complete.

A stormwater management permit will be required. WBK submitted a letter requesting additional information.

Per the site plan and topographic survey, access from Bell Road to the business operation will be by a twenty foot (20') wide driveway located approximately twenty-five feet (25') off of the eastern property line. The driveway will be constructed of asphalt grindings. The new house will also utilize the driveway.

According to the site plan, the Petitioners plan to install an area around the metal building with asphalt grindings. There are five (5) parking spaces available on the east side of the area for employee parking. Trailers would be parked north of the metal building.

No customers of the business would be invited onto the property.

No handicapped parking spaces were planned.

If there is a motor vehicle or equipment related leak, the area impacted would be cleaned.

The Petitioners indicated that they plan to install one (1) light in the middle of the metal building facing east, one (1) on the metal building facing north, and three (3) can lights under the office and garage area. Because the number of parking spaces was under thirty (30), a photometric plan was not required, but the Petitioners will be required to follow the applicable lighting regulations in the Kendall County Zoning Ordinance.

Though not shown on the site plan or the topographic survey, the Petitioners would like to install one (1) two (2)-faced sign on the east side of the driveway. The sign will not be illuminated.

No fencing was planned.

The topographic survey showed one (1) area south of the employee parking with mulch and evergreens. A second mulch and evergreen area was shown northwest of the metal building. Pictures of the type of vegetation that would be installed were provided. The plantings will consist of nine (9) eight foot (8') Colorado Blue Spruce and five (5) maple trees between two point five inches and three inches (2.5" and 3") caliber. The plantings would be installed by the end of 2021.

One (1) berm south of the metal building was shown on the topographic survey. The berm will have landscaping and evergreens. The berm shall be two point five feet (2.5') in height and five feet (5') wide.

One (1) gravel mound was shown on the topographic survey. The Petitioners planned to have it leveled by the end of November.

No information was provided regarding noise control.

No new odors were foreseen by the proposed use.

If approved, this would be the sixteenth (16th) special use permit for a landscaping business in unincorporated Kendall County.

The proposed 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. Provided the site is developed in accordance with the submitted site plan and topographic plan and provided the business plan is followed regarding hours of operation and business related deliveries, the operation of the special use will not be detrimental to the public health, safety, morals, comfort, or general welfare. The owners of the business allowed by the special use permit will not invite the public onto the property. Only landscape related materials and equipment will be stored at the subject property.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. Appropriate restrictions may be placed in the special use permit to regulate the number of employees, hours of operation, site landscaping, and noise. Therefore, the neighboring property owners should not suffer loss in property values and the use will not negatively impact the adjacent land uses.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. If Seward Township approves the new access point, then adequate points of ingress and egress will be provided. No customers will be allowed on the property and employees will be able to use the restroom facilities inside the metal building. The owners of the business allowed by the special use permit have applied for the applicable stormwater permit.

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 special use shall conform to the applicable regulations of the district and no variances were requested.

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 9-21 of the Kendall County Land Resource Management Plan which calls for "a strong base of agricultural, commercial and industrial uses that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents".

Staff recommended approval of the special use permit for a landscaping business subject to the following conditions and restrictions:

1. The site shall be developed substantially in accordance with the site plan and topographic survey. A refuse area may be installed north of the metal building. One (1) two (2)-faced sign may be installed east of the driveway. The sign shall not be illuminated.
2. The owners of the business allowed by the special use permit shall maintain the parking area and driveway shown on the site plan and in substantially the same locations as depicted on the site plan and topographic survey. The parking area and driveway shall be asphalt grindings.
3. The owners of the businesses allowed by this special use permits shall diligently monitor the property for leaks from equipment and vehicles parked and stored items stored on the subject property and shall promptly clean up the site if leaks occur.
4. Any new structures, signs, or lights constructed or installed on the property related to the operations of the business

allowed by this special use permit shall not be considered for agricultural purposes and must secure applicable building permits.

