

ORDINANCE NUMBER 2022-25

**GRANTING A SPECIAL USE PERMIT FOR A PLACE OF WORSHIP AT 67 BOULDER HILL PASS AND IDENTIFIED BY PARCEL IDENTIFICATION NUMBER 03-05-401-003 IN OSWEGO TOWNSHIP**

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

WHEREAS, Section 9:03.C. of the Kendall County Zoning Ordinance permits the placement of places of worship as a special use in the B-3 Highway Business Zoning District; and

WHEREAS, the property which is the subject of this Ordinance has been, at all relevant times, and remains currently located within the B-3 Highway Business Zoning District and consists of approximately 7.82 +/- acres located at 67 Boulder Hill Pass (PIN: 03-05-401-003), in Oswego 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 February 17, 2005, the Kendall County Board approved Ordinance 2015-02 which granted a special use permit for a church with conditions in 71 Boulder Hill Pass, which is a unit at the subject property; and

WHEREAS, the subject property is owned by Boulder Hill Property, LLC as represented by Sunny Simon; and

WHEREAS, the Olangi Wosho Foundation, as represented by Yonia Nyamie, desires to operate the Christian Spiritual Warfare Ministry inside 67 Boulder Hill Pass, which is a unit at the subject property; and

WHEREAS, Boulder Hill Property, LLC, as represented by Sunny Simon, and the Olangi Wosho Foundation, as represented by Yonia Nyamie, shall hereinafter be referred to as “Petitioner”, and

WHEREAS, on or about July 8, 2022, Petitioner filed a petition for a special use permit for the placement of a place of worship inside 67 Boulder Hill Pass at the subject property; and

WHEREAS, following due and proper notice by publication in the Aurora Beacon on August 14, 2022, the Kendall County Zoning Board of Appeals conducted a public hearing on August 29, 2022, at 7:00 p.m., in the County Board Room of the Kendall County Office Building at 111 W. Fox Street in Yorkville, at which the Petitioner presented evidence, testimony, and exhibits in support of the requested special use permit and zero members of the public testified in favor or in opposition to the request; and

WHEREAS, based on the evidence, testimony, and exhibits, the Kendall County Zoning Board of Appeals has made their findings of fact and recommended approval of the special use permit with conditions as set forth in the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, dated August 29, 2022, a true and correct copy of which is attached hereto as Exhibit B; and

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

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

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 a special use permit for the placement of a place of worship on the subject property subject to the following conditions:
  - A. The special use shall be restricted to the unit shown as 67 Boulder Pass in the site plan attached hereto as Exhibit C. No outdoor services shall be held at the subject property.
  - B. If the Olangi Wosho Foundation vacates the unit, the special use permit shall automatically be revoked.
  - C. The noise regulations are as follows:

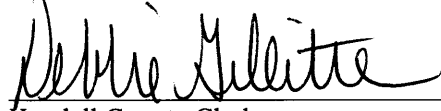
Day Hours: No person shall cause or allow the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential land which exceeds sixty-five (65) dBA when measured at any point within such receiving residential land, provided; however, that point of 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.
  - D. The property owner and operator of the use allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of use, including, but not limited to, the signage regulations contained in the Kendall County Zoning Ordinance.
  - E. 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.
  - F. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
3. 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 20<sup>th</sup> day of September, 2022.

Attest:

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

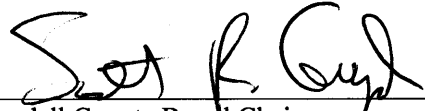
  
\_\_\_\_\_  
Kendall County Board Chairman  
Scott R. Gryder



EXHIBIT A

THAT PART OF SECTION 5, TOWNSHIP 37 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS

COMMENCING AT THE MOST WESTERLY CORNER OF BOULDER HILL, KENDALL COUNTY, ILLINOIS, UNIT 1, SAID POINT BEING THE POINT OF INTERSECTION OF THE CENTER LINE OF ILLINOIS STATE HIGHWAY NO 25 WITH THE SOUTHWESTERLY LINE OF BOULDER HILL PASS EXTENDED NORTHWESTERLY, THENCE SOUTH 49 DEGREES 13 MINUTES 28 SECONDS EAST ALONG SAID SOUTHWESTERLY LINE 197 50 FEET TO A POINT OF CURVATURE, THENCE CONTINUING ALONG SAID SOUTHWESTERLY LINE, BEING ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 3171 60 FEET, AN ARC DISTANCE OF 52 50 FEET FOR THE POINT OF BEGINNING, THENCE CONTINUING ALONG SAID CURVE BEING ALONG SAID SOUTHWESTERLY LINE, AN ARC DISTANCE OF 509 69 FEET TO A POINT OF COMPOUND CURVATURE, THENCE CONTINUING ALONG SAID SOUTHWESTERLY LINE, BEING ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 731 25 FEET, AN ARC DISTANCE OF 182 71 FEET TO A POINT LYING 200 72 FEET NORTHWESTERLY OF THE NORTHEAST CORNER OF BOULDER HILL, KENDALL COUNTY, ILLINOIS, UNIT 9, (AS MEASURED ALONG THE LAST DESCRIBED CURVE), THENCE SOUTH 64 DEGREES 31 MINUTES 02 SECONDS WEST 553 54 FEET TO A POINT LYING 25 FEET NORTHERLY OF THE NORTHERLY LINE OF HILLSTONE ROAD (AS MEASURED AT RIGHT ANGLES THERETO), THENCE SOUTH 07 DEGREES 23 MINUTES 49 SECONDS EAST TO SAID NORTHERLY LINE, THENCE SOUTH 82 DEGREES 36 MINUTES 11 SECONDS WEST ALONG SAID NORTHERLY LINE 75 00 FEET TO THE NORTHWEST CORNER OF SAID UNIT 9, THENCE NORTH 84 DEGREES 57 MINUTES 25 SECONDS WEST 119 46 FEET TO THE EASTERLY LINE OF THE BURLINGTON NORTHERN RAILROAD RIGHT-OF-WAY, THENCE NORTHERLY ALONG SAID EASTERLY LINE BEING ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 1050 48 FEET, AN ARC DISTANCE OF 453 80 FEET, THENCE NORTH 42 DEGREES 34 MINUTES 23 SECONDS EAST 201 40 FEET TO A POINT LYING 250 FEET SOUTHEASTERLY OF THE CENTER LINE OF ILLINOIS STATE HIGHWAY NO 25 (AS MEASURED AT RIGHT ANGLES THERETO), THENCE NORTH 40 DEGREES 46 MINUTES 32 SECONDS EAST 249 56 FEET TO THE POINT OF BEGINNING, IN THE TOWNSHIP OF OSWEGO, KENDALL COUNTY, ILLINOIS

