

**KENDALL COUNTY PLANNING, BUILDING & ZONING COMMITTEE**  
*Kendall County Office Building*  
*Rooms 209 and 210*  
*111 W. Fox Street, Yorkville, Illinois*  
**5:30 p.m.**  
**Meeting Minutes of December 14, 2021**

**CALL TO ORDER**

The meeting was called to order by Chairman Gengler at 5:54 p.m.

**ROLL CALL**

Committee Members Present: Scott Gengler (Chairman), Judy Gilmour (Vice-Chairwoman), and Dan Koukol

Committee Members Absent: Elizabeth Flowers and Robyn Vickers

Also Present: Matt Asselmeier (Senior Planner), Scott Koeppel (County Administrator), Gregg Ingemunson, Greg Dady, and Bob Dehm

**APPROVAL OF AGENDA**

Member Koukol made a motion, seconded by Member Gilmour, to approve the agenda as presented. With a voice vote of three (3) ayes, the motion carried.

**APPROVAL OF MINUTES**

Member Gilmour made a motion, seconded by Member Koukol, to approve the minutes of the November 8, 2021, meeting. With a voice vote of three (3) ayes, the motion carried.

**PUBLIC COMMENT**

None

**EXPENDITURE REPORT**

The Committee reviewed the expenditure report from November 2021.

The Committee reviewed the end of fiscal year expenditure report. It was noted that the Department operated at a deficit, similar to previous years. Chairman Gengler asked if ways existed to close the gap between revenues and expenses. Mr. Koeppel responded that the intent of the Department has not been to have revenues cover expenses. Mr. Koeppel noted the amount of permits at the former Caterpillar facility; this property probably will be annexed into Montgomery. Mr. Koeppel also noted the work the Department does without revenue sources and without a non-County applicant, like work related to the Historic Preservation Commission or text amendments when the State changes zoning regulations. Mr. Koeppel suggested doing a fee study in 2022; the study would compare the County's fees to the fees of neighboring counties and local municipalities.

The Committee reviewed the end of fiscal year escrow report.

**PETITIONS**

*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).

Petition information was emailed to the townships on September 22, 2021. To date, only the Na-Au-Say Township Planning Commission has reviewed this proposal and they unanimously recommended approval.

ZPAC reviewed this proposal at their meeting on October 5, 2021. Discussion centered on the State imposing new regulations. ZPAC recommended approval of the proposal by a vote of five (5) in favor, two (2) in opposition, and one (1) present with two (2) members absent. The minutes were provided.

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on October 27, 2021. No members of the public spoke regarding this proposal. The Kendall

County Regional Planning Commission recommended approval of the proposal by a vote of seven (7) in favor and zero (0) in opposition with three (3) members absent. The minutes were provided.

The Kendall County Zoning Board of Appeals held a public hearing on this proposal on November 1, 2021. No members of the public testified at the public hearing. The Zoning Board of Appeals recommended approval by a vote of five (5) in favor and zero (0) in opposition with two (2) members absent. The minutes of the hearing were provided.

The draft ordinance was provided.

Member Gilmour made motion, seconded by Member Koukol, to forward the proposal to the County Board.

With a voice vote of three (3) ayes, the motion carried.

The proposal goes to the County Board on January 4, 2022, on the consent agenda.

*Petitions 21-40 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.

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.

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

Petition information was sent to Seward Township on September 24, 2021. No comments have been received.

Petition information was sent to the Village of Minooka on September 24, 2021. No comments have been received.

Petition information was sent to the Minooka Fire Protection District on September 24, 2021. No comments have been received.

ZPAC reviewed these proposals at their meeting on October 5, 2021. Discussion occurred about a future subdivision of the property and the need to obtain proper permits when

development occurred. ZPAC recommended approval of the request by a vote of eight (8) in favor and zero (0) in opposition with two (2) members absent. The minutes of the meeting were provided.

The Kendall County Regional Planning Commission held a public hearing on the requested change to the Future Land Use Map on October 27, 2021. No members of the public testified in favor or in opposition to the request. Discussion occurred about the amount of floodplain on the property and the number of houses that could be constructed on the property without a formal subdivision. A maximum of three (3) lots could be created from the subject property without the submittal of a formal subdivision. The Petitioner's Attorney noted that the Petitioner has no plans to build a house; the Petitioner wanted to sell the property and market the property as a residential site. The Kendall County Regional Planning Commission recommended approval of the request by a vote of seven (7) in favor and zero (0) in opposition with three (3) members absent. The minutes of the hearing were provided.

The Kendall County Zoning Board of Appeals held a meeting on this proposal on November 1, 2021. Other than the Petitioner's Attorney, no other members of the public spoke testified at the meeting. The Kendall County Zoning Board of Appeals recommended approval of the request by a vote of five (5) in favor and zero (0) in opposition with two (2) members absent. The minutes of the meeting were provided.

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.

Staff recommended approval of the request.

The draft resolution was provided.

Member Koukol made motion, seconded by Member Gilmour, to recommend approval of the proposal.

With a voice vote of three (3) ayes, the motion carried.

The proposal goes to the County Board on January 4, 2022, on the consent agenda.

*Petition 21-41 Robert J. Fisher*

Mr. Asselmeier summarized the request.

Robert J. Fisher would like to rezone the property R-1 in order to construct one (1) house on the property.

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. The LESA Score was 229 indicating a high level of protection. The NRI was provided.

Petition information was sent to Seward Township on September 24, 2021. No comments have been received.

Petition information was sent to the Village of Minooka on September 24, 2021. No comments have been received.

Petition information was sent to the Minooka Fire Protection District on September 24, 2021. No comments have been received.

ZPAC reviewed these proposals at their meeting on October 5, 2021. Discussion occurred about a future subdivision of the property and the need to obtain proper permits when development occurred. ZPAC recommended approval of the request by a vote of eight (8) in favor and zero (0) in opposition with two (2) members absent. The minutes of the meeting were provided.

The Kendall County Regional Planning Commission reviewed the proposed map amendment at their meeting on October 27, 2021. Discussion occurred about the amount of floodplain on the property and the number of houses that could be constructed on the property without a formal subdivision. A maximum of three (3) lots could be created from the subject property without the submittal of a formal subdivision. The Petitioner's Attorney noted that the Petitioner has no plans to build a house; the Petitioner wanted to sell the property and market the property as a residential site. No other members of the public spoke at the meeting. The Kendall County Regional Planning Commission recommended approval of the request by a vote of seven (7) in favor and zero (0) in opposition with two (3) members absent. The minutes of the meeting were provided.

The Kendall County Zoning Board of Appeals held a public hearing on this proposal on November 1, 2021. Other than the Petitioner's Attorney, no other members of the public testified at the hearing. The Kendall County Zoning Board of Appeals recommended approval of both requests by a vote of five (5) in favor and zero (0) in opposition with two (2) members absent. The minutes of the hearing were provided.

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 is electricity along O'Brien Road. No other public or private utilities are onsite.

The property fronts O'Brien Road. Staff has 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 are 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 is 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.

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.

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

The draft ordinance was provided.

Chairman Gengler made motion, seconded by Member Gilmour, to forward the proposals map amendment to the County Board.

With a voice vote of three (3) ayes, the motion carried.

The proposal goes to the County Board on January 4, 2022, on the consent agenda.

*Petition 21-46 Greg Dady on Behalf of DTG Investments, LLC and Robert A. Baish on Behalf of Baish Excavating, Inc.*

Mr. Asselmeier summarized the request.

Greg Dady, on behalf of DTG Investments, LLC would like to sell the subject property to Baish Excavating. After exploring a text amendment to allow an excavating business on the subject property, the Petitioners decided to pursue a major amendment to the existing special use permit for a landscaping business at the subject property.

The application materials, aerial of the property, aerial with the flood zone, plat of survey, site plan, the court order regarding a previous excavating business at the property, and the special use permit for a landscaping business previously granted by Ordinance 2007-10 were provided.

The subject property is approximately five point five (5.5) acres in size.

Route 126 is a State maintained arterial; there is a trail planned along Route 126.