5. Equipment and vehicles related to the business allowed by the special use permit must be stored indoors during non-operational business hours. This condition does not extend to trailers; they may be stored outdoors in the trailer parking area designated on the site plan.
6. None of the vehicles or equipment parked or stored on the subject property related to the business allowed by the special use permit shall be considered agricultural vehicles or agricultural equipment.
7. All of the vehicles and equipment stored on the subject property related to the business allowed by the special use permit shall be maintained in good condition with no deflated tires and shall be licensed if required by law.
8. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated storage areas shown on the site plan. The maximum height of the piles of landscaping related material shall be eight feet (8'), provided a Stormwater Management Permit is issued.
9. Nine (9) Colorado Blue Spruce, a minimum of eight feet (8') in height, and five (5) maple trees at least two point five (2.5) caliber at the time of planting shall be planted in the areas identified as landscaping and areas with mulch and evergreens and on the dirt berm as identified in the topographic survey and as visually depicted on the landscaping images. Damaged or dead trees or Colorado Blue Spruces shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department. The landscaping shall be installed by December 31, 2021. The Kendall County Planning, Building and Zoning Committee may grant an extension to this deadline.
10. No landscape waste generated off the property can be burned on the subject property.
11. A maximum of ten (10) employees of the business allowed by this special use permit, including the owners of the business allowed by this special use permit, may report to this site for work. No employees shall engage in the sale of landscaping related materials on the property.
12. No customers of the business allowed by this special use permit shall be invited onto the property by anyone associated with the use allowed by this special use permit.
13. The hours of operation of the business allowed by this special use permit shall be Monday through Saturday from 6:00 a.m. until 6:00 p.m. The owners of the business allowed by this special use permit may reduce these hours of operation.
14. Deliveries of materials related to the business allowed by the special use permit by semis or tractor trailers shall be restricted to a maximum of three (3) in a seven (7) day period. There shall be no cap on the number of deliveries of materials related to the business allowed by the special use permit by non-semis or non-tractor trailers.
15. 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.
16. The owners or operators of the business allowed by this special use shall reside at the subject property as their primary place of residence.
17. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.

18. The property owner and operator of the business allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business.
19. 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.
20. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
21. 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.

Chairman Gengler noted the large number of landscaping businesses.

Mr. Klaas asked if Bell Road was identified as a Collector in the Land Resource Management Plan. Mr. Asselmeier responded that the Land Resource Management Plan identified Bell Road as Minor Collector. Discussion occurred regarding the posting for weight limits during the winter and spring. If the road had posted weight limits, the Petitioners would still have to follow those weight limits. Mr. Klaas questioned the intent of the Zoning Ordinance; he felt these uses should be restricted to major collectors and higher roadways.

Chairman Gengler asked if the special use permit on Hanson Road would continue. Mr. Asselmeier stated that the special use permit for that property would run with the land.

Ms. Olson noted that some soils had building limitations. She requested having a soil erosion and sediment control plan in place during construction and having a NPDES Permit if more than one (1) acre of land was disturbed.

Brenda Zeiter stated that she contacted the township to request permission to drive on posted roads before making trips. She stated that the plan was to sell the Hanson Road property at some point. They would start moving to the Bell Road property at the end of the year.

Mr. Holdiman noted that building permits for the home and accessory structure have been pulled. A change of occupancy would be required for the accessory structure.

Mr. Rybski noted that a septic permit has been approved and was moving forward.

Mr. Rybski made a motion, seconded by Mr. Holdiman, to recommend approval of the special use permit with the conditions proposed by Staff.

With a voice vote of eight (8) ayes, the motion carried.

The proposal goes to the Kendall County Regional Planning Commission on October 27, 2021.

Petition 21-37 Kendall County Planning, Building and Zoning Committee

Mr. Asselmeier summarized the request.

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.

Also, per Section 4:05.B of the Kendall County Zoning Ordinance, gardens may encroach up to all property lines.

At their meeting on September 13, 2021, the Kendall County Planning, Building and Zoning Committee voted to initiate text amendments to the Zoning Ordinance to allow vegetable gardening as a primary use on R-1, R-2, R-3, R-4, R-5, R-6, and

R-7 zoned property, allow roadside stands selling agricultural products grown on the premises in the same residential zoning districts, and to restrict gardens from forty foot (40') sight triangles where two (2) public streets meet. Roadside stands must be setback at least ten feet (10') from the nearest right-of-way.

Below please find the redlined version of the proposal:

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 and roadside stands following the setback requirements in Section 8:02.A**
~~b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and~~

~~c. b.~~ Farm-type animals shall be prohibited in the R-2 District with the exception of chickens.

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 and roadside stands following the setback requirements in Section 8:02.A**
~~b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and~~

~~c. b.~~ Farm-type animals shall be prohibited in the R-3 District with the exception of chickens.

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

6. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, provided that the stands and produce on display are located ten feet back from the nearest right-of-way line.

