KENDALL COUNTY
REGIONAL PLANNING COMMISSION

Kendall County Office Building
Rooms 209 and 210
111 W. Fox Street, Yorkville, Illinois

Meeting Minutes of March 23, 2022 - 7:00 p.m.

Vice Chairman Rodriguez called the meeting to order at 7:03 p.m.

ROLL CALL

Members Present: Tom Casey, Dave Hamman (Arrived at 7:06 p.m.), Karin McCarthy-Lange, Larry Nelson, Ruben Rodriguez, Claire Wilson, and Seth Wormley
Members Absent: Bill Ashton and Bob Stewart
Staff Present: Matthew H. Asselmeier, Senior Planner
Others Present: Scott Gengler, Tim O'Brien, Jillian Prodehl, Pete Fleming, and Suzanne Casey

APPROVAL OF AGENDA

Member Nelson made a motion, seconded by Member McCarthy-Lange, to approve the agenda. With a voice vote of six (6) ayes, the motion carried.

APPROVAL OF MINUTES

Member Wilson made a motion, seconded by Member Wormley, to approve the minutes of the of the February 23, 2022, meeting.

With a voice vote of six (6) ayes, the motion carried.

PETITIONS

Petition 22-01 Jose and Silvia Martinez

Mr. Asselmeier provided an update from activities since the February meeting.

Since the February 23, 2022, Kendall County Regional Planning Commission meeting, the Petitioner moved the chicken coop and other outbuilding on the north side of the property out of the side yard setback. The Petitioners also applied for a deck permit; the Petitioners had not paid for the deck permit.

The Village of Oswego submitted an email requesting the driveway be moved at least five feet (5') from the property. Staff exchanged emails with the Petitioners' Attorney outlining the next steps. The Petitioners' Attorney believed that the driveway was located greater than five feet (5') from the southern property line. Staff requested the measurement of the driveway to the southern property line be added to the plat of survey. As of the date of this memo, this information has not been added to the plat. The above referenced emails were provided.

An inspection of the property occurred on March 16, 2022, and new gravel appeared to have been added to the driveway per the provided picture.

To Staff's knowledge, the Petitioners had not applied for an access permit from the Village of Oswego or a driveway permit from Kendall County.

The minutes of January 26, 2022, Kendall County Regional Planning Commission meeting and the February 28, 2022, Kendall County Zoning Board of Appeals hearing were provided.

Mr. Asselmeier noted that Staff's recommendation and proposed conditions remained unchanged.

Neither the Petitioner nor his Attorney were in attendance.

Member Hamman arrived at this time (7:06 p.m.).

Member Nelson felt that the Petitioners had not provided the Commission with the requested site plan showing the correct location of the southern driveway.

Member Nelson made a motion, seconded by Member Wilson, to continue to table until the Petitioners submitted a site plan showing the access point for the southern driveway on Harvey Road.

The votes were as follows:
Ayes (7): Casey, Hamman, McCarthy-Lange, Nelson, Rodriguez, Wilson, and Wormley
Nays (0): None
Absent (2): Ashton and Stewart
Abstain (0): None

The motion carried.

This proposal will be tabled until the requested site plan is submitted. The Kendall County Zoning Board of Appeals will be notified of the tabling.

Petition 22-05 Seward Township
Mr. Asselmeier summarized the request.

The Seward Township Planning Commission is working on amendments to the Township's Comprehensive Plan. The Township would like to incorporate these amendments in the Kendall County Land Resource Management Plan. It is Staff's understanding that the Seward Township Planning Commission is examining shrinking the areas designated as Residential in the Land Resource Management Plan and changing them to Agriculture.

Seward Township submitted an application requesting a moratorium on map amendments, new special use permits, and variances for a period of one (1) year from May 17, 2022, which is the earliest date that the County Board could approve the request.

Staff recommended denial of the requested text amendment for the following reasons:

1. From an economic development perspective, the County should not restrict possible development in the unincorporated area.

2. A moratorium would not prevent property owners from securing annexation agreements with municipalities.

3. It was Staff's understanding that Seward Township was only looking to change the Future Land Use Map and not the text of the Zoning Ordinance. As such, Staff did not see how the Township's work on a Future Land Use Map would be impacted by the issuance of new special use permits.