There is a floodplain on the north end of the property (Zone A-no base flood elevation determined).

The adjacent uses are agricultural or agricultural related.

The adjacent zonings are A-1. The zonings in the area are A-1, R-1, and A-1 with special use permits.

The Future Land Use Map calls for the area to be Rural Residential and Public Institutional.

The A-1 SU to the east is for a farm market, garden shop, winery, corn maze, and fall festival. The A-1 SU to the west is for a farm equipment sales and service business.

Oswego School District 308 owns the property southwest of the subject property.

Ten (10) existing houses are within one half (1/2) mile of the subject property.

Pictures of the property and area were provided.

EcoCAT Report submitted and consultation was terminated.

The LESA Score was 189 indicating a low level of protection.



Petition information was sent to Na-Au-Say Township on October 26, 2021. No comments have been received.

Petition information was sent to the Village of Oswego on October 26, 2021. The property is inside Oswego's planning boundary. No comments have been received.

Petition information was sent to the Village of Plainfield on October 26, 2021. The property is within one point five (1.5) miles of Plainfield. No comments have been received.

The Oswego Fire Protection District was sent information on October 26, 2021. The Oswego Fire Protection District submitted an email on October 27, 2021, requesting that fuel tanks be installed, permitted, and inspected per applicable law, storage heights inside the storage bins be capped at twenty-five feet (25') in height, and no miscellaneous storage of vehicles, machinery, or equipment occur in the storage bins. The Petitioners were agreeable to these requests.

ZPAC reviewed this proposal at their meeting on November 2, 2021. The Petitioners stated that only trailers would be parked in the floodplain. No turning lanes off of Route 126 would be required. However, the Illinois Department of Transportation could review the need for turning lanes in the future. The Petitioners were agreeable to setting the maximum number of employees at fifteen (15). ZPAC recommended approval of the request with the conditions proposed by Staff by a vote of eight (8) in favor and zero (0) in opposition with two (2) members absent. The minutes of the meeting were provided.

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on December 8, 2021. The Petitioner was asked if the building in the floodplain would be used for the proposed business and if they would be agreeable to a restriction to not use this building as part of the special use. The Petitioner was agreeable to this condition. The Kendall County Regional Planning Commission recommended approval of this special use permit with the condition that the building on the northeast corner of the property in the floodplain not be used as part of the business allowed by the special use permit by a vote of nine (9) in favor and zero (0) in opposition with one (1) member absent. The minutes of the meeting were provided.

The Kendall County Zoning Board of Appeals held a public hearing on the proposal on December 13, 2021. Gregg Ingemunson said that Baish Excavating does more landscaping than excavating work. Dan Koukol, on behalf of his father Philip R. Koukol, requested definitions of landscaping and excavating businesses and requested that all operations occur indoors. Anne Vickery did not think Baish Excavating was a landscaping business and questioned the County's ability to enforce existing regulations on existing special use permits. The Kendall County Zoning Board of Appeals recommended approval of the request with the conditions proposed by Staff by a vote of six (6) in favor and one (1) in opposition. The minutes of the hearing were provided.

The subject property has been used as a landscaping business and repair and restoration business. The Petitioner would like to retain the special use permit for a cleanup and restoration business at the property.

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, Baish Excavating, Inc. does excavation, concrete, landscaping, site maintenance, railroad and major pipeline work. Their work takes place offsite within a radius of approximately thirty-five (35) miles of Plainfield. They are relocating from their current location because their existing location has been sold.

The hours of operation are Monday through Friday from 6:00 a.m. until 5:00 p.m. The company operates outside these hours of operation during snowfalls and other emergencies. The company has eleven (11) employees, but this number could rise to fifteen (15) employees. Four (4) or five (5) of these employees work onsite while the remainder of employees work at job sites.

Equipment and trucks would be stored indoors as much as possible, but some equipment would be stored outside. Equipment consists of excavators, loaders, skid steers, track skids, two (2) semi dumps, and dump trailers. The site plan shows a sixty foot by one hundred foot (60' X 100') trailer parking area.

According to the site plan, the Baish Excavating, Inc. would like to install three (3) fuel tanks on a concrete pad. The area would be twenty feet by thirty feet (20' X 30').

The site plan also calls for a twenty foot by sixty foot (20' X 60') outdoor storage bin area. This area would be used to store aggregates and salt in "tents". The "tents" would be a maximum of thirty feet (30') in height. The tents would be enclosed except for one (1) side. A picture of the "tent" was provided.

Member Gilmour asked what would be stored in the tents. Mr. Asselmeier responded landscaping materials, salts, and similar items.

Member Gilmour asked how many tents would be on the property. Mr. Asselmeier noted the dimensions of the storage area, but did not say the number of tents.

Member Koukol noted that Na-Au-Say Township Board and the Na-Au-Say Township Planning Commission had not reviewed the proposal. He requested input from the Township. Gregg Ingemunson, Attorney for the Petitioner, said that he appeared before the Na-Au-Say Township Board, but the Board did not vote. The Petition was not reviewed by the Township Planning Commission; no vote occurred.

Member Koukol questioned if Baish Excavating was a landscaping business. Mr. Ingemunson said that the business morphed into a landscaping business in 2008; more revenue was

generated from landscaping than excavating. The Petitioners did maintenance contracts. Member Koukol noted the equipment at the Petitioner's existing property.

Member Koukol said other excavating companies will be approaching the County for zoning in the near future. Mr. Ingemunson suggested changing the company's name, but he did not think that the company would like that idea. Mr. Ingemunson said the company still does some excavating work.

Member Gilmour asked if Member Koukol objected to an excavating business at the property. Member Koukol said that he supported the project as long as everything was kept indoors.

Mr. Asselmeier noted that the property already had a special use permit for a landscaping business, but indoor storage was required. He restated the four (4) amendments requested by the Petitioner.

Member Koukol noted the new residential development in the area and the need for the Oswego School District to build a school in the area. Chairman Gengler said that infrastructure would need to run a great distance to reach the area.

Member Koukol said his family would like to see indoor storage only.

Member Gilmour asked how many pieces of equipment would be kept outdoors. Bob Dehm, Operations Manager with Baish Excavating, responded that they do not favor equipment in the yard because that means that the equipment was not on a job site. Occasionally, equipment will be parked on the property waiting for approval to start work on a job site. They do have trailers parked on the property. The other equipment would be kept indoors. Chairmen Gengler said there was very little equipment at the Petitioner's current site.

Member Gilmour expressed concerns about trucks backing out onto Route 126. No trucks would be backed onto Route 126.

Mr. Dehm said the company has one (1) medium and one (1) large machine. He did not know if all of the company's equipment could fit indoors.

Mr. Dehm listed all of the unions associated with the business.

Mr. Dehm said that the company has diversified their operations, but excavating was a small element of their operations.

Chairman Gengler made motion, seconded by Member Gilmour, to forward the proposal to the County Board.

The votes were as follows:

Ayes (2): Gengler and Gilmour

Nays (0): None

Abstain (1): Koukol

Absent (2): Flowers and Vickers

The motion failed. The recommendation will be considered negative.

The proposal goes to the County Board on January 4, 2022, on the regular agenda.

Member Koukol requested that definitions of landscaping and excavating business be added to the Zoning Ordinance. He also requested the Township's input.

## **NEW BUSINESS**

### **Request for Guidance Regarding Enforcement of Special Use Provisions**

Mr. Asselmeier summarized the request.

Until the last few years, the policy of the Planning, Building and Zoning Department was solely complaint based. The Department was not given permission to issue citations without a complaint until 2018.

With this policy in mind, Staff is aware of the following violations to existing special use permits and requests guidance as to how to proceed with the following cases:

1. Ordinance 2004-24-Special Use Permit for a Church at 748 Jones Road  
Issue: Condition 3 requires an annexation agreement with Shorewood  
How Department Became Aware of Violation: Property is for sale  
Current Status: Troy Fire Protection District is considering purchasing the property; Department is waiting for a decision from the Troy Fire Protection District.
2. Ordinance 2005-06-Special Use Permit for a Church West of 8250 Route 71  
Issue: Condition 2 requires a pre-annexation agreement with Yorkville  
How Department Became Aware of Violation: Property is for sale  
Current Status: Property owner is still deciding whether or not to pursue agreement or revoke the special use permit; church was never constructed  
On December 10, 2021, the church submitted a request to revoke the special use permit.
3. Ordinance 2005-37-Special Use Permit for a Landscaping Business at 5681 Whitewillow Road  
Issue: Condition 6 requires a right-of-way dedication  
How Department Became Aware of Violation: Property owner submitted a special use permit for a craft fair  
Current Status: Property owner's Attorney is working on the research and paperwork for the dedication; the Petitioner was also working with Fran Klaas on the dedication.
4. Ordinance 2006-19-Special Use Permit for a Church at 8 West Rickard Drive  
Issue: Site to be developed in accordance with site plan, including a three foot (3') tall berm  
How Department Became Aware of Violation: Church wanted to construct a fence on the property  
Current Status: Church no longer wants to construct a fence.
5. Ordinance 2012-26-Special Use Permit for YPAC  
Issue: Condition 6 requires paved parking lot by 2014 with 28 parking spaces  
How Department Became Aware of Violation: YPAC approached County for financial assistance in 2018  
Current Status: Parking lot is not paved per Ordinance requirements.

The applicable ordinances were provided.

The Committee reviewed the location for the berm at the church at 8 West Rickard Drive. The church was operational. There have been no complaints against the church. Mr. Asselmeier suggested that the church do a new site plan to match the layout of the property. He also noted the church would have costs associated with preparing plans and noticing for the hearing. Committee members questioned the need for a berm. Member Koukol suggested that the church be sent a letter requesting the church to build a berm or amend their special use permit; he suggested giving the church twelve (12) months to come into compliance. The property is a polling place. The Committee requested Mr. Asselmeier to contact the church and see if the church could make an effort to install a berm or amend the site plan to match their current layout.

The Committee reviewed the parking lot layout at YPAC. Member Koukol noted the business was impacted by COVID. There were no complaints against the property. They had pursued a loan through the County; the business is for-profit. Improving a parking lot probably would not qualify for federal funds or County revolving loan funds. The Committee requested that YPAC be sent a letter asking for a timeline for compliance.

The Committee requested the Department to hold-off on enforcement on the special use permit at 5681 Whitewillow Road to see how their work with Fran Klaas progressed.

The Committee requested the Department hold-off on enforcement on the special use permit next 8250 Route 71 while the revocation request moved through the process.

The Committee requested the Department hold-off on enforcement on the special use permit at 748 Jones Road pending a new special use permit application from the Troy Fire Protection District.

*Review and Approval of Policy Regarding Code Enforcement in Cases Where Parties Are Pursuing Compliance Through Legislative or Administrative Means (Examples Include Text Amendments, Map Amendments, Special Use Permits or Variance Applications)*

Mr. Asselmeier summarized the request.

Since at least 2017, the Planning, Building and Zoning Department's understanding was that, in cases where parties were pursuing text amendments, map amendments, variances, special use permits, or other legislative or administrative approvals, the Department would not issue citations against these parties until a final legislative or administrative decision was made. The Department was aware that several months may be necessary in order reach final legislative or administrative decisions. The Department was also aware that courts historically layover such cases until final legislative or administrative decisions are made before rendering verdicts.

Since 2016, the following businesses and activities were allowed to operate while waiting for zoning approvals:

1. Delaney Gun Range at 16502 Church Road (Ceased After Special Use Permit was Withdrawn)
2. Jet's Towing at 790 Eldmain Road
3. Billboard at 34 and Hafenrichter (Special Use Permit Not Renewed Between 2004 and 2017)
4. 15331 Burr Oak Road (Special Use Permit Not Renewed Prior to 2018)

5. TZ Landscaping at 276 Route 52
6. Temporary Use Permit Renewal at 9211 Route 126
7. Pipe Strong at 17854 N. Wabena Road
8. Driveway in the Setback at 9261 Kennedy
9. Cox Landscaping at 9000 Route 34
10. Trucking Business at 3485 Route 126
11. Fence at 68 Saugatuck (Lowered after ZBA Denial)
12. Craft Fair at 5681 Whitewillow Road
13. Brighter Daze at 10978 Crimmin Road

A proposed policy outlining enforcement actions and warning period was provided.

Mr. Asselmeier presented an email from Dan Kramer.

Member Koukol agreed with the majority of the information contained in Mr. Kramer's letter. He noted that previous zoning administrators drove around looking for violations. He also noted the County no-showed for court on a case against him. Member Koukol noted that the Department has a good reputation.

Member Gilmour requested additional communication from the Department and that the Department bring information to the Committee for possible action when Petitioners are operating in violation of existing or requested special use permits.

Chairman Gengler noted that Baish Excavating could have started operations, asked for proper zoning after-the-fact, and could have continued operating while their request worked through the system. Member Koukol said that type of action occurred with the trucking company.

Chairman Gengler said the Department does a good job with the complaint based system.

Chairman Gengler discussed the special use for landscaping on Ashley Road north of Plattville Road. He felt that Brighter Daze should have followed the rules under their existing special use permit and should not have been operating under the new, proposed special use permit rules.

Mr. Asselmeier discussed the Petition for a landscaping business at 1038 Harvey; that property owner has been operating without a special use permit, has been found guilty, and fined by the court.

Mr. Koepfel asked if Brighter Daze should have been cited. Member Gilmour requested that the Committee be informed and possibly take action on the matter. Mr. Koepfel noted that previous Planning, Building and Zoning Chairmen directed the Department not take action against parties if they were trying to secure compliance. The purpose of the proposed policy was to keep everyone informed and to get clear direction from the Committee.

Chairman Gengler tabled the discussion to the next meeting.

*Approval to Allow the Planning, Building and Zoning Department to Modify the Citation and Notice to Appear Form on an As-Needed Basis*

Mr. Asselmeier summarized the request.

On May 19, 2020, the County Board approved the Citation and Notice to Appear form, which was provided.

The first paragraph of the form references an inspection of property by the Code Enforcement Officer.

The Planning, Building and Zoning Department recently had a case where someone was operating a banquet facility out of their property and the Sheriff's Department was called. The party confessed to the Deputy that they had rented their property out for an event. The Planning, Building and Zoning Department relied on the statement to the Deputy, the Deputy's Report, and witnesses interviewed by the Sheriff's Department in preparing the case; no inspection of the property occurred.

The Department requests the ability to amend the Citation and Notice to Appear form on as needed basis in order to be adaptable as different cases are investigated.

Mr. Koepfel noted a similar situation could occur if the Sheriff's Department responded to noise violations of special use permits.

Chairman Gengler made motion, seconded by Member Gilmour, to forward the request to the County Board.

With a voice vote of three (3) ayes, the motion carried.

The proposal goes to the County Board on January 4, 2022, on the regular agenda.

#### **ADJOURNMENT**

Member Koukol made a motion, seconded by Member Gilmour, to adjourn. With a voice vote of three (3) ayes, the motion carried.

Chairman Gengler adjourned the meeting at 7:26 p.m.

The Planning, Building and Zoning Committee did not review the following items that were on the agenda and these items will be on the Committee's agenda in January 2022:

*Discussion Regarding Establishing a Policy Requiring Applicants to the Planning, Building and Zoning Department to be Free of Debt to the County at the Time of Application Submittal*

*Discussion of a Contract Between Kendall County and Wiss, Janney, Elstner Associates, Inc. Regarding the Historic Structure Survey in Kendall and Bristol Townships; Committee Could Refer the Proposal to the State's Attorney's Office*

*Discussion of Future Land Use Along Route 47 in Kendall and Lisbon Townships*

*Review of Violation Report*

*Review of Non-Violation Report*

*Review of Permit Report*

*Review of November 2021 Revenue Report*

*Review of 2009-2021 Revenue Report*

Correspondence Related to the Temporary Use Permit Granted in December 2019 and Renewed in January 2021 (Petitions 19-45 and 20-31) for Portable Concrete Crushing Operations at 9211 Route 126 (PIN: 05-04-400-003) in Kendall Township

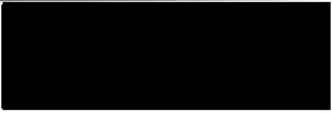
Minutes prepared by Matthew H. Asselmeier, AICP, CFM Senior Planner

Encs.



**KENDALL COUNTY  
PLANNING, BUILDING, & ZONING COMMITTEE  
DECEMBER 14, 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)
<i>Bryce Ingemson</i>		

**MINUTES – UNOFFICIAL UNTIL APPROVED**  
**KENDALL COUNTY**  
**ZONING BOARD OF APPEALS MEETING**  
111 WEST FOX STREET, COUNTY BOARD ROOM (ROOMS 209 and 210)  
YORKVILLE, IL 60560  
**December 13, 2021 – 7:00 p.m.**

**CALL TO ORDER**

Chairman Randy Mohr called the Zoning Board of Appeals meeting to order at 7:00 p.m.

**ROLL CALL:**

**Members Present:** Scott Cherry, Cliff Fox, Tom LeCuyer, Randy Mohr, Dick Thompson, Anne Vickery, and Dick Whitfield

**Members Absent:** None

**Staff Present:** Matthew Asselmeier, AICP, CFM, Senior Planner

**Others Present:** Gregg Ingemunson, Dan Koukol, Brian Henrichs, and Rick Porter

Chairman Mohr swore in Gregg Ingemunson, Dan Koukol, Brian Henrichs, and Rick Porter prior to the start of the public hearings.

**PETITIONS**

The Zoning Board of Appeals started their review of Petition 21-46 at 7:02 p.m.

**Petition 21 – 46 – Greg Dady on Behalf of DTG Investments, LLC and Robert A. Baish on Behalf of Baish Excavating, Inc.**

**Request:** Major Amendments to a Special Use Permit for a Landscaping Business Granted by Ordinance 2007-10 by Changing the Number of Employees Reporting to the Property, Amending the Site Plan, and Removing the Restrictions Forbidding the Parking and Storing of Vehicles, Equipment, and Landscaping Materials Outdoors

**PIN:** 06-09-400-005

**Location:** 3485 Route 126, Na-Au-Say Township

**Purpose:** Petitioner Wants to Operate Landscaping Business at the Property; Property is Zoned A-1 Agricultural District

Mr. Asselmeier summarized the request.

Greg Dady, on behalf of DTG Investments, LLC would like to sell the subject property to Baish Excavating. After exploring a text amendment to allow an excavating business on the subject property, the Petitioners decided to pursue a major amendment to the existing special use permit for a landscaping business at the subject property.

The application materials, aerial of the property, aerial with the flood zone, plat of survey, site plan, the court order regarding a previous excavating business at the property, and the special use permit for a landscaping business previously granted by Ordinance 2007-10 were provided.

The subject property is approximately five point five (5.5) acres in size.

Route 126 is a State maintained arterial; there is a trail planned along Route 126.

There is a floodplain on the north end of the property (Zone A-no base flood elevation determined).

The adjacent uses are agricultural or agricultural related.

The adjacent zonings are A-1. The zonings in the area are A-1, R-1, and A-1 with special use permits.

The Future Land Use Map calls for the area to be Rural Residential and Public Institutional.

The A-1 SU to the east is for a farm market, garden shop, winery, corn maze, and fall festival. The A-1 SU to the west is for a farm equipment sales and service business.

Oswego School District 308 owns the property southwest of the subject property.

Ten (10) existing houses are within one half (1/2) mile of the subject property.

Pictures of the property and area were provided.

EcoCAT Report submitted and consultation was terminated.

The LESA Score was 189 indicating a low level of protection.

Petition information was sent to Na-Au-Say Township on October 26, 2021. No comments have been received.

Petition information was sent to the Village of Oswego on October 26, 2021. The property is inside Oswego's planning boundary. No comments have been received.

Petition information was sent to the Village of Plainfield on October 26, 2021. The property is within one point five (1.5) miles of Plainfield. No comments have been received.

The Oswego Fire Protection District was sent information on October 26, 2021. The Oswego Fire Protection District submitted an email on October 27, 2021, requesting that fuel tanks be installed, permitted, and inspected per applicable law, storage heights inside the storage bins be capped at twenty-five feet (25') in height, and no miscellaneous storage of vehicles, machinery, or equipment occur in the storage bins. The Petitioners were agreeable to these requests.

ZPAC reviewed this proposal at their meeting on November 2, 2021. The Petitioners stated that only trailers would be parked in the floodplain. No turning lanes off of Route 126 would be required. However, the Illinois Department of Transportation could review the need for turning lanes in the future. The Petitioners were agreeable to setting the maximum number of employees at fifteen (15). ZPAC recommended approval of the request with the conditions proposed by Staff by a vote of eight (8) in favor and zero (0) in opposition with two (2) members absent. The minutes of the meeting were provided.

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on December 8, 2021. The Petitioner was asked if the building in the floodplain would be used for the proposed business and if they would be agreeable to a restriction to not use this building as part of the special use. The Petitioner was agreeable to this condition. The Kendall County Regional Planning Commission recommended approval of this special use permit with the condition that the building on the northeast corner of the property in the floodplain not be used as part of the business allowed by the special use permit by a vote of nine (9) in favor and zero (0) in opposition with one (1) member absent. The minutes of the meeting were provided.

The subject property has been used as a landscaping business and repair and restoration business. The Petitioner would like to retain the special use permit for a cleanup and restoration business at the property.

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, Baish Excavating, Inc. does excavation, concrete, landscaping, site maintenance, railroad and major pipeline work. Their work takes place offsite within a radius of approximately thirty-five (35) miles of Plainfield. They are relocating from their current location because their existing location has been sold.

The hours of operation are Monday through Friday from 6:00 a.m. until 5:00 p.m. The company operates outside these hours of operation during snowfalls and other emergencies. The company has eleven (11) employees, but this number could rise to fifteen (15) employees. Four (4) or five (5) of these employees work onsite while the remainder of employees work at job sites.

Equipment and trucks would be stored indoors as much as possible, but some equipment would be stored outside. Equipment consists of excavators, loaders, skid steers, track skids, two (2) semi dumps, and dump trailers. The site plan shows a sixty foot by one hundred foot (60' X 100') trailer parking area.

According to the site plan, the Baish Excavating, Inc. would like to install three (3) fuel tanks on a concrete pad. The area would be twenty feet by thirty feet (20' X 30').

The site plan also calls for a twenty foot by sixty foot (20' X 60') outdoor storage bin area. This area would be used to store aggregates and salt in "tents". The "tents" would be a maximum of thirty feet (30') in height. The tents would be enclosed except for one (1) side. A picture of the "tent" was provided.

The existing special use permit for a landscaping business was granted on March 20, 2007, and included the following conditions and restrictions:

1. The maximum number of employees reporting to the site is 40.
2. The development of the site shall be in conformance with the submitted Site Enhancement Plan dated August 18, 2006 with a latest revision of date of March 9, 2007.
3. All commercial vehicles used for the special use are to be stored inside an accessory structure when not in use.
4. No construction activity can take place on the portion of the subject parcel located in Section 9 of Na-Au-Say Township until such time that a detailed flood plain study has been forwarded to PBZ staff and Strand Associates, to ensure that there are no negative impacts to Aux Sable Creek.
5. A site development permit will need to be secured prior to construction of the proposed parking stalls demonstrating that the post construction elevations of that portion of the parking lot located within the flood plain as depicted on the existing FEMA FIRM maps dated July 19, 1982 (Community Map Panel 170341 0100C) will not exceed the existing elevations of the existing grades on the site.
6. No construction activity shall take place and no permits (building, occupancy or site development) shall be issued for the subject property located in Section 9 of Na-Au-Say Township until such time that the required 15 foot Regional Trail easement, and the additional ROW along Route 126 per the previous Agreed Court Order, has been supplied and recorded.
7. All renovations to existing structures must conform to a commercial standard per the provisions of the Kendall County Building Code, including handicapped accessibility of the structures.
8. Other than the outside storage of non-growing landscaping materials, no outside storage shall be allowed on the site.
9. Occupancy in the existing residence will be restricted to an employee of the petitioner, for use as a caretaker's residence, and his/her immediate family members.
10. No composting will be done on-site. All grass clippings will be stored temporarily in a bin or dumpster and be hauled off the site periodically when the bin becomes full.

The Petitioner is requesting that conditions 1, 2, 3, and 8 be amended or repealed. Conditions 4, 6, and 7 have previously been met. The FEMA FIRM maps have been updated since the original special use permit was granted in 2007.

According to the site plan, there is one (1) approximately fourteen thousand (14,000) square foot metal building on the property that is used for office operations and maintenance. One (1) approximately one thousand six hundred (1,600) square foot wood frame machine shed is located on the northeast corner of the truck parking area. One (1) single-family home with a detached garage is located on the west side of the property.

Any new structures would require applicable building permits.

The property is served by well and septic.

There is floodplain as part of the Little Slough Creek on the property as shown on the flood zone aerial and plat of survey. This area is considered Zone A which means no flood elevation has been determined; therefore, this area is considered Floodway.

On October 26, 2021, the Petitioners and their engineer met with the Senior Planner, a representative of WBK, and the Planning, Building and Zoning Committee Chairman at the property. The Petitioners agreed that no hazardous or flammable materials would be stored in the floodway. The Kendall County Stormwater Management Ordinance forbids the storage of such materials in the floodway.

The property has two accesses off of Route 126. The western access would be used by the existing house and the eastern access would be used by the business operating out of the metal building.

According to the site plan, a parking area is shown north of the metal building. The parking area is gravel.

Contrary to the business plan, no additional lighting beyond the existing lighting on the building and light near the entrance is planned at this time. Section 11:02.F.12.A requires an illumination plan for parking lots with thirty (30) or more parking spaces.

There is one (1) existing four foot by eight foot (4'X8') freestanding sign. A light exists next to the sign. A picture of the sign was provided.

There is an existing wooden fence around the property and a single gate east of the metal building.

A berm and several mature trees are between the metal building and Route 126. Pictures of the landscaping were provided.

No information was provided regarding noise control.

No new odors are foreseen by the proposed use.

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. The operation of the special use will not be detrimental to the public health, safety, morals, comfort, or general welfare provided that the operator of the business allowed by this special use permit develops the site

according to the submitted site plan, follows the agreed upon hours of operation, and follows the Kendall County Inoperable Vehicle Ordinance, Kendall County Junk and Debris Ordinance, and Kendall County Stormwater Management Ordinance, and related ordinances.

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. Provided that the business operates as proposed, no injury should occur to other property and property values should not be negatively impacted.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. Adequate utilities exist on the site based upon the number of proposed employees at the property. No additional buildings are planned for the site. The Petitioners are aware that parking cannot occur in the front yard setback. Route 126 is a State maintained road and should be able to handle the traffic. The Petitioners are aware that floodplain exists on the property and certain materials cannot be stored in the floodplain per the Kendall County Stormwater Management Ordinance.

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

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed use is consistent with an objective found on Page 10-11 of the Kendall County Land Resource Management Plan which calls for "a strong base of agricultural, commercial and industry 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 requested major amendment to an existing special use permit subject to the following conditions and restrictions:

1. Conditions 1 (pertaining to number of employees), 2 (pertaining to the site plan), 3 (pertaining to outside storage of commercial vehicles), and 8 of Ordinance 2007-10 shall be repealed. The remaining conditions and restrictions in Ordinance 2007-10 shall remain in force and valid.
2. The site shall be developed substantially in accordance with the site plan. The property owner or operators of the business allowed by this special use permit may remove the frame residence, garage, wood frame machine shed, and corn crib without amending the site plan.
3. The owners of the business allowed by the special use permit shall maintain the parking areas shown on the site plan and in substantially the same location as depicted on the site plan. The

parking area north of the building shall be gravel and the parking lot south of the building shall be asphalt. Any expansions of either parking lots shall require an amendment to the special use permit.

4. The building located on the northeast corner of the property inside the floodplain as shown on the site plan shall not be used as part of the business allowed by this special use permit. **(Added at RPC)**
5. 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 on the subject property and shall promptly clean up the site if leaks occur.
6. Any new structures constructed or installed on the property shall not be considered for agricultural purposes and must secure applicable building permits.
7. Equipment and vehicles related to the business allowed by the special use permit may be stored outdoors.
8. 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.
9. 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.
10. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated outdoor storage bins as shown on the site plan. The maximum height of the bins or "tents" shall be thirty feet (30') and shall look substantial like the structures shown in the pictures. The maximum storage heights inside the storage bins shall be capped at twenty-five feet (25'). No miscellaneous storage of vehicles, machinery, or equipment shall occur in the storage bins.
11. One (1) maximum four foot by eight foot (4' X 8') freestanding sign may be located on the subject property. The sign may be illuminated.
12. No landscape waste generated off the property can be burned on the subject property.
13. A maximum of fifteen (15) 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.
14. No retail 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.
15. The hours of operation of the business allowed by this special use permit shall be Monday through Saturday from 6:00 a.m. until 5:00 p.m. Business operations may occur outside the hours of operation in the event of bad weather and snow removal. The owners of the business



allowed by this special use permit may reduce these hours of operation.

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 of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
19. The conditions and restrictions contained in Ordinance 2014-29 shall be separate and enforceable from the conditions and restrictions contained in Ordinance 2007-10 and this major amendment to an existing special use permit.
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, including but not limited, the public health protection standards for properties in the floodplain contained in the Kendall County Stormwater Management Ordinance.
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.

Chairman Mohr asked about the difference between a landscaping business and an excavating company. Mr. Asselmeier responded that excavating companies were not allowed in the A-1 district. Landscaping business were not defined in the Zoning Ordinance; it was unclear where the line existed

between a landscaping business and an excavating business.

Member LeCuyer made a motion, seconded by Member Thompson, to accept the Staff Report into evidence.

With a voice vote of seven (7) ayes, the motion carried.

Chairman Mohr opened the public hearing at 7:16 p.m.

Gregg Ingemunson, Attorney for the Petitioner, said Baish Excavating does more landscaping work than excavating work.

Dan Koukol, on behalf of his father, Philip R. Koukol, said that his family owns the neighboring farm. He felt the business would be a good fit. He noted that the property had a well and pump business without anyone's knowledge previously. An excavating business moved in, but everything was required to be indoors. He requested that excavator and landscaper be defined and that operations be kept indoors. He questioned the materials available at the Petitioner's current operations.

Member Vickery said she did not know Baish Excavating to be a landscaping business. She felt the special use was proposed for change as a matter of convenience and not truly what they do as a business. She also questioned the County's ability to enforce the existing regulations on the existing landscaping businesses and related special use permits. She did not believe that the proposal would be a good use. She favored indoor storage.

Chairman Mohr closed the public hearing at 7:21 p.m.

Member LeCuyer made a motion, seconded by Member Whitfield, to approve the findings of fact.

The votes were as follows:

Ayes (6): Cherry, Fox, LeCuyer, Mohr, Thompson, and Whitfield  
Nays (0): None  
Abstain (1): Vickery  
Absent (0): None

The motion passed.

Member Whitfield made a motion, seconded by Member LeCuyer, to approve the conditions proposed by Staff.

The votes were as follows:

Ayes (6): Cherry, Fox, LeCuyer, Mohr, Thompson, and Whitfield  
Nays (1): Vickery  
Abstain (0): None  
Absent (0): None

The motion passed.

Member LeCuyer made a motion, seconded by Member Whitfield, to recommend approval of the

special use permit.

The votes were as follows:

Ayes (6): Cherry, Fox, LeCuyer, Mohr, Thompson, and Whitfield  
Nays (1): Vickery  
Abstain (0): None  
Absent (0): None

The motion passed.

The proposal will go to the Kendall County Planning, Building and Zoning Committee on Tuesday, December 14, 2021.

The Zoning Board of Appeals completed their review of Petitions 21-46 at 7:24 p.m.

**PUBLIC COMMENTS**

Mr. Asselmeier stated a special use permit and variance for landscaping business at 1038 Harvey Road and Petition 21-49 would be on the agenda on January 31, 2022.

**ADJOURNMENT OF THE ZONING BOARD OF APPEALS**

Member LeCuyer made a motion, seconded by Member Vickery, to adjourn.

With a voice vote of seven (7) ayes, the motion carried.

The Zoning Board of Appeals meeting adjourned at 7:55 p.m.

The next hearing/meeting will be on January 31, 2022.

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

**Exhibits**

1. Memo on Petition 21-46 Dated December 9, 2021
2. Certificate of Publication and Certified Mail Receipts for Petition 21-46 (Not Included with Report but on file in Planning, Building and Zoning Office)

ORDINANCE NUMBER 2022-\_\_\_\_\_

**GRANTING MAJOR AMENDMENTS TO A SPECIAL USE PERMIT FOR A LANDSCAPING BUSINESS GRANTED BY ORDINANCE 2007-10 PERTAINING TO THE NUMBER OF EMPLOYEES, OUTSIDE STORAGE REQUIREMENTS, AND SITE PLAN ON PROPERTY ZONED A-1 AGRICULTURAL AT 3485 ROUTE 126 AND IDENTIFIED BY PARCEL IDENTIFICATION NUMBER 06-09-400-005 IN NA-AU-SAY TOWNSHIP**

WHEREAS, Section 13:08 of the Kendall County Zoning Ordinance permits the Kendall County Board to issue special use permits, place conditions on special use permits, amend special use permits, and provides the procedure through which special use permits are granted and amended; 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 5.5 acres located at 3485 Route 126 (PIN: 06-09-400-005) in Na-Au-Say 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, on March 20, 2007, the Kendall Board adopted Ordinance 2007-10 which granted a special use permit for the operation of a landscaping business at the subject property; and

WHEREAS, condition 1 of Ordinance 2007-10 set the maximum number of employees reporting to the subject property at 40; and

WHEREAS, condition 2 of Ordinance 2007-10 required that the site be developed in conformance with a site plan; and

WHEREAS, conditions 3 and 8 of Ordinance 2007-10 required that no equipment, vehicles, and non-growing landscaping materials be stored outdoors; and

WHEREAS, on or about October 19, 2021, Greg Dady on Behalf of DTG Investments, LLC, hereinafter be referred to as “Petitioner”, submitted a request for a major amendment to the special use permit granted by Ordinance 2007-10 by changing the number of employees reporting to the site, amending the site plan, and removing the requirement forbidding the storage of equipment, vehicles, and non-growing landscaping outdoors at the subject property; and

WHEREAS, on or about October 7, 2014, the Kendall County Board granted a special use permit for the operation of a cleanup restoration/service business at the subject property; and

WHEREAS, following due and proper notice by publication in the Kendall County Record on November 18, 2021, the Kendall County Zoning Board of Appeals conducted a public hearing on December 13, 2021, at 7:00 p.m., in the County Boardroom, at the Kendall County Office Building located at 111 W. Fox Street in Yorkville, at which the Petitioner’s attorney presented evidence, testimony, and exhibits in support of the requested major amendment to an existing special use permit and zero members of the public testified in favor of the request and one member of the public testified in opposition; 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 major amendment to an existing special use permit with conditions as set forth in the Findings of Fact and Recommendation of the Kendall County Zoning

Board of Appeals, dated December 13, 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/denial/neutral** of the requested major amendment to an existing special use permit with conditions; and

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

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

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

1. The Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals attached hereto as Exhibit B is hereby accepted and the Findings of Fact set forth therein are hereby adopted as the Findings of Fact and Conclusions of this Kendall County Board.
2. The Kendall County Board hereby grants approval of Petitioner's petition for major amendments to an existing special use permit allowing the operation of a landscaping business on the subject property subject to the following conditions:
  - A. Conditions 1 (pertaining to number of employees), 2 (pertaining to the site plan), 3 (pertaining to outside storage of commercial vehicles), and 8 of Ordinance 2007-10 shall be repealed. The remaining conditions and restrictions in Ordinance 2007-10 shall remain in force and valid.
  - B. The site shall be developed substantially in accordance with the site plan attached hereto as Exhibit C. The property owner or operators of the business allowed by this special use permit may remove the frame residence, garage, wood frame machine shed, and corn crib without amending the site plan.
  - C. The owners of the business allowed by the special use permit shall maintain the parking areas shown on the site plan and in substantially the same location as depicted on the site plan attached hereto as Exhibit C. The parking area north of the building shall be gravel and the parking lot south of the building shall be asphalt. Any expansions of either parking lots shall require an amendment to the special use permit.
  - D. The building located on the northeast corner of the property inside the floodplain as shown on the site plan attached hereto as Exhibit C shall not be used as part of the business allowed by this special use permit.
  - E. 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 on the subject property and shall promptly clean up the site if leaks occur.

- F. Any new structures constructed or installed on the property shall not be considered for agricultural purposes and must secure applicable building permits.
- G. Equipment and vehicles related to the business allowed by the special use permit may be stored outdoors.
- H. 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.
- I. 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.
- J. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated outdoor storage bins as shown on the site plan attached hereto as Exhibit C. The maximum height of the bins or "tents" shall be thirty feet (30') and shall look substantial like the structures shown in Exhibit D. The maximum storage heights inside the storage bins shall be capped at twenty-five feet (25'). No miscellaneous storage of vehicles, machinery, or equipment shall occur in the storage bins.
- K. One (1) maximum four foot by eight foot (4' X 8') freestanding sign may be located on the subject property. The sign may be illuminated.
- L. No landscape waste generated off the property can be burned on the subject property.
- M. A maximum of fifteen (15) 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.
- N. No retail 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.
- O. The hours of operation of the business allowed by this special use permit shall be Monday through Saturday from 6:00 a.m. until 5:00 p.m. Business operations may occur outside the hours of operation in the event of bad weather and snow removal. The owners of the business allowed by this special use permit may reduce these hours of operation.
- P. 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.

- Q. 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.
  - R. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
  - S. The conditions and restrictions contained in Ordinance 2014-29 shall be separate and enforceable from the conditions and restrictions contained in Ordinance 2007-10 and this major amendment to an existing special use permit.
  - T. 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, including but not limited, the public health protection standards for properties in the floodplain contained in the Kendall County Stormwater Management Ordinance.
  - U. 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.
  - V. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
- 3. This major amendment to an existing 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.
  - 4. The Zoning Administrator and other appropriate County Officials are hereby authorized and directed to amend the Official Zoning Map of Kendall County to reflect this special use permit.

IN WITNESS OF, this ordinance has been enacted by a majority vote of the Kendall County Board and is effective this 4<sup>th</sup> day of January, 2022.

Attest:

\_\_\_\_\_  
Kendall County Clerk  
Debbie Gillette

\_\_\_\_\_  
Kendall County Board Chairman  
Scott R. Gryder

9

EXHIBIT A

LEGAL DESCRIPTION

THAT PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 9 AND THAT PART OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 16 ALL IN TOWNSHIP 36 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING NORTHERLY OF THE CENTER LINE OF ILLINOIS ROUTE 126 BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER OF SECTION 9; THENCE NORTH 1 DEGREE 36 MINUTES 40 SECONDS WEST ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER, 260.00 FEET; THENCE NORTH 88 DEGREES 44 MINUTES 53 SECONDS EAST, 335.00 FEET; THENCE SOUTH 1 DEGREE 39 MINUTES 11 SECONDS EAST, 677.39 FEET TO THE CENTER LINE OF SAID ROUTE 126; THENCE SOUTH 80 DEGREES 28 MINUTES 31 SECONDS WEST ALONG SAID CENTER LINE, 338.17 FEET TO THE WEST LINE OF SAID NORTHEAST QUARTER; THENCE NORTH 1 DEGREE 40 MINUTES 39 SECONDS WEST, ALONG SAID WEST LINE, 466.05 FEET TO THE POINT OF BEGINNING, IN THE TOWNSHIP OF NA-AU-SAY, KENDALL COUNTY, ILLINOIS, EXCEPT THAT PART DEDICATED FOR ROAD PURPOSES PER DOCUMENT NUMBER 2001-24468, RECORDED DECEMBER 18, 2001.

(PERMANENT INDEX NUMBER 06-09-400-005-0000)



## Exhibit B

The Kendall County Zoning Board of Appeals reviewed the Petition on December 13, 2021. Zero (0) members of the public testified in favor of the request and one (1) member of the public testified in opposition to the request. On the same date, the Kendall County Zoning Board of Appeals approved the following findings of fact by a vote of six (6) in favor and zero (0) in opposition with Member Vickery abstaining.

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. The operation of the special use will not be detrimental to the public health, safety, morals, comfort, or general welfare provided that the operator of the business allowed by this special use permit develops the site according to the submitted site plan, follows the agreed upon hours of operation, and follows the Kendall County Inoperable Vehicle Ordinance, Kendall County Junk and Debris Ordinance, and Kendall County Stormwater Management Ordinance, and related ordinances.

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. Provided that the business operates as proposed, no injury should occur to other property and property values should not be negatively impacted.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. Adequate utilities exist on the site based upon the number of proposed employees at the property. No additional buildings are planned for the site. The Petitioners are aware that parking cannot occur in the front yard setback. Route 126 is a State maintained road and should be able to handle the traffic. The Petitioners are aware that floodplain exists on the property and certain materials cannot be stored in the floodplain per the Kendall County Stormwater Management Ordinance.

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

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed use is consistent with an objective found on Page 10-11 of the Kendall County Land Resource Management Plan which calls for "a strong base of agricultural, commercial and industry that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents."

### **RECOMMENDATION**

On December 13, 2021, the Kendall County Zoning Board of Appeals issued the following recommendation by a vote of six (6) in favor and one (1) in opposition.

Approval subject to the following conditions and restrictions:

1. Conditions 1 (pertaining to number of employees), 2 (pertaining to the site plan), 3 (pertaining to outside storage of commercial vehicles), and 8 of Ordinance 2007-10 shall be repealed. The remaining conditions and restrictions in Ordinance 2007-10 shall remain in force and valid.
2. The site shall be developed substantially in accordance with the submitted site plan. The property owner or operators of the business allowed by this special use permit may remove the frame

residence, garage, wood frame machine shed, and corn crib without amending the site plan.

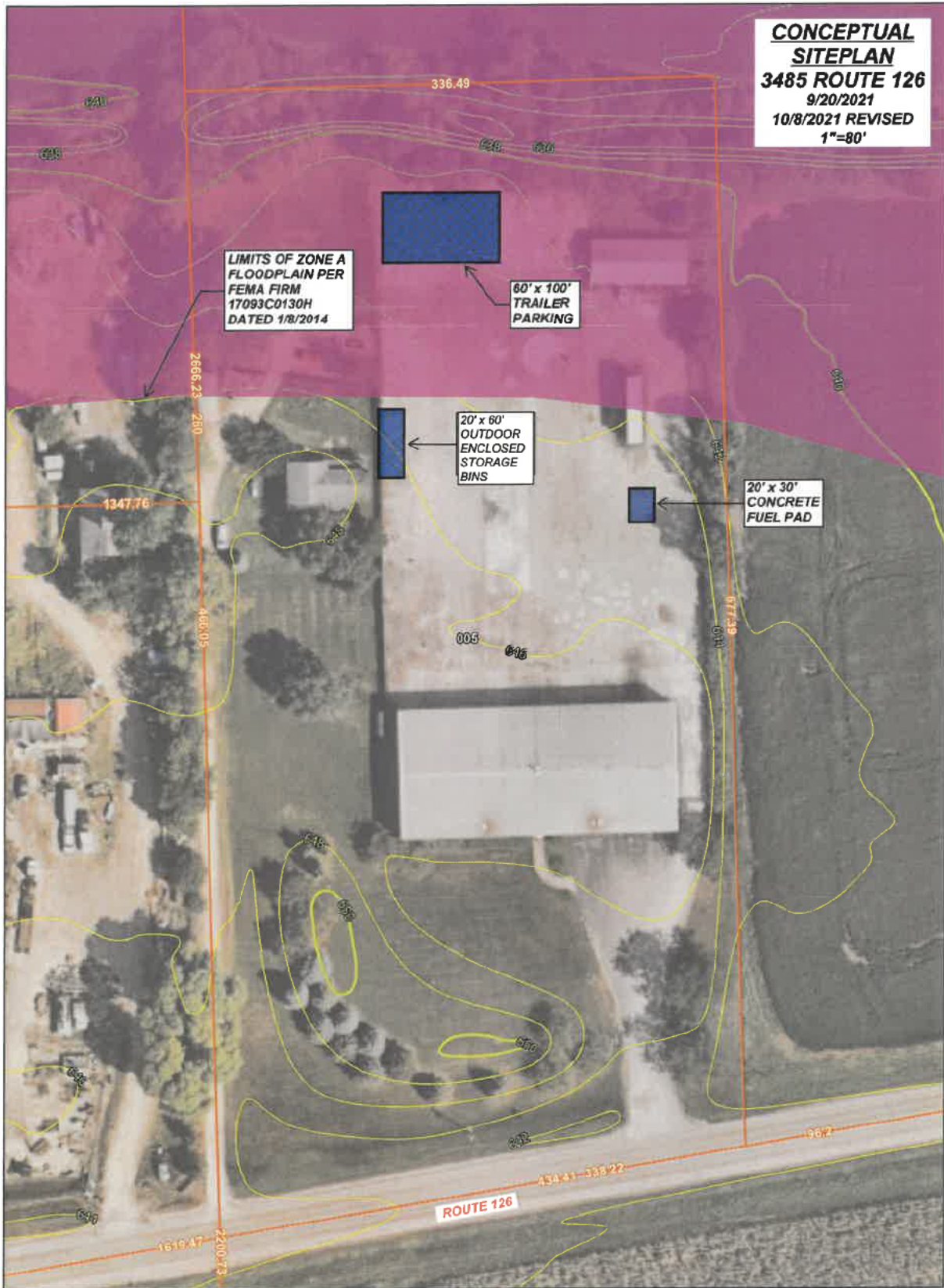
3. The owners of the business allowed by the special use permit shall maintain the parking areas shown on the site plan and in substantially the same location as depicted on the submitted site plan. The parking area north of the building shall be gravel and the parking lot south of the building shall be asphalt. Any expansions of either parking lots shall require an amendment to the special use permit.
4. The building located on the northeast corner of the property inside the floodplain as shown on the submitted site plan shall not be used as part of the business allowed by this special use permit.
5. 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 on the subject property and shall promptly clean up the site if leaks occur.
6. Any new structures constructed or installed on the property shall not be considered for agricultural purposes and must secure applicable building permits.
7. Equipment and vehicles related to the business allowed by the special use permit may be stored outdoors.
8. 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.
9. 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.
10. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated outdoor storage bins as shown on the submitted site plan. The maximum height of the bins or "tents" shall be thirty feet (30') and shall look substantial like the structures shown in submitted picture. The maximum storage heights inside the storage bins shall be capped at twenty-five feet (25'). No miscellaneous storage of vehicles, machinery, or equipment shall occur in the storage bins.
11. One (1) maximum four foot by eight foot (4' X 8') freestanding sign may be located on the subject property. The sign may be illuminated.
12. No landscape waste generated off the property can be burned on the subject property.
13. A maximum of fifteen (15) 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.
14. No retail 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.
15. The hours of operation of the business allowed by this special use permit shall be Monday through Saturday from 6:00 a.m. until 5:00 p.m. Business operations may occur outside the hours of operation in the event of bad weather and snow removal. The owners of the business allowed by this special use permit may reduce these hours of operation.
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 of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
19. The conditions and restrictions contained in Ordinance 2014-29 shall be separate and enforceable from the conditions and restrictions contained in Ordinance 2007-10 and this major amendment to an existing special use permit.
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, including but not limited, the public health protection standards for properties in the floodplain contained in the Kendall County Stormwater Management Ordinance.
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.