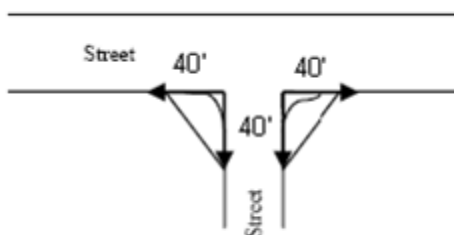
10. Vegetable Gardens as defined by the Garden Act.

Remaining Permitted Uses to be Renumbered.

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

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.



Mr. Asselmeier was unaware of any complaints against vegetable gardens in Kendall County.

Chairman Gengler asked what happens if the County does not approve this proposal. Mr. Asselmeier said State law supersedes County law. If the County tried to prosecute someone for violating regulation in conflict with State law, the court probably would rule against the County.

Discussion occurred regarding the threshold to meet the agricultural zoning exemption in State law.

Ms. Briganti made a motion, seconded by Mr. Rybski, to recommend approval of the text amendment.

The votes were as follows:

Yeas (7): Asselmeier, Briganti, Gengler, Holdiman, Lawson, Olson, and Rybski
Nays (0): None
Present (1): Klaas
Absent (2): Chismark and Guritz

The motion carried.

The proposal goes to the Kendall County Regional Planning Commission on October 27, 2021.

Petition 21-38 Kendall County Planning, Building and Zoning Committee

Mr. Asselmeier summarized the request.

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.”

The Agricultural Experiences Act forbids counties from requiring these types of events from obtaining special use permits, conditional use permits, or variances.

Seasonal festivals are conditional uses in the A-1 Agricultural District 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.

At their meeting on September 13, 2021, the Kendall County Planning, Building and Zoning Committee voted to initiate a text amendment adding seasonal festivals to the list of permitted uses in the A-1 Agricultural District without conditions or restrictions, removing the conditions and restrictions on seasonal festivals in the B-4 Commercial Recreation District, deleting seasonal festivals from the list of conditional uses in the A-1 District, updating Appendix 9 Table of Uses to reflect this text amendment, and correcting citation errors caused by this text amendment.

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 some 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).

The proposal would apply to apple orchards, pumpkin patches, and Christmas tree farms where the plants were grown on the premises.

Mr. Klaas asked if the proposal make any uses more cumbersome for the existing special uses. Mr. Asselmeier responded no.

Mr. Rybski asked if these uses still had to follow other regulations. Mr. Asselmeier responded that the proposal only applies to zoning regulations; uses would still have to follow other applicable regulations.

Chairman Gengler expressed his opposition to the State intervening in local zoning regulations. Mr. Holdiman concurred with Chairman Gengler.

Mr. Klaas made a motion, seconded by Mr. Asselmeier, to recommend approval of the text amendment.

The votes were as follows:

Yeas (5): Asselmeier, Briganti, Lawson, Olson, and Rybski

Nays (2): Gengler and Holdiman

Present (1): Klaas

Absent (2): Chismark and Guritz

The motion carried.

The proposal goes to the Kendall County Regional Planning Commission on October 27, 2021.

Petition 21-39 Greg Dady on Behalf of DTG Investments, LLC

Mr. Asselmeier summarized the request.

Greg Dady, on behalf of DTG Investments, LLC, owns the property at 3485 Route 126 (PIN: 06-09-400-005). This property is zoned A-1 Agricultural District. Mr. Dady would like to lease the property to an excavation business.

Contractor services is presently not allowed on A-1 zoned property. Mr. Dady would like contractor services provided that the use has direct access to a State Highway added to list of special uses in the A-1 District. If the requested text amendment is approved, Mr. Dady will submit an application for a special use permit for contractor services at his property on Route 126.

Contractor services is presently a conditional use on B-2 General Business District and B-3 Highway Business District zoned property and a permitted use on M-1 Limited Manufacturing District and M-2 Heavy Industrial District zoned property. In the B-2 and B-3 Districts, contractor offices and shops do not allow fabrication or outdoor storage of equipment or material. In the M-1 and M-2 Districts, the storage of flammable products is limited to one hundred twenty thousand (120,000) gallons per tank and maximum of five hundred thousand (500,000) gallons on any zoning lot.

A map showing all A-1 zoned properties was provided.

Mr. Klaas expressed concerns regarding this type of use in the A-1 with heavy equipment on local roads. He compared the use to landscaping businesses.

Mr. Asselmeier noted that the proposal would allow the use as a special use permit. The County could impose reasonable restrictions on special use permits that address traffic and amount of equipment on the property.

Discussion occurred regarding new uses in the A-1 District. Most of the time, the Planning, Building and Zoning Committee initiates these amendments, but people that own impacted properties can ask for text amendments.

