

ORDINANCE NUMBER 2021- 30

GRANTING A SPECIAL USE PERMIT FOR A LANDSCAPING BUSINESS AT 3549 AND 3527 BELL ROAD AND IDENTIFIED BY PARCEL IDENTIFICATION NUMBER 09-21-100-009 IN SEWARD TOWNSHIP

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

WHEREAS, Section 7:01.D.30 of the Kendall County Zoning Ordinance permits the operation landscaping businesses as a special use in the A-1 Agricultural Zoning District; and

WHEREAS, the property which is the subject of this Ordinance has been, at all relevant times, and remains currently located within the A-1 Agricultural Zoning District and consists of approximately 10.05 +/- acres located at 3549 and 3527 Bell Road (PIN: 09-21-100-009), in Seward Township. The legal description for the subject property is set forth in Exhibit A attached hereto and incorporated by reference, and this property shall hereinafter be referred to as "the subject property"; and

WHEREAS, the subject property is owned by Brenda and Gary Zeiter and Devan and Brady Woolverton and shall hereinafter be referred to as "Petitioner"; and

WHEREAS, the Petitioner own and operate Zeiter Landscaping, Inc., a landscaping company; and

WHEREAS, on or about September 17, 2021, Petitioner filed a petition for a special use permit for the operation of a landscaping business at the subject property; and

WHEREAS, following due and proper notice by publication in the Kendall County Record on October 7, 2021, the Kendall County Zoning Board of Appeals held a public hearing on November 1, 2021, at 7:00 p.m., in the County Board Room of the Kendall County Office Building at 111 W. Fox Street in Yorkville at which the Petitioner's representative presented evidence, testimony, and exhibits in support of the requested special use permit and zero members of the public testified in favor or in opposition to the request and one member of the public commented on the request; and

WHEREAS, based on the evidence, testimony, and exhibits, the Kendall County Zoning Board of Appeals has made their findings of fact and recommended approval of the special use permit with conditions as set forth in the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, dated November 1, 2021, a true and correct copy of which is attached hereto as Exhibit B; and

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

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



Exhibit A

Legal Description

**The East 330 Feet of the South Half of the Northwest Quarter of Section 21, Township 35 North, Range 8
East of the Third Principal Meridian, Kendall County, Illinois**

Exhibit B

The Kendall County Zoning Board of Appeals approved the following Findings of Fact and Recommendation at their meeting on November 1, 2021, by a vote of five (5) in favor and zero (0) in opposition. Members Cherry and Clementi were absent.

FINDINGS OF FACT

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".

RECOMMENDATION

Approval 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. No storage of any materials or equipment related to the business allowed by this special use permit shall occur north of the northern "Proposed Limit of Landscaping Business" line as shown on the

topographic survey and this same area shall be used for agricultural purposes only.

3. 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.
4. The owners of the businesses allowed by this special use permits shall diligently monitor the property for leaks from equipment and vehicles parked and items stored on the subject property and shall promptly clean up the site if leaks occur.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. Nine (9) Colorado Blue Spruce, a minimum of eight feet (8') in height, and five (5) maple trees at least two point five inch (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 submitted 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.
11. No landscape waste generated off the property can be burned on the subject property.
12. 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.
13. 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.
14. 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.
15. 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.

16. 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.