4. Similar to number 3 above, the Township's work on a Future Land Use Map would not be impacted by the issuance of new variances.

5. From an administrative perspective, the County should be cautious about giving away authority.

Staff originally had concerns regarding a lack of timeline or benchmarks justifying the length of the moratorium. After the original application was filed, Seward Township submitted additional information, including a timeline which was provided.

If the County Board would like to approve the request, Staff suggests that Section 13:01.A.2 of the Kendall County Zoning Ordinance, pertaining to the duties of the Zoning Administrator, be amended as follows:

"n. Withhold the acceptance and processing of applications for map amendments, new special use permits, and variances on properties located within the Township of Seward for a period one (1) year commencing on May 17, 2022, and ending May 17, 2023."

This proposal was sent to the Townships on February 15, 2022.

ZPAC reviewed this proposal at their meeting on March 1, 2022. It was noted that this was the first time that the County had received this type of request from a township. Discussion occurred regarding setting a precedent. Jillian Prodehl explained the need for a moratorium and the Township's strategy for updating their plan. Jessica Nelson discussed having a holistic examination of Seward Township. Anne Vickery stated that the rural residential areas were creating problems including flooding, unenforced special use provisions existed, efforts were underway to help fund a code enforcement officer, and the Township desired to protect farm land. Staff noted that approximately ten (10) petitions, not including text amendment requests, had been filed in Seward Township over the past year. Mr. Klaas agreed that examining the township's plan was a good idea. However, the future land uses in Seward Township will be determined by nearby municipalities. Mr. Klaas also felt that the request was a policy question and not a technical question, which is ZPAC's normal scope of examination. Mr. Guritz agreed with Mr. Klaas. ZPAC voted to issue a neutral recommendation by a vote of four (4) in favor and two (2) in opposition with four (4) members absent. The minutes of the meeting were provided.

Jillian Prodehl, Acting Chair of the Seward Township Planning Commission, and Pete Fleming, Seward Township Planning Commissioner, explained the reasons for the moratorium. They were not trying to stall development in the Township. They would like time to examine the various pieces of data and research needed to prepare a plan. They noted that the Future Land Use Map was from 2005 and they would like the opportunity to adjust the Future Land Use Map based on current information. It was noted that the Seward Township Planning Commission members were volunteers and the Commission was meeting frequently, including meeting with the Chicago Metropolitan Agency for Planning.

Member Wilson asked if Seward Township had sought a legal opinion regarding having moratorium. Seward Township did not provide a legal opinion. Member Wilson expressed concerns regarding potential litigation coming from instituting a moratorium. Discussion occurred regarding previous moratoriums instituted by the County. Member Wilson discussed the factors courts used to evaluate moratorium requests. Mr. Asselmeier said the issuance of moratorium was at the discretion of the County Board.

Member Nelson expressed concerns about completing and adopting changes to the Land Resource Management Plan within six (6) months; he felt that the timeline seemed fast.

Member Nelson asked if the moratorium was necessary for all categories. Mr. Asselmeier said that, as a volunteer board, if the Seward Township Planning Commission has to stop and review a Petition, the time to review a Petition could not be used to work on the Township Plan, which could delay completion of the planning process.

Member Nelson thought that most of the issues in Seward Township was related to lack of obtaining special use permits. Mr. Fleming discussed map amendment requests as a way to go around the forty (40) acre rule. Ms. Prodehl discussed the floodplains in the area.

Discussion occurred regarding updating the Land Resource Management Plan. Member Nelson noted that a request would be submitted for funds to pay to update the Land Resource Management Plan. Mr. Asselmeier explained the process for securing funding to update the Land Resource Management Plan.

Member Nelson discussed property rights and temporary takings. He felt the project should move forward without a moratorium.

Discussion occurred regarding Chatham zoning and the LaSalle Factors.

Mr. Asselmeier explained the process for updating the Land Resource Management Plan. The process was similar to the process for obtaining a special use permit.

Several Commissioners expressed their support of Seward Township in updating their Plan, but felt that a moratorium was problematic and precedent setting.

Member Rodriguez expressed concerns about businesses being shut down because of the moratorium.