September 20, 2021

Parcel Lines

Parcels

Ownership Parcel

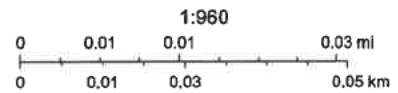
USA Flood Hazard Areas

1% Annual Chance Flood Hazard

2018 Contours

Contour

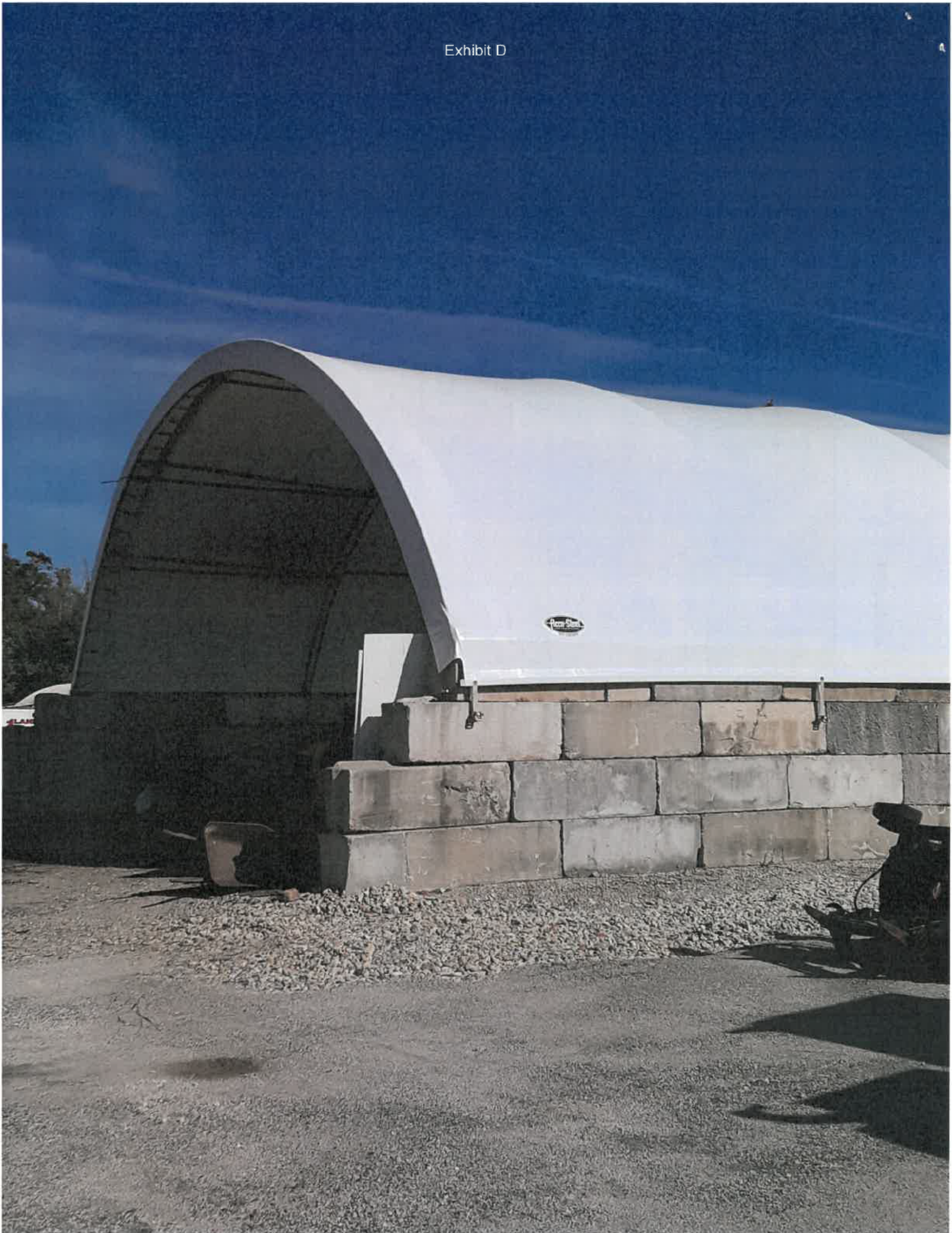
Index Line



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Map data © OpenStreetMap contributors, Microsoft, Esri Community  
Maps contributors, Map layer by Esri



Exhibit D



LAW OFFICES  
OF

***Daniel J. Kramer***

DANIEL J. KRAMER

1107A SOUTH BRIDGE STREET  
YORKVILLE, ILLINOIS 60560  
(630) 553-9500  
Fax: (630) 553-5764

KELLY A. HELLAND  
D.J. KRAMER

December 14, 2021

Scott Koepel  
Kendall County Building, Planning and Zoning

Matt Asselmeier  
Kendall County Planning, Building & Zoning

Scott Gengler, Chairman  
Kendall County Planning Building & Zoning Committee

Gentlemen:

I know tonight you have three items on New Business labeled #1, 2 & 3 which I have discussed with your Planner, Matt Asselmeier. I can give you some prospective of having dealt with the Planning, Building and Zoning Office for in excess of 40 years.

I by no means intend to step on any toes, but a brief history of how enforcement has worked in the County may shed some light that would be helpful for the current County Board as well as Staff. Right now you have two excellent people in that office in Matt Asselmeier and Brian Holdiman. Brian has had years of work in the County before Matt came and has seen many different personalities with the change of Zoning and Planning Officers within that office.

Currently when there is a complaint made as to an alleged zoning or building violation they have vigorously followed up and I have found them to be very fair to work with. The key is not my perception but that of your tax paying public who pays their salaries and elects you as County Board members. I generally get very positive feed back even if the Client/Tax Payer is in violation working with the County to bring them in compliance. I think you are to be commended on how that process has worked and frankly it has worked very well since Matt has come.

Prior to Matt being hired you had two young Zoning Officers there on a daily basis, Angela and John Sterrette who both worked in Kendall County for a good bit of time. Both have moved onto Suburban Communities where they are heads of office given the experience they gained in Kendall County. Again I can tell you they ran a positive ship, and County Board Members received very few complaints about their conduct. I think this is important because during the

tenure of those two young Officers they would even send out Questionnaires after every re-zoning or contact in regard to enforcement of a Complaint and ask for feedback.

I can take you back before the two young Offices when we had two Zoning Officers who worked during the years that the County was extremely busy with growth, and the experience was totally the opposite. You might want to talk to some of your old, retired County Board Members like Bob Davidson, or others who served as Chairman of the Planning, Building and Zoning Committee. These two prior Officers without me impugning their reputations would often times spend their afternoons driving around the County and then issuing Violation Notices to Farmers and other Citizens for building setback violations on buildings that were built decades ago before roads were widened for Kendall County and even passed its first Comprehensive Zoning Ordinance in 1973. To say the perception of the Planning, Building and Zoning Office was not only not positive, but we had a constant stream of cases where we spent time defending Citizens Tax Payers in Court that more often than not resulted in the actions being dismissed because people had not committed violations or they were easily remedied once Notice was sent out. The County Board Members during that period rarely heard anything complementary or positive about the Office and the conduct of initiating enforcement when no complaints were made stirred up a hornets nest in the farm community.

I would strongly recommend that you continue allowing Staff discretion of how to enforce violations and keep the complaint based system. Once you start going you looking for trouble without complaints, you will find that you will spend an awful lot of time that is not a productive as County Board Members and slip back into the past that was not a positive chapter in Kendall County.

I take the time to write this not to blow smoke to curry favor with current Staff or Board Members, but just to give you some depth of experience. Again we've gone through probably a dozen Zoning Officers since I have worked with the County and things are running as smooth right now as they have ever done. I appreciate your circulating these comments among the Member of the Planning, Building and Zoning Committee and sharing them with the other County Board Members.

Very truly yours,

*Daniel J. Kramer*

Daniel J. Kramer  
Attorney at Law

DJK/rg