Mr. Asselmeier explained the text amendment adoption process.

The Committee reviewed a map of the areas that would currently allow contractor services.

The Committee discussed the definition of contractor services from the Zoning Ordinance and compared the use to landscaping businesses.

Gregg Ingemunson provided a history of the use of the property and noted that similar uses have occurred at the property. The proposed use at the property would involve excavation.

Chairman Gengler expressed concerns about opening up the entire County to this type of use.

Discussion occurred regarding amending the existing special use permit at 3485 Route 126 for a landscaping business. Mr. Asselmeier explained the procedures for a major amendment to an existing special use permit.

Mr. Holdiman noted that previous special use permits for landscaping businesses included a cap on equipment on the property.

The Committee reviewed the definition of a building.

Mr. Klaas noted the unique attributes and history of the property on Route 126 instead of making a County-wide change.

The consensus of the Committee was that the Petitioner should pursue a major amendment to the existing special use at the property on Route 126 instead of a text amendment.

Since the Petitioner already has posted notice for the zoning hearing, the Petitioner decided to continue to pursue the text amendment.

Mr. Rybski made a motion, seconded by Chairman Gengler, to forward the text amendment to the Kendall County Regional Planning Commission with a neutral recommendation.

The votes were as follows:

Yeas (7): Asselmeier, Briganti, Gengler, Holdiman, Lawson, Olson, and Rybski
Nays (1): Klaas
Present (0): None
Absent (2): Chismark and Guritz

The motion carried.

The proposal goes to the Kendall County Regional Planning Commission on October 27, 2021.

Petition 21-40 and 21-41 Robert J. Fisher

Mr. Asselmeier summarized the request.

Robert J. Fisher would like an amendment to the Future Land Use Map contained in the Land Resource Management Plan for approximately nineteen point five more or less (19.5 +/-) acres located on the west side of O'Brien Road across from 16924 O'Brien Road. The Petitioner would also like to rezone the property R-1 in order to construct one (1) house on the property.

The application materials, aerial of the property, and aerial of the property with the floodplain was provided.

The County's Future Land Use Map called for the property to be Agricultural. Minooka's Future Land Use Map called for the property to be Low Density Residential.

O'Brien Road is a Township maintained Local Road. Minooka has a road planned connecting Whitewillow and O'Brien Roads.

Minooka has a trail planned along O'Brien Road.

There is floodplain and a riverine wetland on the property. An unnamed tributary of the Middle Aux Sable Creek flows through the property.

The adjacent land uses were Agricultural and Farmstead.

The adjacent properties were zoned A-1.

The Kendall County Land Resource Management Plan called for the property to the north to be Rural Estate Residential (Max 0.45 DU/acre). The property to the east would be Rural Residential (Max 0.65 DU/acre). The properties to the south and west were classified as Agricultural.

The Village of Minooka's Future Land Use Map called for the area to the north, south, and west to be Low Density Residential. The land to the east was planned to be a Regional Park.

The properties in the vicinity were zoned A-1.

EcoCAT Report submitted and consultation was terminated.

The application for NRI was submitted on September 21, 2021.

Petition information was sent to Seward Township on September 24, 2021.

Petition information was sent to the Village of Minooka on September 24, 2021.

Petition information was sent to the Minooka Fire Protection District on September 24, 2021.

The Petitioner desires to rezone the subject property in order to build one (1) house on the property. A future owner might subdivide the property for additional houses.

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

There was electricity along O'Brien Road. No other public or private utilities were onsite.

The property fronted O'Brien. Staff had no concerns regarding the ability of O'Brien Road 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 Future Land Use Map of the Village of Minooka calls for the area to residential and for a park to be located across the street of the subject property on the east side of O'Brien Road.

The requested amendment is consistent with the Future Land Use Map of the Village of Minooka.

The property to the north of the subject property already possesses the classification requested for the subject property.

The proposed 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.

The suitability of the property in question for the uses permitted under the existing zoning classification. The Petitioner cannot construct a house on the property unless the property is rezoned. Only agricultural uses would be permitted if the map amendment did not occur.

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 Agricultural, the property to the north as Rural Estate Residential (Max 0.45 DU/Acre), and the property to the east as Rural Residential (Max 0.65 DU/Acre). The Village of Minooka's Future Land Use Map classifies this property as Low Density Residential. The Petitioner submitted a request amending the Kendall County Future Land Use Map to reclassify the subject property as Rural Estate Residential. The R-1 One Family Residential District is consistent with the Rural Estate Residential classification.

Staff recommended approval of the amendment to the Future Land Use Map. If the requested amendment to the Future Land Use Map in the Land Resource Management Plan reclassifying this property as Rural Estate Residential is approved, Staff recommended approval of the proposed map amendment.

Mr. Rybski asked if a subdivision is planned for this property. Mr. Asselmeier said no subdivision was planned. Boyd Ingemunson, Attorney for the Petitioner, said the current owner wants to market the property for one (1) house. No agricultural allocations were available. The current owner has no plans to subdivide the property for additional homes.

Ms. Olson requested that the property owners obtain the necessary permits from the Army Corps of Engineers and Illinois Department of Resources. She also noted the limitations of the site caused by the soils. Mr. Ingemunson said that the Petitioner does not plan to build a house; the Petitioner wants to be able to market the property for residential purposes.

Mr. Holdiman asked why the Petitioner did not pursue a conditional use permit. Mr. Ingemunson responded that the Petitioner owns the property to the south and the Petitioner was looking to make it easier for a future property owner to build.

Chairman Gengler made a motion, seconded by Mr. Holdiman, to recommend approval of the amendment to the Future Land Use Map and the text amendment.

With a voice vote of eight (8) ayes, the motion carried.

The proposal goes to the Kendall County Regional Planning Commission on October 27, 2021.

Petition 21-42 Jorge Salgado

Mr. Asselmeier summarized the request.

Jorge Salgado owns the property at 975 Route 31 in Oswego Township. The property consists of one (1) approximately two (2) acre piece zoned R-1 One Family Residential District (east piece) and one (1) approximately three point nine (3.9) acre parcel zoned M-1 Limited Manufacturing District (west piece) with a Comed right-of-way separating the two (2) pieces. The Petitioner would like to install an approximately twenty-seven thousand (27,000) square foot parking lot on the M-1 zoned piece to park his commercial vehicles.

Section 13:10 of the Zoning Ordinance requires site plan review for this type of improvement on M-1 zoned property.

The application materials, plat of survey, site plan, aerial of the property, and aerial of the property showing zoning districts were provided.

The Petitioner has an access easement with Comed shown on the various documents and the terms of the access easement which was provided.

The plans also show a future building, but the Petitioner is not pursuing construction of the building at this time.

The Future Land Use Map called for the property to be Mixed Use Business.

Route 31 is a State maintained Arterial.

No trails were planned in the area.

There were no floodplains or wetlands on the property.

The adjacent land uses were Agricultural, Comed Right-of-Way, and Railroad.

The adjacent properties were zoned A-1, M-1, and M-2.

The Future Land Use Map called for the area to be Mixed Use Business or Comed Right-of-Way.

Petition information was sent to Oswego Township on September 24, 2021.

Petition information was sent to the Village of Montgomery on September 24, 2021.

Petition information was sent to the Oswego Fire Protection District on September 24, 2021. The Oswego Fire District submitted an email noting that sprinklers would be required for any future buildings.

The Petitioner wishes to construct the parking area and building for his trucks.

The subject property has been zoned M-1 since 1969. The property is grandfathered to have a maximum of five (5) horses.

The residential property to the east has been zoned R-1 since 1974.

The following design standards were evaluated:

Responsive to Site Conditions-Site plans should be based on an analysis of the site. Such site analysis shall examine characteristics such as site context; geology and soils; topography; climate and ecology; existing vegetation, structures and road network; visual features; and current use of the site. In addition to the standards listed below, petitioners must also follow the regulations outlined in this Zoning Ordinance. To the fullest extent possible, improvements shall be located to preserve the natural features of the site, to avoid areas of environmental sensitivity, and to minimize negative effects and alteration of natural features. Fragile areas such as wetlands and flood plains should be preserved as open space. Slopes in excess of 20 percent as measured over a 10-foot interval also should remain as open space, unless appropriate engineering measures concerning slope stability, erosion and safety are taken. The subject property has previously been used for agricultural purposes. The elevations range from 653 to 647 and the property drains to the east. The proposed improvements should preserve a majority of the natural features of the site. There are no floodplains or wetlands on the property. The Petitioners are not disturbing enough of the property to trigger the requirement for a stormwater management permit.