## Exhibit B

The Kendall County Zoning Board of Appeals approved the following Findings of Fact and Recommendation at their meeting on August 29, 2022 by a vote of six (6) in favor and zero (0) in opposition; Chairman Mohr was absent.

### FINDINGS OF FACT-SPECIAL USE PERMIT

*That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. **Provided the operators of the use follow applicable building codes, no threats to the public health, safety, morals, comfort, or general welfare are foreseen.***

*That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. **The subject property is mostly surrounded by business uses with multi-family uses found to the east. Provided a restriction is placed in the special use permit regarding noise, no injury should be caused to neighboring properties. No information has been provided showing that the existing place of worship in Boulder Hill Market has negatively impacted property values or the use and enjoyment of other properties in the immediate vicinity.***

*That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. **The use will be located inside an existing building with no plans to alter existing points of ingress and egress or drainage. Adequate utilities are onsite.***

*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; no variances are needed.***

*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 Future Land Use Map calls for this property to be Suburban Residential and the property has been zoned for commercial uses since 1956. According to the definition of Suburban Residential found on page 6-45 of the Land Resource Management Plan, "Compatible governmental, educational, religious, and recreational uses also may be permitted in these areas." Governmental, educational, religious, and recreational uses can be found adjacent to the subject property. The proposed use would enhance and complement the existing uses in the area.***

### RECOMMENDATION

Approval subject to the following conditions and restrictions:

1. The special use shall be restricted to the unit shown as 67 Boulder Pass in the site plan. No outdoor services shall be held at the subject property.
2. If the Olangi Wosho Foundation vacates the unit, the special use permit shall automatically be revoked.
3. 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.

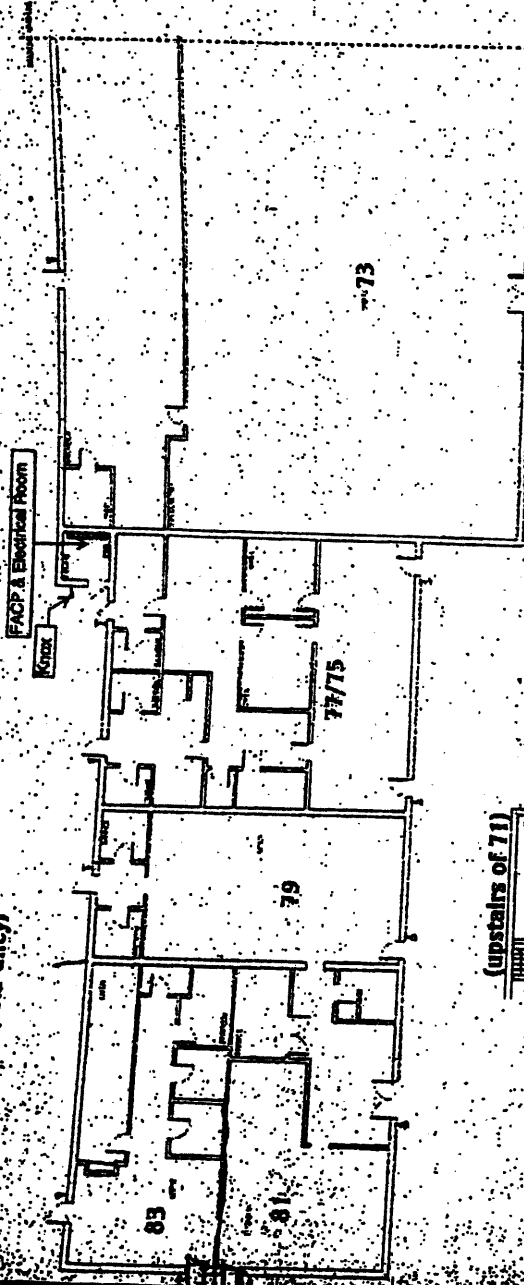
Night Hours: No person shall cause or allow the emission of sound during nighttime hours (10:00 P.M. to 7:00 A.M.) from any noise source to any receiving residential land which exceeds fifty-five (55) dBA when measured at any point within such receiving residential land provided; however, that point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

4. The property owner and operator of the use allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of use, including, but not limited to, the signage regulations contained in the Kendall County Zoning Ordinance.
5. 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.
6. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

8466 Bonanza

(rear alley)



(upstairs of 71)



(side drive to rear alley)

(front parking lot)

N

