

ORDINANCE NUMBER 2023- 05

GRANTING MAJOR AMENDMENTS TO AN EXISTING SPECIAL USE PERMIT FOR A KENNEL AND VETERINARY GRANTED BY ORDINANCE 2020-01 BY CHANGING THE SITE PLAN, LANDSCAPING PLAN, AND PHOTOMETRIC PLAN, AND GRANTING A VARIANCE TO SECTION 7:01.D.29 OF KENDALL COUNTY ZONING ORDINANCE ALLOWING ANIMALS TO BE OUTDOORS AFTER SUNSET AT 949 BELL AND IDENTIFIED BY PARCEL IDENTIFICATION NUMBER 09-24-100-012 IN SEWARD TOWNSHIP

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

WHEREAS, Section 7:01.D.56 of the Kendall County Zoning Ordinance permits the operation of veterinary establishments as a special use with certain restrictions in the A-1 Agricultural Zoning District; and

WHEREAS, Section 7:01.D.29 of the Kendall County Zoning Ordinance permits the operation of kennels as a special use with certain restrictions in the A-1 Agricultural Zoning District; and

WHEREAS, Section 7:01.D.29 of the Kendall County Zoning Ordinance requires animals at kennels to be indoors by sunset; 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 20.02 acres of which approximately 8.5 acres is used for a kennel and veterinary located at 949 Bell Road (PIN: 09-24-100-012) 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 18, 2020, the Kendall County Board approved Ordinance 2020-01 which granted a special use permit for a kennel and veterinary with conditions at the subject property; and

WHEREAS, conditions 2.A and 2.E of Ordinance 2020-01 required the subject property be developed substantially in accordance with an attached site plan, landscaping plan, and photometric plan and established a deadline for the installation of berms and vegetation; and

WHEREAS, condition 2.G of Ordinance 2020-01 required all pets to be indoors between the hours of sunset and sunrise except for the purposes of owners dropping-off and picking-up pets; and

WHEREAS, the subject property is currently owned by Jade Restorations, Inc. and is represented by Deb Howard; and

WHEREAS, Jade Restorations, Inc. has contracted with Bullmastiff Construction Company, LTD as represented by Deb Howard and collectively these parties shall hereinafter be referred to as “Petitioner”; and

WHEREAS, on or about December 20, 2022, Petitioner’s representative filed a petition for a major amendment to an existing special use permit by deleting the site plan, landscaping plan, and photometric plan attached to Ordinance 2020-01 and replacing those documents with a new, proposed site plan, landscaping

plan, and photometric plan and requesting a variance to Section 7:01.D.29 allowing pets to be outdoors for bathroom purposes until 10:00 p.m. each evening; and

WHEREAS, following due and proper notice by publication in the Aurora Beacon News on January 13, 2023, the Kendall County Zoning Board of Appeals conducted a public hearing on January 30, 2023, at 7:00 p.m., in the County Office Building at 111 W. Fox Street in Yorkville, at which the Petitioner's engineer presented evidence, testimony, and exhibits in support of the requested major amendments to an existing special use permit and variance 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 major amendments to an existing special use permit and variance with conditions as set forth in the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, dated January 30, 2023, 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 major amendments to an existing special use permit and variance; 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, these major amendments to an existing special use permit and variance 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 and variance allowing the operation of a kennel and veterinary establishment on the subject property subject to the following conditions:
 - A. Condition 2.A of Ordinance 2020-01 is hereby repealed in its entirety and is replaced with the following:

"The site shall be developed substantially in accordance with the site plan attached hereto as Exhibit C, landscaping plan attached hereto as Exhibit D, and photometric plan attached hereto as Exhibit E."
 - B. Condition 2.E of Ordinance 2020-01 is hereby repealed in its entirety and is replaced with the following:

“All vegetation and berms shall be installed by June 15, 2023. The Planning, Building and Zoning Committee may extend this deadline upon request of the property owner. Damaged or dead vegetation shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.”