Traffic and Parking Layout-Site plans should minimize dangerous traffic movements and congestion, while achieving efficient traffic flow. An appropriate number of parking spaces shall be provided while maintaining County design standards. The number of curb cuts should be minimized and normally be located as far as possible from intersections. Connections shall be provided between parking areas to allow vehicles to travel among adjacent commercial or office uses. Cross-access easements or other recordable mechanisms must be employed. The property accesses Route 31 by using the residential driveway for the house addressed at 975 Route 31. Staff recommends a condition stating that the parking lot and building will be used only by the owner of the property at 975 Route 31 and that no other parties (i.e. employees or customers of a business) be invited onto the property in order to reduce traffic onto the site.

Conflicts between pedestrians and vehicular movements should be minimized. When truck traffic will be present upon the site, the road size and configuration shall be adequate to provide for off-street parking and loading facilities for large vehicles. Barrier curb should be employed for all perimeters of and islands in paved parking lots, as well as for all service drives, loading dock areas, and the equivalent. Parking lots in industrial or commercial areas shall be paved with hot-mix asphalt or concrete surfacing. Staff has no concerns regarding conflicts with the proposed parking area and building with pedestrians or vehicular movements. However, the access on Route 31 is through a residential driveway and restrictions should be in place to prevent large numbers of commercial vehicles from using the driveway for commercial purposes.

Site Layout-Improvements shall be laid out to avoid adversely affecting ground water and aquifer recharge; minimize cut and fill; avoid unnecessary impervious cover; prevent flooding and pollution; provide adequate access to lots and sites; and mitigate adverse effects of shadow, noise, odor, traffic, drainage and utilities on neighboring properties. Other than the concerns previously expressed, Staff has no concerns regarding the proposed use negatively impacting shadow, noise, odor, traffic, drainage, or utilities in the area.

Consistent with the Land Resource Management Plan-The proposed use and the design of the site should be consistent with the Land Resource Management Plan. This is true because the use is existing.

Building Materials-The proposed site plan design shall provide a desirable environment for its occupants and visitors as well as its neighbors through aesthetic use of materials, textures and colors that will remain appealing and will retain a reasonably adequate level of maintenance. Buildings shall be in scale with the ultimate development planned for the area. Monotony of design shall be avoided. Variations in detail, form, and setting shall be used to provide visual interest. Variation shall be balanced by coherence of design elements. No information regarding the building material for the proposed building was provided. The parking area will conform to the requirements of the Zoning Ordinance.

Relationship to Surrounding Development-A site shall be developed in harmony with neighboring street pattern, setbacks and other design elements. The proposed use is in the rear (west) of a residential area along a railroad track. The proposed use does not involve street patterns.

Open Space and Pedestrian Circulation-Improvements shall be designed to facilitate convenient and safe pedestrian and bicycle movement within and to the property. This is not an issue.

Buffering-Measures shall be taken to protect adjacent properties from any undue disturbance caused by excessive noise, smoke, vapors, fumes, dusts, odors, glare or stormwater runoff. Incompatible, unsightly activities are to be screened and buffered from public view. The proposed use is in the rear (west) of a residential area along a railroad track. No issues

regarding noise, smoke, vapors, fumes, dust, odors, glare, or stormwater runoff are foreseen, if the number of trucks is kept small.

Emergency Vehicle Access-Every structure shall have sufficient access for emergency vehicles. Emergency vehicles may use the gravel driveway to access the property.

Mechanical Equipment Screening-All heating, ventilation and air conditioning equipment shall be screened on sides where they abut residential districts. No information was provided regarding mechanical equipment as it relates to the new building.

Lighting-The height and shielding of lighting fixtures shall provide proper lighting without hazard to motorists on adjacent roadways or nuisance to adjacent residents by extending onto adjacent property. Cut-off lighting should be used in most locations, with fixtures designed so that the bulb/light source is not visible from general side view. No lights are planned for the site.

Refuse Disposal and Recycling Storage Areas-All refuse disposal and recycling storage areas should be located in areas designed to provide adequate accessibility for service vehicles. Locations should be in areas where minimal exposure to public streets or residential districts will exist. Screening shall be required in areas which are adjacent to residential districts or are within public view. Such enclosures should not be located in landscape buffers. Refuse containers and compactor systems shall be placed on smooth surfaces of non-absorbent material such as concrete or machine-laid asphalt. A concrete pad shall be used for storing grease containers. Refuse disposal and recycling storage areas serving food establishments shall be located as far as possible from the building's doors and windows. The use of chain link fences with slats is prohibited. No information was provided regarding refuse.

Pending comments from ZPAC members, Staff recommended approval of the proposed site plan as proposed with the following conditions:

1. The site shall be developed substantial in conformance with the submitted site plan.
2. The site shall be developed in accordance with all applicable federal, state, and local laws related to site development and the type of use proposed for the site, including, but, not limited to, securing the applicable building permits.
3. The vehicles parked on the property shall be limited only to those vehicles owned by the property owner of 975 Route 31. To that end, the property owner of 975 Route 31 shall not invite or allow other people or businesses to park vehicles on the subject property.
4. This site plan approval does not restrict the owner of the subject property from keeping a maximum of five (5) horses on the subject property.

Chairman Gengler asked about what uses might arise on the property. John Tebrugge, Engineer for the Petitioner, noted that the business was a family business with five (5) trucks. The building would be required to have sprinklers and financing the building could take two (2) years.

Mr. Rybski asked about the well in relation to fire suppression. Mr. Tebrugge responded a tank would be required fed by the well. Plumbing might be added to the building, but that was undetermined. Mr. Rybski expressed concerns regarding shared wells.

It was noted that, if the building footprint changes, additional site plan approval would be required.

The trucks are dump trucks; they are not semis.

The proposal did not trigger stormwater requirements.

Ms. Briganti noted that the legal description of the property was incorrect. The Petitioner was working to get that fixed.

Mr. Klaas made a motion, seconded by Mr. Rybski, to approve the site plan with the conditions proposed by Staff, allowing a maximum of ten (10) trucks on the property, and requiring that the title work be corrected prior to the issuance of any permits.

With a voice vote of eight (8) ayes, the motion carried.

REVIEW OF PETITIONS THAT WENT TO COUNTY BOARD

Mr. Asselmeier reported that Petitions 21-27 and 21-28 were approved by the County Board.

OLD BUSINESS/NEW BUSINESS

Approval of 2021-2022 Meeting Calendar

Ms. Briganti made a motion, seconded by Mr. Rybski, to approve the meeting calendar.

With a voice vote of eight (8) ayes, the motion carried.

CORRESPONDENCE

None

PUBLIC COMMENT

None

ADJOURNMENT

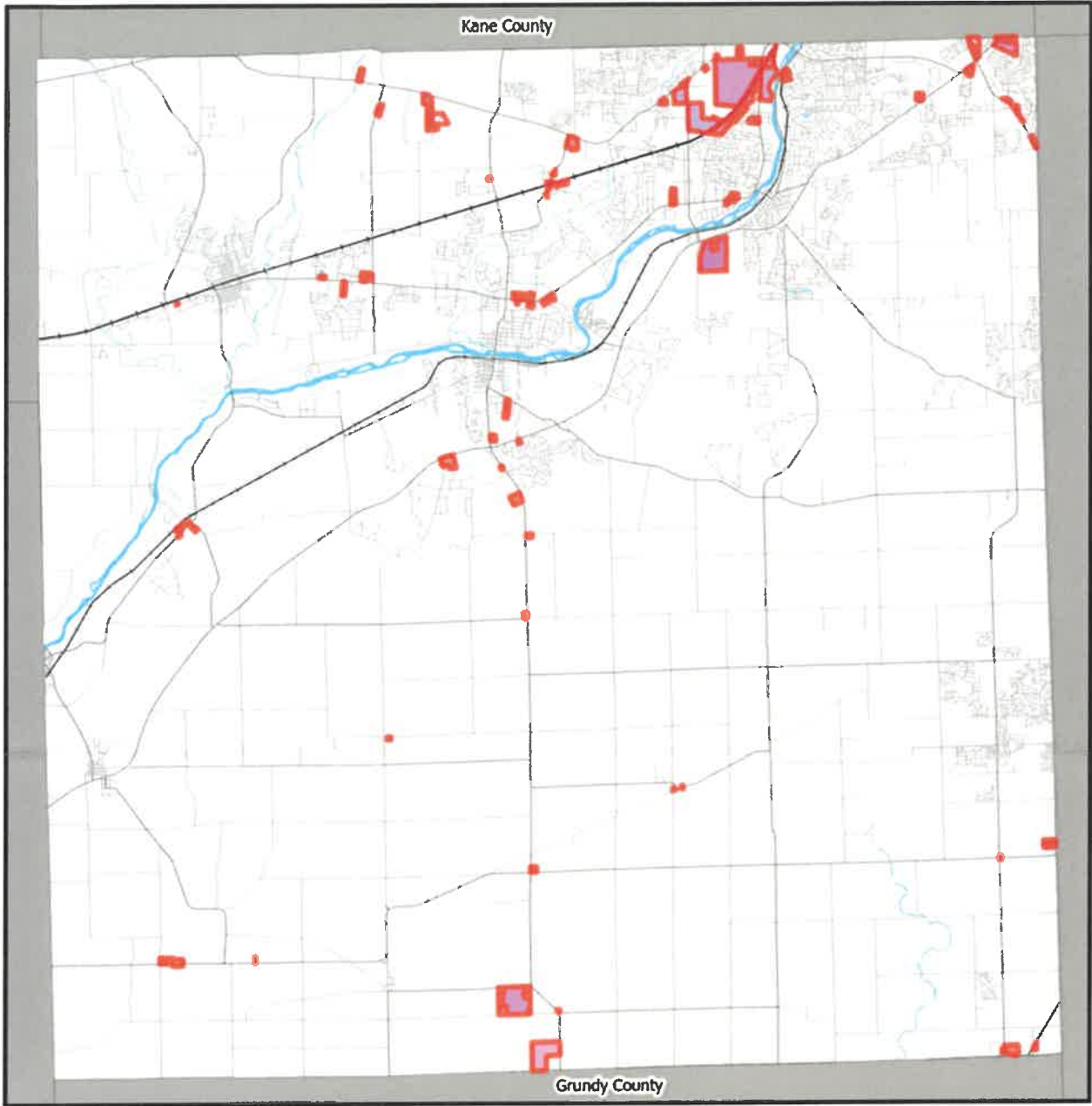
Mr. Rybski made a motion, seconded by Mr. Klaas, to adjourn.

With a voice vote of eight (8) ayes, the motion carried.

The ZPAC, at 10:44 a.m., adjourned.

Respectfully Submitted,
Matthew H. Asselmeier, AICP, CFM
Senior Planner

Enc.



Matt Asselmeier

From: Alec Keenum <akeenum@oswegofire.com>
Sent: Friday, September 24, 2021 11:12 AM
To: Matt Asselmeier; Claude Ainsworth (cainsworth@oswegotownship.com); Joe West (jwest@oswegotownship.com); FireChief; Kenneth Holmstrom; Sonya Abt; buchanan@ci.montgomery.il.us
Subject: [External]RE: Kendall County Zoning Petition 21-42

Matt,

The Fire District met with this applicant earlier this year concerning this project and highlighted the local ordinance requirement for the new structure to be both fire alarmed and sprinklered.

This still holds true.

Regards,

Capt. Alec J Keenum
Fire Marshal
Oswego Fire Protection District



From: Matt Asselmeier <masselmeier@co.kendall.il.us>
Sent: Friday, September 24, 2021 9:59 AM
To: Alec Keenum <akeenum@oswegofire.com>; Claude Ainsworth (cainsworth@oswegotownship.com) <cainsworth@oswegotownship.com>; Joe West (jwest@oswegotownship.com) <jwest@oswegotownship.com>; FireChief <firechief@oswegofire.com>; Kenneth Holmstrom <ken.holmstrom@oswegotownship.com>; Sonya Abt <sabt@ci.montgomery.il.us>; buchanan@ci.montgomery.il.us
Subject: Kendall County Zoning Petition 21-42

To All:

The Kendall County ZPAC will meet on Tuesday, October 5th, at 9:00 a.m., in the County Boardroom at 111 W. Fox Street, Yorkville, to consider the following Petition:

- Petition 21 – 42 – Jorge Salgado**
Request: Site Plan Approval to Construct a Parking Lot and Storage Building
PIN: 03-06-476-002

Matt Asselmeier

From: Meagan Briganti
Sent: Friday, September 24, 2021 11:43 AM
To: Matt Asselmeier
Subject: RE: [External]975 State Route 31 in Oswego IL -Proposed Site Improvements
Attachments: 202100025030.pdf

Legal description describes 03-05-352-003 so this deed will need to be re-recorded. I have attached my reject letter, but they may also receive it from Heather/Assessor's Office.

Meagan Briganti
GIS Coordinator
Kendall County Technology Services
P: 630-553-4030
<https://www.co.kendall.il.us/departments/geographic-information-systems>



§ Please consider the environment before printing this e-mail §

From: Matt Asselmeier <masselmeier@co.kendall.il.us>
Sent: Friday, September 24, 2021 10:51 AM
To: Meagan Briganti <MBriganti@co.kendall.il.us>
Subject: FW: [External]975 State Route 31 in Oswego IL -Proposed Site Improvements

FYI

Matthew H. Asselmeier, AICP, CFM
Senior Planner
Kendall County Planning, Building & Zoning
111 West Fox Street
Yorkville, IL 60560-1498
PH: 630-553-4139
Fax: 630-553-4179