Discussion occurred regarding rescinding the Petition and tabling the request.

Member Nelson made a motion, seconded by Member McCarthy-Lange, to table the proposal.

The votes were as follows:
Ayes (7): Casey, Hamman, McCarthy-Lange, Nelson, Rodriguez, Wilson, and Wormley
Nays (0): None
Absent (2): Ashton and Stewart
Abstain (0): None

The motion carried.

The Kendall County Zoning Board of Appeals will be notified that the proposal was tabled.

Tim O'Brien, Seward Township Supervisor, thanked the Commission.

Petition 22-06 Kendall County Planning, Building and Zoning Committee
Mr. Asselmeier summarized the request.

At the December 14, 2021, Planning, Building and Zoning Committee meeting, the Planning, Building and Zoning Committee requested Staff to prepare definitions for landscaping businesses and excavating businesses.

For preparing the proposed definition of landscaping business, Staff used the definition found in the North American Industrial Classification System as published by the United States Census Bureau. The proposed definition of landscaping business was as follows:

"LANDSCAPING BUSINESS. A business engaged in providing landscape care and maintenance services and/or installing trees, shrubs, plants, lawns, or gardens and businesses primarily engaged in providing these services along with the design of landscape plans and/or the construction and installation of walkways, retaining walls, decks, fences, ponds, and similar structures."

Landscaping businesses are special uses in the A-1, B-3, M-1 and M-2 Districts.

When considering a definition of excavating businesses, the North American Industrial Classification System grouped excavating businesses with other site preparing contractors including dirt movers, trenching, and foundation drilling. Also, the terms "excavating business" and "excavator" do not appear in the Zoning Ordinance. Accordingly, Staff proposed the following definition of excavating business:

"EXCAVATING BUSINESS. A business engaged in site preparation activities including grading, earthmoving, and land clearing and businesses that rent equipment for such purposes. For the purposes of this Ordinance, an excavating business shall be considered a contractors' office or shop."

Contractor and Contractor Offices and Shops are conditional uses in the B-2 and B-3 Districts and permitted uses in the M-1 and M-2 Districts. In the B-2 and B-3 Districts, all work and storage must be inside buildings.

On January 25, 2022, the Kendall County Planning, Building and Zoning Committee unanimously voted to initiate a text amendment to the Kendall County Zoning Ordinances adding the above definitions as proposed by Staff.

This proposal was sent to the Townships on February 15, 2022.

ZPAC reviewed this proposal at their meeting on March 1, 2022. ZPAC recommended approval of the request by a vote of six (6) in favor and zero (0) in opposition with four (4) members absent. The minutes of the meeting were provided.

Member Wilson asked why businesses that rent excavating equipment were considered excavating businesses. Mr. Asselmeier said that, if a business has the equipment, they might use the equipment and be an excavating business.

Discussion occurred about setting a weight limit for businesses that rent excavating equipment. Equipment weights can be found online.

Discussion occurred regarding businesses that are run out of houses in the designing of landscaping plans business. The belief was that these types businesses would be considered home occupations if they met the home occupation requirements. Companies engaged in designing landscaping only would be allowed on properties with business zoning classifications.

Member Nelson made a motion, seconded by Member Hamman, to recommend approval of the requested text

amendments with the following amendment:

"EXCAVATING BUSINESS. A business engaged in site preparation activities including grading, earthmoving, and land clearing and businesses that rent equipment **weighing over thirty thousand pounds (30,000 lbs.)** for such purposes. For the purposes of this Ordinance, an excavating business shall be considered a contractors' office or shop."

The votes were as follows:
Ayes (7): Casey, Hamman, McCarthy-Lange, Nelson, Rodriguez, Wilson, and Wormley
Nays (0): None
Absent (2): Ashton and Stewart
Abstain (0): None

The motion carried.

This proposal will go to the Kendall County Zoning Board of Appeals on March 28, 2022.