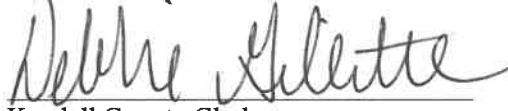
- C. Condition 2.G of Ordinance 2020-01 is hereby repealed in its entirety and is replaced with the following:

“All pets shall be indoors between the hours of sunset and sunrise except for the purposes of owners dropping-off and picking-up pets and necessary bathroom breaks until 10:00 p.m. each evening. This provision is a variance to a requirement contained in Section 7:01.D.29 of the Kendall County Zoning Ordinance.”

- D. The remaining conditions and restrictions contained in Ordinance 2020-01 shall remain valid and effective.
- 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 or restrictions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
3. These major amendments to an existing special use permit and variance 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 major amendment to an existing special use permit.

IN WITNESS OF, this ordinance has been enacted by a majority vote of the Kendall County Board and is effective this 21st day of February, 2023.

Attest:



Kendall County Clerk
Debbie Gillette



Kendall County Board Chairman
Matt Kellogg



Exhibit A

RUSTY RIDGE ANIMAL CENTER

LEGAL DESCRIPTION

PARCEL 1 (DEVELOPMENT PARCEL)

THAT PART OF THE SOUTH 1281.17 FEET OF THE WEST 680.00 FEET OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 35 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF SEWARD, DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER, THENCE NORTH 01 DEGREES 45 MINUTES 20 SECONDS WEST, ON THE WEST LINE OF SAID NORTHWEST QUARTER, 579.95 FEET TO THE SOUTH LINE OF THE 800 FOOT WIDE NATURAL GAS PIPELINE EASEMENT AS DESCRIBED IN BOOK 103 PAGE 333 IN KENDALE COUNTY RECORDS; THENCE SOUTH 85 DEGREES 47 MINUTES 08 SECONDS EAST, ON SAID SOUTH LINE, 683.71 FEET TO THE EAST LINE OF THE WEST 680.00 FEET OF SAID NORTHWEST QUARTER; THENCE SOUTH 01 DEGREES 45 MINUTES 20 SECONDS EAST, ON SAID EAST LINE, 507.99 FEET TO THE SOUTH LINE OF SAID NORTHWEST QUARTER; THENCE SOUTH 88 DEGREES 10 MINUTES 23 SECONDS WEST, ON SAID SOUTH LINE, 680.00 FEET TO THE POINT OF BEGINNING, ALL IN KENDALL COUNTY, ILLINOIS.

Exhibit B

The Kendall County Zoning Board of Appeals approved the following Findings of Fact and Recommendation at their meeting on January 30, 2023, by a vote of seven (7) in favor and zero (0) in opposition:

FINDINGS OF FACT-SPECIAL USE PERMIT AMENDMENT

*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. The immediately adjacent properties are also zoned A-1 or A-1 with a special use permit. In addition, the site plan shows an eight foot (8') tall fence around the outdoor play area. The proposed landscaping and berming should also reduce noise coming from the property. The Petitioners are requesting a variance to allow animals to be outdoors until 10:00 p.m. but only for the purposes of dropping-off and picking-up by owners and for necessary bathroom breaks.***

*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 Petitioners installed fencing and security lighting. The Petitioners submitted a photometric plan showing no lighting spilling onto adjoining properties. The Petitioners agreed to have animals indoors by sunset, except for specific purposes as mentioned in the previous finding. The proposed hours of operation will also prevent injury to neighboring land uses.***

*That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. **This is true. Adequate ingress and egress has been provided off of Bell Road. The Petitioners have secured applicable permits and installed adequate facilities related to stormwater, well, and septic systems.***

*That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. **The Petitioners are requesting a variance to Section 7:01.D.29 of the Kendall County Zoning Ordinance to allow the animals to be outdoors for specific purposes as outlined in the first finding.***

*That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. **True, the proposed use is consistent with an objective found on Page 9-21 of the Kendall County Land Resource Management Plan which calls for "a strong base of agricultural, commerce and industry that provides a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents." The Land Resource Management Plan calls for the subject property to be commercial.***

FINDINGS OF FACT-VARIANCE

*That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. **No topographic condition creates a particular hardship for the Petitioner.***

*That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. **Other requests for special use permits for kennels could ask for the same variation.***

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The current owner was not involved with the drafting of the existing language in the Zoning Ordinance. The current owner cannot control the times for sunset or sunrise.

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. The requested variance should not negatively impact any of the neighbors and will not be detrimental to the public welfare or injurious to other property if the animals are outside for the purposes of pick-up and drop-off or to use the restroom and for no other purposes.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. The requested variance will not impair light reaching other properties, cause congestion on any public street, or diminish or impair property values.

RECOMMENDATION

Approval subject to the following conditions and restrictions:

1. Condition 2.A of Ordinance 2020-01 is hereby repealed in its entirety and is replaced with the following:
"The site shall be developed substantially in accordance with the submitted site plan, landscaping plan, and photometric plan."
2. Condition 2.E of Ordinance 2020-01 is hereby repealed in its entirety and is replaced with the following:
"All vegetation and berms shall be installed by June 15, 2023. The Planning, Building and Zoning Committee may extend this deadline upon request of the property owner. Damaged or dead vegetation shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department."
3. Condition 2.G of Ordinance 2020-01 is hereby repealed in its entirety and is replaced with the following:
"All pets shall be indoors between the hours of sunset and sunrise except for the purposes of owners dropping-off and picking-up pets and necessary bathroom breaks until 10:00 p.m. each evening. This provision is a variance to a requirement contained in Section 7:01.D.29 of the Kendall County Zoning Ordinance."
4. The remaining conditions and restrictions contained in Ordinance 2020-01 shall remain valid and effective.
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 or restrictions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
7. These major amendments to an existing special use permit and variance shall be treated as covenants running with the land and are binding on the successors, heirs, and assigns as to the same special uses conducted on the property.

CONTRACT NOTES:

The contractor shall be responsible for obtaining all necessary permits and for obtaining all necessary approvals from the appropriate authorities. The contractor shall be responsible for obtaining all necessary approvals from the appropriate authorities. The contractor shall be responsible for obtaining all necessary approvals from the appropriate authorities.

1	04-09	INSTALL DRAIN COMBATS
2	04-20	REVEAL SITE GRASSING
3	07-22	REVEAL SITE LANDSCAPING
4	09-22	REVEAL SITE LANDSCAPING PER CLIENT

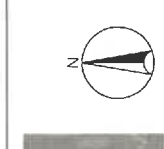
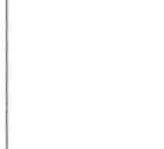
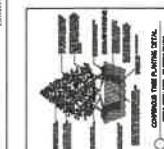
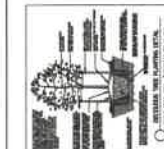
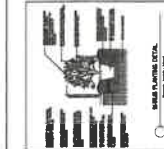
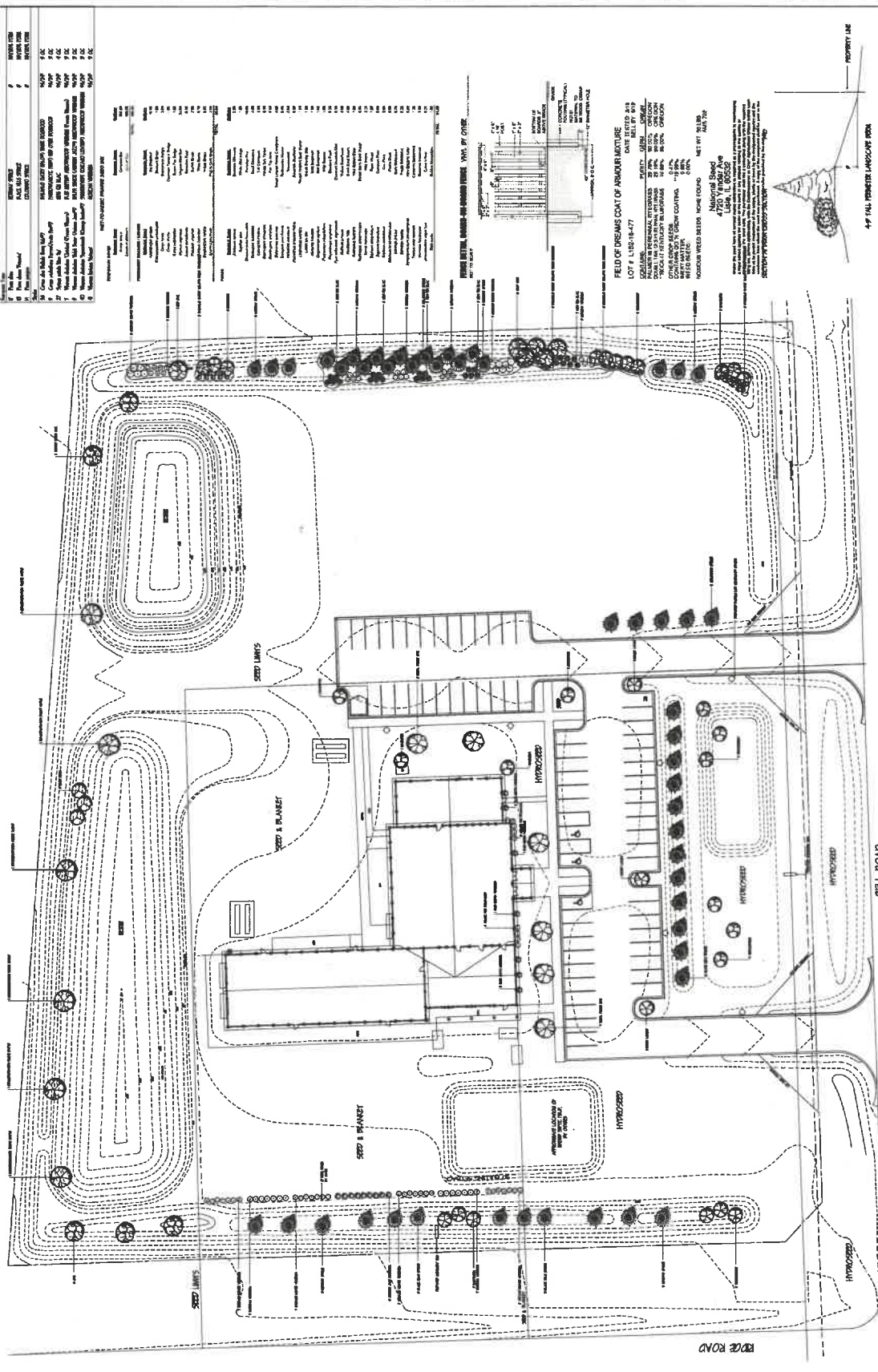
PREPARED FOR:
 Balmeisheff Construction Co.
 1047 S. Harlem Ave., Suite 200
 Palos Heights, IL 60465
 Mrs. Deb Howard



Project Information
 Doogan Pay Care
 NEC Bell Road & Ridge Road
 Kendall County, IL

DATE	11-20
PROJECT	EA
COUNTRY	AMERICA
DATE	04-22
SCALE	AS SHOWN

Plant Name	Quantity	Notes
1. 1/2" Caliper, Green Mound	100	
2. 1/2" Caliper, Green Mound	100	
3. 1/2" Caliper, Green Mound	100	
4. 1/2" Caliper, Green Mound	100	
5. 1/2" Caliper, Green Mound	100	
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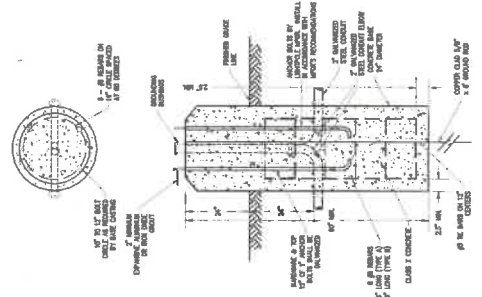
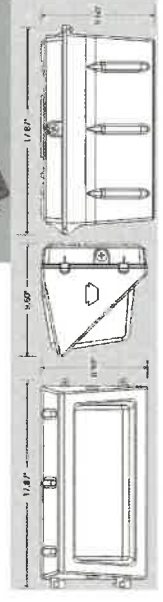
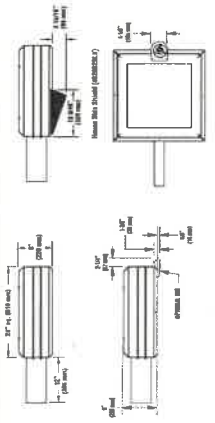


FIELD OF DREAMS CONT. OF ARMOUR MATURE
 LOT # 1180-18-47
 DATE: 04/17/13
 SCALE: 1/8" = 1'-0"
 CLIENT: FIELD OF DREAMS CONT. OF ARMOUR MATURE
 PROJECT: 4700 Vantage Ave, Lombard, IL, 60148
 DESIGNER: PONY LANDSCAPING
 PROJECT NO: 13-001
 DESIGNER: PONY LANDSCAPING
 PROJECT NO: 13-001
 DESIGNER: PONY LANDSCAPING
 PROJECT NO: 13-001



PREPARED FOR	BLUMSTAY CONSTRUCTION
PROJECT NO.	15-000
DRAWN BY	PAUL HEINRICH & ASSOC.
DATE	01/20/2012
CHECKED BY	MIC
SCALE	1" = 3'
DATE	12/20/2012
DESIGN NUMBER	2012-107
DRAWN BY	PAUL HEINRICH & ASSOC.
CHECKED BY	MIC
DATE	12/20/2012

TYPE	WATTAGE	BEAM ANGLE	FOOT-CANDLES
1	100	30°	1.0
2	100	45°	0.7
3	100	60°	0.5
4	100	75°	0.3
5	100	90°	0.2



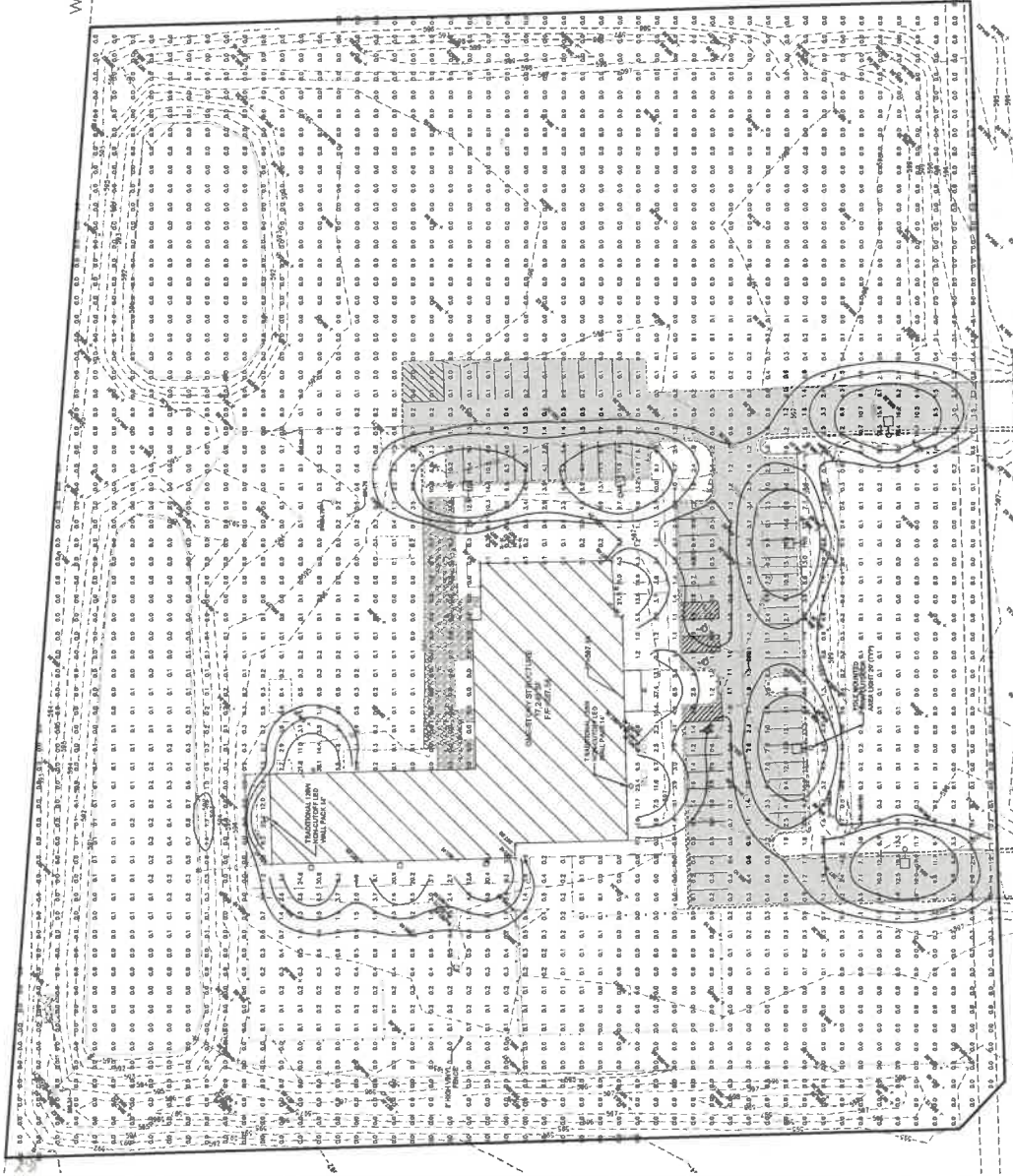
LIGHT STANDARD FOUNDATION PLAN
 N.T.S.

GENERAL PHOTOMETRIC SCHEDULE

MAXIMUM FOOT-CANDLES	50.1
AVERAGE FOOT-CANDLES	0.87
MINIMUM FOOT-CANDLES	0.0
AVERAGE TO MINIMUM FOOT-CANDLES	50.1 / 0.0
AVERAGE TO MAXIMUM FOOT-CANDLES	0.87 / 50.1

LUMINAIRE SCHEDULE

CLUSTER	SYMBOL	QUANTITY	BEAM ANGLE	LUMENS / LAMP	HEIGHT	DESCRIPTION	MODEL #
P	○	6	20°	50000	POLE	Pole Mounted 300W Outdoor Area Light	LS INDUSTRIES, INC. 300W-3-LED-AC-7°
WT0	○	3	10°	16000	WALL	Traditional 120W Non-Color LED Pole	Optimal Illumination LLC (11-1200)S-11-100-10W
WT2	○	3	12°	16000	WALL	Traditional 120W Non-Color LED Pole	Optimal Illumination LLC (11-1200)S-11-100-10W
WT4	○	2	14°	16000	WALL	Traditional 120W Non-Color LED Pole	Optimal Illumination LLC (11-1200)S-11-100-10W



04/20/12