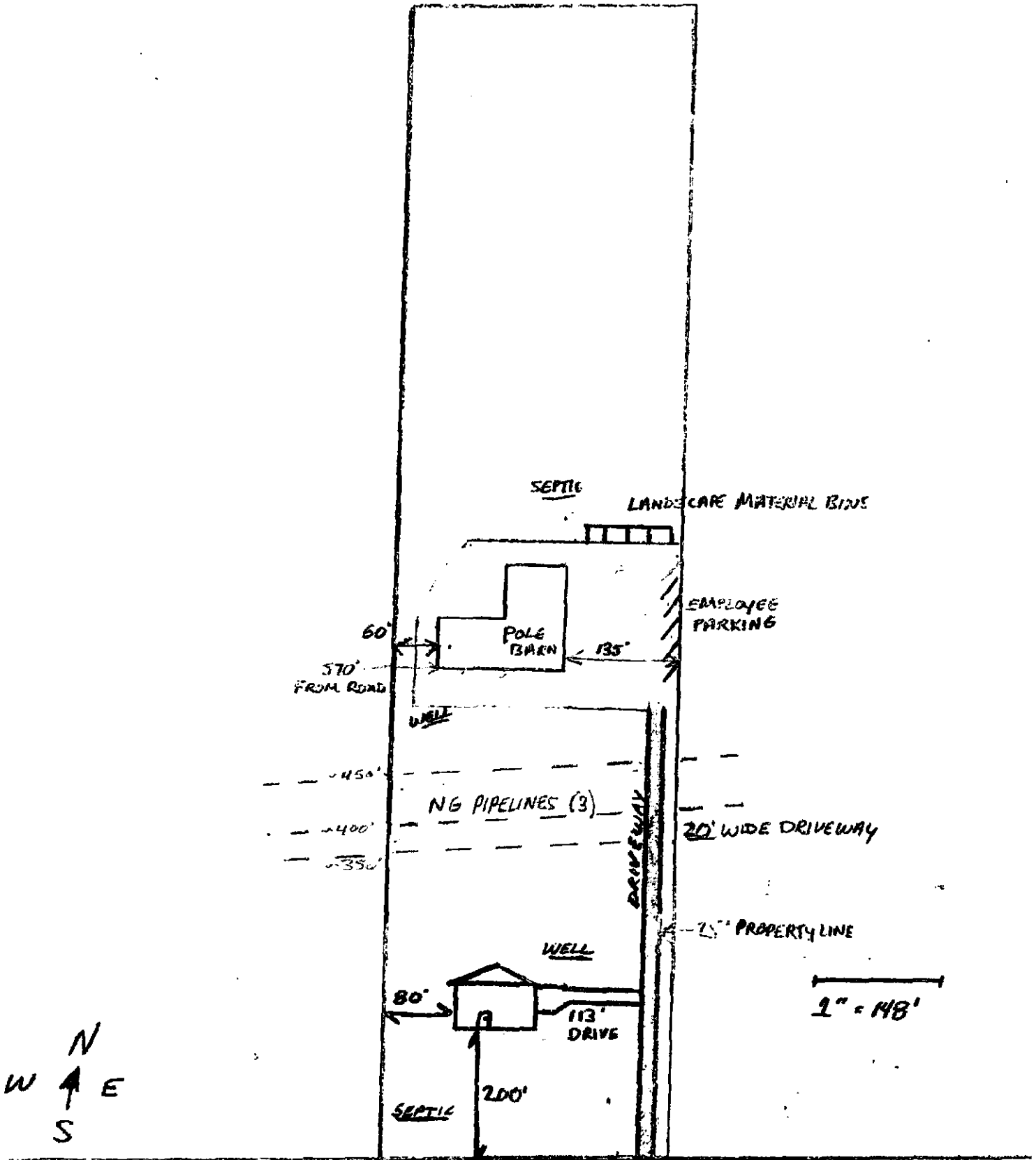
Night Hours: No person shall cause or allow the emission of sound during nighttime hours (10:00 P.M. to 7:00 A.M.) from any noise source to any receiving residential land which exceeds fifty-five (55) dBA when measured at any point within such receiving residential land provided; however, that point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

17. At least one (1) functioning fire extinguisher and one (1) first aid kit shall be on the subject property. Applicable signage stating the location of the fire extinguisher and first aid kit shall be placed on the subject property.
18. The owners or operators of the business allowed by this special use shall reside at the subject property as their primary place of residence.
19. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
20. 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.
21. 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.
22. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
23. 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.

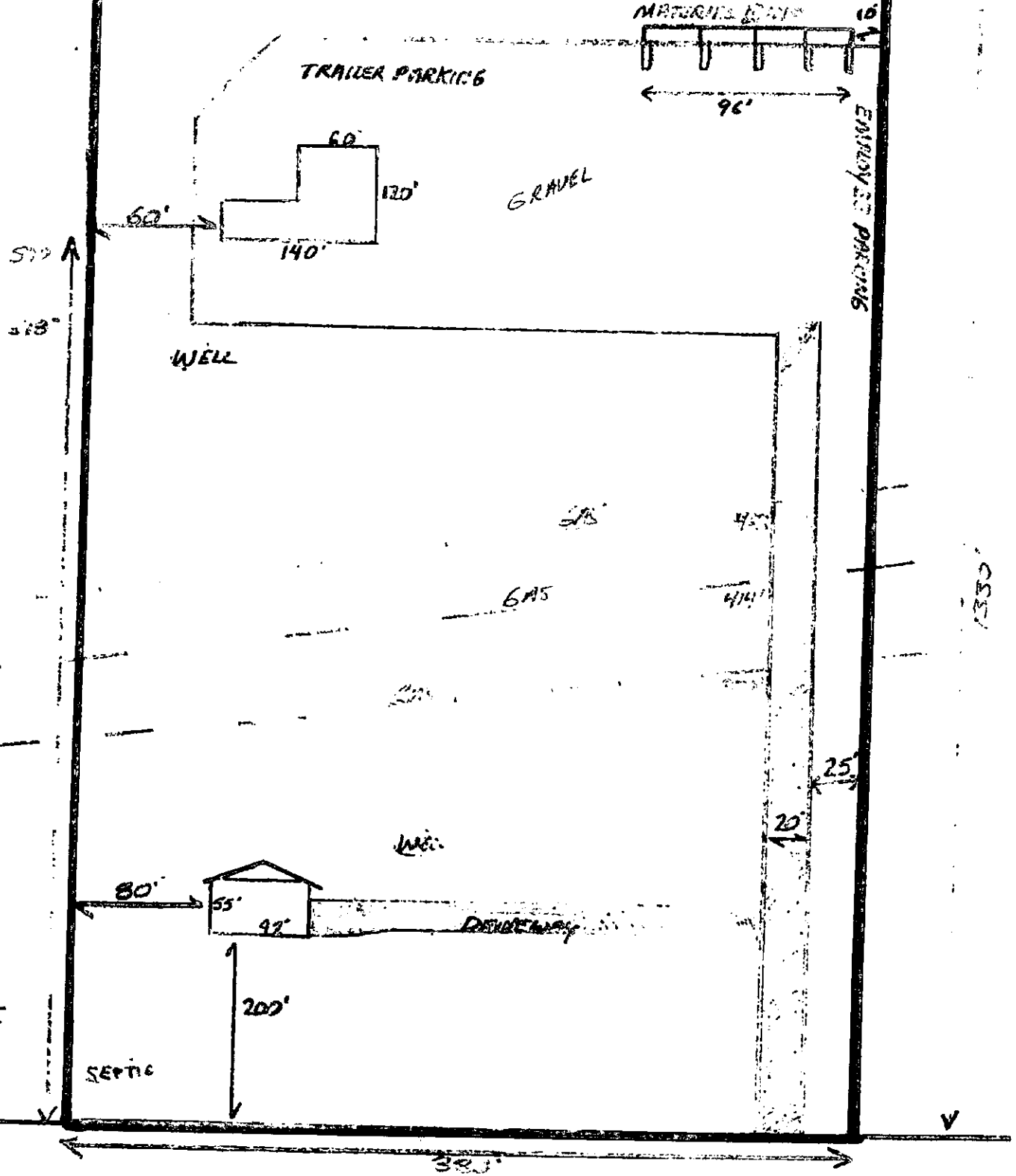
SITE PLAN

Exhibit C, Page 1



3549 BELL Rd.

SITE PLAN



3549 BELL RD

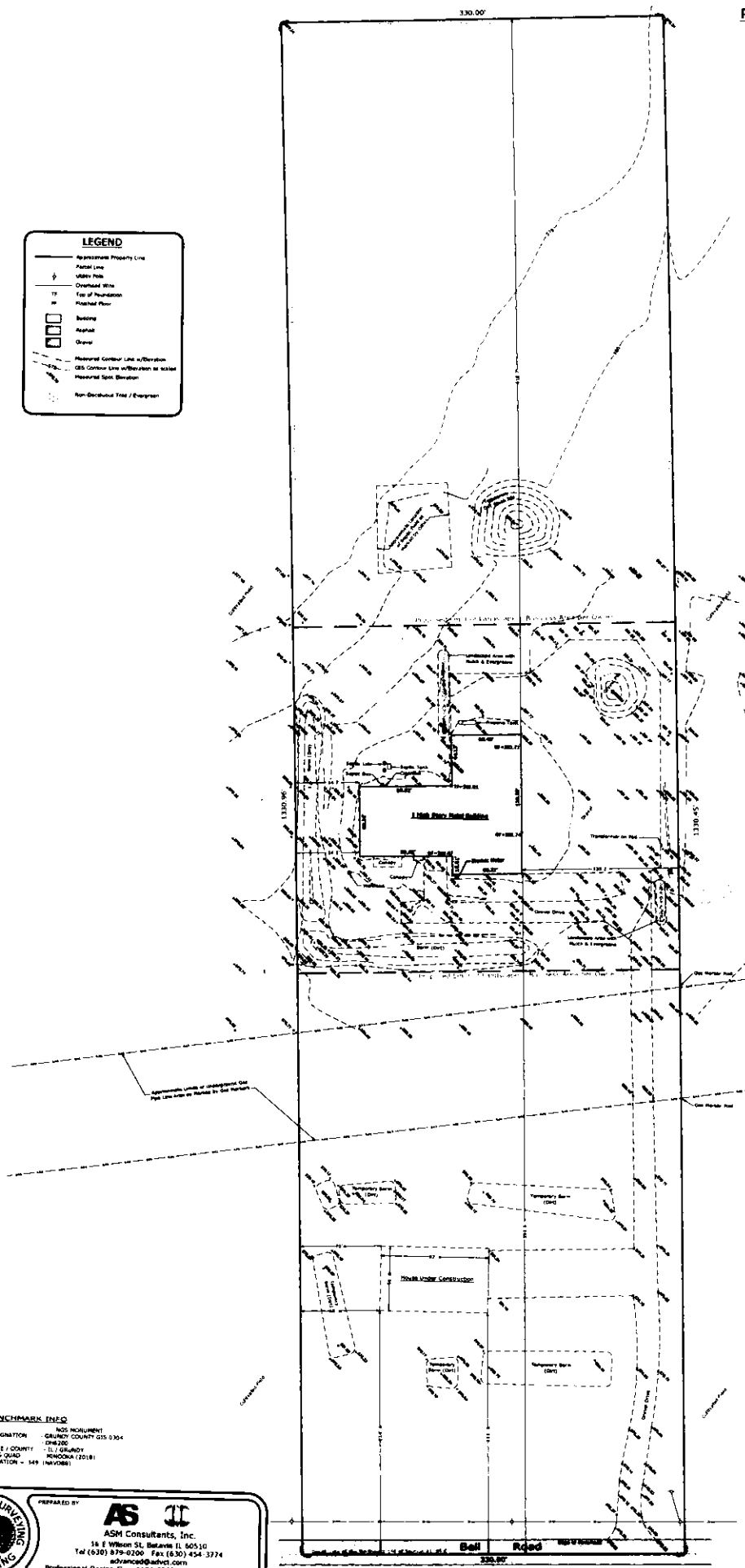
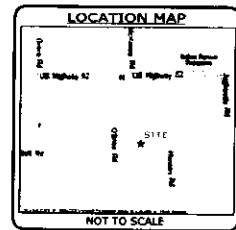
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PLAT OF TOPOGRAPHIC SURVEY

LEGEND

- Approximate Property Line
- Partial Line
- Utility Pole
- Overhead Wire
- Top of Foundation
- Finished Floor
- Building
- Asphalt
- Gravel
- Measured Contour Line w/Elevation
- GIS Contour Line w/Elevation as noted
- Measured Spot Elevation
- Non-Decorative Tree / Encroachment



LEGAL DESCRIPTION

THE EAST 330 FEET OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 25 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, KENDALL COUNTY, ILLINOIS (WARRANTY DEED DOCUMENT 201800008859, RECORDED 9/28/2018)

SURVEYOR NOTES

THE PERMANENT PARCEL INDEX NUMBER FOR THE PROPERTY DESCRIBED HEREON IS 09-21-100-008

PROPERTY LINES AS DEPICTED HEREON ARE BASED ON PREVIOUS PLAT OF SURVEY BY OTHERS

THE PROPERTY DESCRIBED HEREON CONTAINS 439,127 SQUARE FEET OR 10.081 ACRES, MORE OR LESS.

PROPERTY COMMONLY KNOWN AS:
3549 BELL ROAD
MOROKA, IL 60447

THE SURVEYOR EXPRESSSES NO OPINION AS TO THE ACCURACY OF ANY UNDERGROUND UTILITIES WHEN NOT READILY VISIBLE FROM THE SURFACE. IT IS RECOMMENDED THAT THE APPROPRIATE GOVERNMENTAL AGENCY, MUNICIPALITY AND/OR UTILITY COMPANY BE CONTACTED FOR VERIFICATION.

THE FLOOD INSURANCE RATE MAP SHOWS THAT THE PROPERTY DESCRIBED HEREON IS FALLING WITHIN ZONE "X", ACCORDING TO THE COMMUNITY PANEL NUMBER 1709345, KENDALL COUNTY, ILLINOIS, FOUND ON MAP NUMBER 170930253H, KENDALL COUNTY, ILLINOIS AND INCORPORATED AREAS, EFFECTIVE DATE OF JANUARY 9, 2014.

ZONE "X" IS AREAS OF MINIMAL FLOOD HAZARD.

SURVEYOR'S CERTIFICATE

STATE OF ILLINOIS }
COUNTY OF KANE } SS

I, CAROL A. SWEET-JOHNSON, AN ILLINOIS PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PLAT SHOWN HEREON, BEING COMPLETED IN THE FIELD ON 9/9/2021, IS A CORRECT REPRESENTATION OF A SURVEY PERFORMED AT AND UNDER MY DIRECTION.

THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A TOPOGRAPHIC SURVEY.

ALL DISTANCES ARE GIVEN IN FEET AND DECIMAL PARTS THEREOF.

GIVEN UNDER MY HAND AND SEAL THIS 18TH DAY OF SEPTEMBER, A.D. 2021

Carol A. Sweet-Johnson

CAROL A. SWEET-JOHNSON
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 039-3302
LICENSE EXPIRES 3/31/2022

PREPARED FOR:



16765 Hanson Road
Moroka, IL 60447

NO.	DATE	REVISION
1	9/9/2021	FIELD SURVEY COMPLETED
2	9/16/2021	FINAL SURVEY COMPLETED

SITE DESIGNATION INFORMATION
3549 BELL ROAD
MOROKA, IL 60447

PROJECT NO. 641002

TOPO

DRAWN BY: PS CHECKED BY: CSJ

BENCHMARK INFO

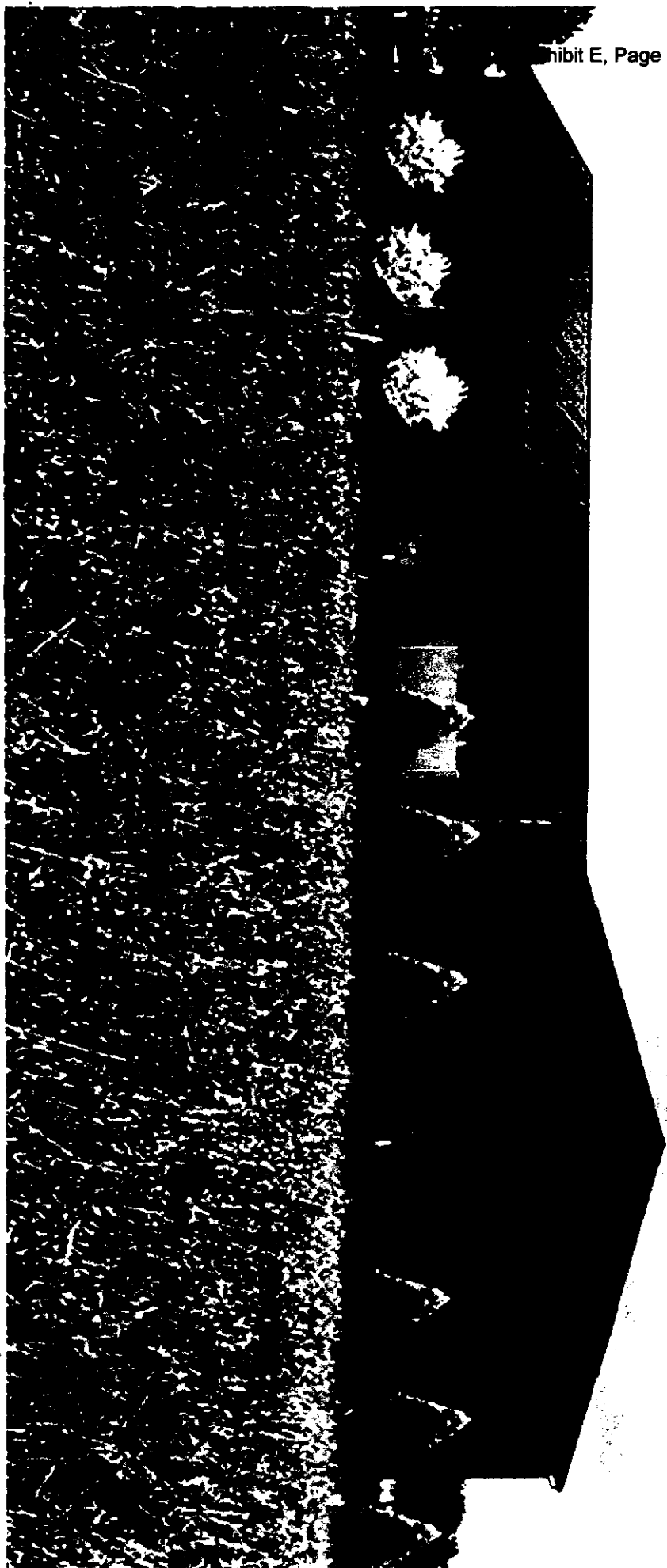
NO. OF POINTS: 1
DESIGNATION: GUNION COUNTY GIS 0304
PID: 098200
STATE / COUNTY: IL / GUNION
USGS QUAD: M10504 (2018)
ELEVATION: 349 (NAVD83)

PREPARED BY

AS II

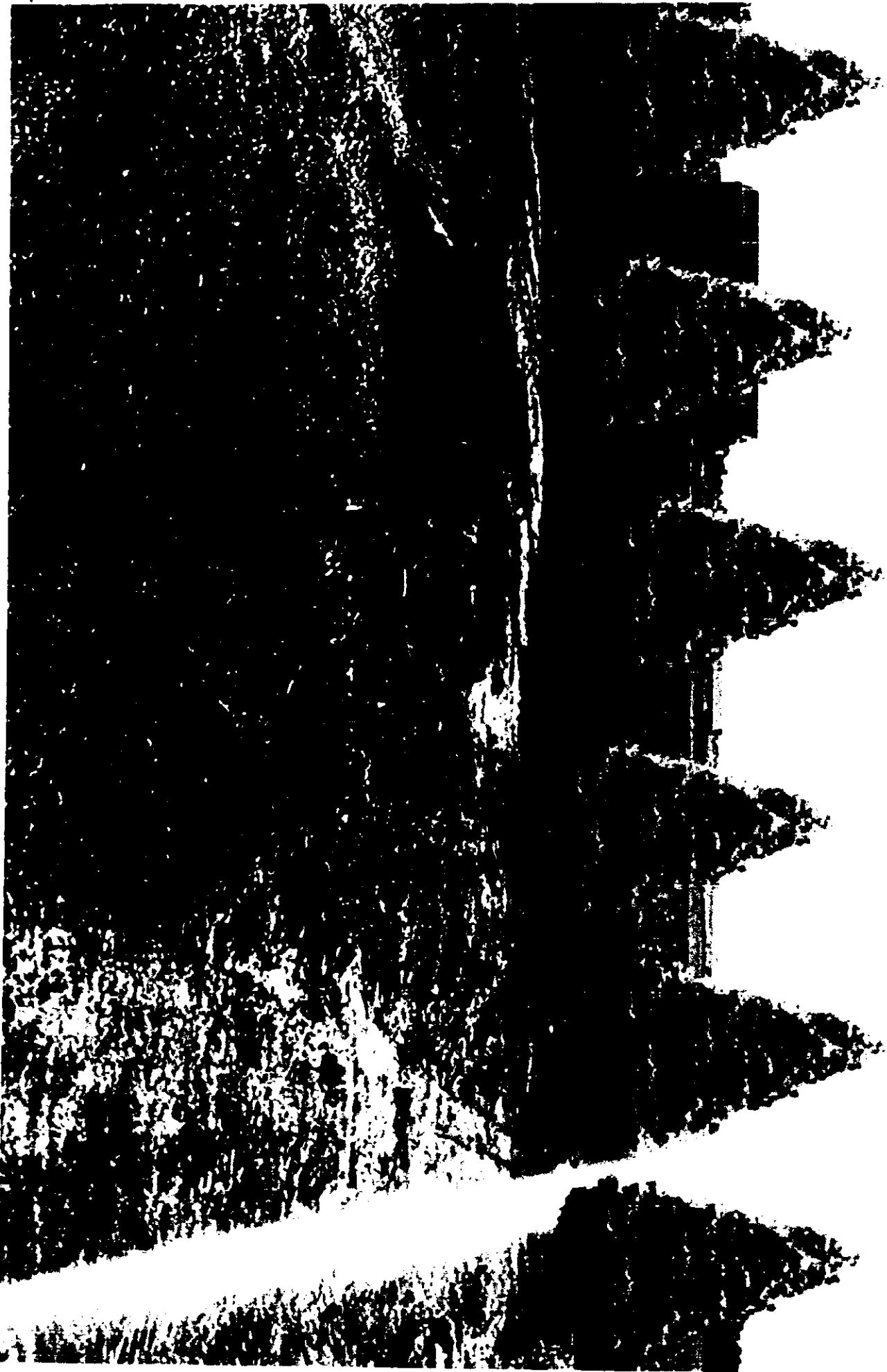
ASM Consultants, Inc.
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Professional Design Firm #184-066014 expires 4/30/2023

ADVANCED SURVEYING & MAPPING



Southern





West Side

East Side