CITIZENS TO BE HEARD/PUBLIC COMMENT
None

NEW BUSINESS
Approval to Initiate Amendments to the Future Land Use Map in the Kendall County Land Resource Management Plan by Reclassifying the Properties Located to the North and Southwest of 12565 Fox Road and Identified by the Following Parcel Identification Numbers: 04-02-400-002, 04-02-400-003, and 04-01-301-005 (South of the Railroad Tracks Only) in Fox Township from Rural Residential to Mixed Use Business
Mr. Asselmeier summarized the request and presented a map showing the properties proposed for reclassification.

Member Nelson made a motion, seconded by Member McCarthy-Lange, to initiate the amendment.

The votes were as follows:
Ayes (7): Casey, Hamman, McCarthy-Lange, Nelson, Rodriguez, Wilson, and Wormley
Nays (0): None
Absent (2): Ashton and Stewart
Abstain (0): None

The motion carried.

This proposal will go to the Kendall County ZPAC on April 5, 2022, and a public hearing will occur at the Kendall County Regional Planning Commission meeting on April 27, 2022.

OLD BUSINESS
None

REVIEW OF PETITIONS THAT WENT TO COUNTY BOARD
Mr. Asselmeier reported that Petitions 22-03 and 22-04 were approved by the County Board.

OTHER BUSINESS/ANNOUNCEMENTS

Mr Asselmeier reported that, for the April meeting, there will be the public hearing on the changing the Future Land Use Map for the properties near 12565 Fox Road and a requested map amendment rezoning property along Brisbin Road in Seward Township from A-1 to R-1. Petition 22-01 could be on the again, if the requested site plan was submitted.

Mr. Asselmeier said that the Village of Oswego Planning and Zoning Commission will hold a public hearing on April 7, 2022, to consider the annexation of the Hide-A-Way Lakes Campground.

ADJOURNMENT

Member Wilson made a motion, seconded by Member Casey, to adjourn. With a voice of seven (7) ayes, the motion carried.

The Kendall County Regional Planning Commission meeting adjourned at 8:10 p.m.

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

Enc.

KENDALL COUNTY
REGIONAL PLANNING COMMISSION
MARCH 23, 2022

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)
Jeri O'Brien		
Pete Flenz		
Jillian Prodehl		

NATURAL WORLD
LANDSCAPING
630-731-7067
TREE SERVICE
NATURAL WORLD
Brick Paving Specialists
630-731-7067

Matt Asselmeier

From: Matt Asselmeier
Sent: Friday, March 18, 2022 1:54 PM
To: Rod Zenner; judd lofchie
Cc: Scott Koeppel; Scott Gengler; Ruben Rodriguez; Faith D. Hook
Subject: RE: [External]Fwd: 1038 Harvey Rd.
Attachments: Attachment 3 Landscaping Plan.pdf

Just so I am clear, the driveway will still be 20 feet in width, but will be no closer than 5 feet to the southern property line, correct? The location is different than the attached, submitted landscaping plan.

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

From: Rod Zenner [mailto:RZenner@oswegoil.org]
Sent: Friday, March 18, 2022 1:48 PM
To: judd lofchie <[redacted]>; Matt Asselmeier <masselmeier@co.kendall.il.us>
Cc: Scott Koeppel <skoeppel@co.kendall.il.us>; Scott Gengler <sgengler@co.kendall.il.us>; Ruben Rodriguez <rrodriguez@co.kendall.il.us>; Faith D. Hook <fhook@co.kendall.il.us>
Subject: RE: [External]Fwd: 1038 Harvey Rd.

That sounds correct.

Rod

From: judd lofchie <[redacted]>
Sent: Friday, March 18, 2022 9:59 AM
To: Matt Asselmeier <masselmeier@co.kendall.il.us>; Rod Zenner <RZenner@oswegoil.org>
Cc: Scott Koeppel <skoeppel@co.kendall.il.us>; Scott Gengler <sgengler@co.kendall.il.us>; Ruben Rodriguez <rrodriguez@co.kendall.il.us>; Faith D. Hook <fhook@co.kendall.il.us>
Subject: Re: [External]Fwd: 1038 Harvey Rd.

Hi Rod:

The driveway is 5 to 7 feet from the property line. It's not a straight line. So I don't think we will need a variance from Oswego. Am I right Rod?

On Wed, Mar 16, 2022 at 11:39 AM Matt Asselmeier <masselmeier@co.kendall.il.us> wrote:

Judd: