

**KENDALL COUNTY PLANNING, BUILDING & ZONING COMMITTEE**  
**Kendall County Office Building**  
**Rooms 209 and 210**  
**111 W. Fox Street, Yorkville, Illinois**  
**6:30 p.m.**  
**Meeting Minutes of February 9, 2023**

**CALL TO ORDER**

The meeting was called to order by Vice-Chairman Rodriguez at 6:31 p.m.

**ROLL CALL**

Committee Members Present: Dan Koukol, Ruben Rodriguez, and Brooke Shanley

Committee Members Absent: Elizabeth Flowers and Seth Wormley

Also Present: Matt Asselmeier (Senior Planner), Emily Hoffmann, and Deb Howard

**APPROVAL OF AGENDA**

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

**APPROVAL OF MINUTES**

Member Shanley made a motion, seconded by Member Koukol, to approve the minutes of the January 9, 2023, meeting, and February 4, 2023, special meeting. With a voice vote of three (3) ayes, the motion carried.

**PUBLIC COMMENT**

None

**EXPENDITURE REPORT**

The Committee reviewed the expenditure report from January 2023. Mr. Asselmeier noted the expenditures related to repairs to one (1) of the Department's trucks.

**PETITIONS**

Petition 22 – 27 – Deb Howard on Behalf of Jade Restorations, Inc. (Current Owner) and Bullmastiff Construction Company LTD. (Contractor)

Mr. Asselmeier summarized the request.

On February 18, 2020, the County Board approved Ordinance 2020-01, granting a special use permit for a kennel and veterinary at the northeast corner of Ridge Road and Bell Road, now addressed as 949 Bell Road, Minooka.

During the summer of 2022, the Planning, Building and Zoning Department received complaints regarding lights at the subject property. Upon investigation, Staff discovered that the site had not been developed in accordance with the site plan, landscaping plan, and photometric plan attached to the special use permit ordinance. The property owner agreed to amend the special use permit to have the site plan, landscaping plan, and photometric plan to match the current conditions.

The specific amendments are as follows (items in red are Staff comments):

1. Fence limits on the west side of the building are different with a larger outdoor area enclosed and extended further south. The installed fence height is eight feet (8'), not six feet (6') as described in the associated exhibits attached to Ordinance 2020-01. **The fence was a cedar fence in the approved plans; the installed fence was vinyl.**
2. Westerly septic field is enclosed within the expanded fenced outdoor plan area. Westerly septic tank is installed further north than previously proposed. The southerly septic tank/piping was designed to be on the east side of the main entry, but was installed on the west side of the entry.
3. The Rusty Ridge sign at the southwest corner of the site is located within the Kendall County right-of-way. This will be relocated as part of the major amendment to the originally proposed location at a ten foot (10') setback from the right-of-way along the middle of the property west of the proposed location. **No information was provided regarding the other sign. The approved plans had one (1) monument sign along Bell Road and one (1) monument sign along Ridge Road. Both signs were to be four feet by eight feet (4'X8') and a maximum of eight feet (8') in height. Neither sign will be illuminated.**
4. Sidewalk has been added around the building that was not part of the original plans. There is a gravel driveway/PCC walk along the north side of the building for equestrian trailer access. Additional parking was added in the northeast corner of the building. **Number of parking stalls increased from fifty-two (52) to sixty-five (65). The number of handicapped accessible parking spaces remains at three (3).**
5. The east side walkway/covered entrance/building was eliminated and the walk is shown coming out of the south side of the building.
6. A five thousand (5,000) gallon external tank was previously proposed next to the well for fire protection. This was not constructed. Tank was installed in basement of building per discussions with the Minooka Fire Department.
7. An additional wall pack was added along the west wall of the building as the play area was enlarged/moved from the northeast corner of building. As built-photometric plan was unchanged and light intensities at west property line are still zero point zero (0.0) foot candles. **Change in location of lights. Number of pole lights to remain the same. Height of pole lights to remain the same.**
8. The concrete pad for trash enclosure is installed but no walls have been constructed. Concrete pad relocated further north to allow equestrian trailer access along the north side of the building from the parking lot. **Petitioner still plans to install the seven foot (7') tall masonry or wood fencing around the refuse area.**
9. Well head installed further north of design location.
10. Outdoor play area was eliminated on the northeast corner of building due to the installation of air handling units. **Original plans called for two (2) approximately twelve thousand (12,000) square foot outdoor play areas that were planned on both sides of the kennel wing of the building.**

11. A three thousand, one hundred (3,100) gallon holding tank was eliminated that was previously proposed for therapy pool/dog wash. Therapy pool was eliminated from building.
12. Per Seward Township Board meeting of December 13, 2022, Owner and Township agreed that building and parking lot lighting will be turned off at 10:00 p.m. every night and all parking lot lighting and building lighting and building wall packs will be installed with cutoffs or shields. On January 26, 2023, the Petitioner's Engineer submitted a request to allow the wall pack lights on the building to be considered lighting necessary for security and be kept on twenty-four (24) hours and that the parking lots be turned off by Midnight, which is one (1) hour after the business closes as allowed by the Zoning Ordinance. The Petitioner's Engineer would like this language included as a condition of the special use permit. This email was provided. **Security lighting has motion sensors.**
13. Owner is requesting a variation to Kendall County Zoning Ordinance 7:01.D.29 for A-1 special use and modify "Condition G" of 2020-01 special use ordinance to State 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."
14. **Change in vegetation count from thirty-eight (38) shade trees of various types, seventy-eight (78) evergreen trees of various types, sixty-eight (68) evergreen shrubs of various types, two hundred eighty-two (282) deciduous shrubs of various types, and one hundred fifteen (115) perennials of various types to thirty (30) ornamental trees of various types, twenty-six (26) trees of various types, forty-nine (49) evergreen trees of various types, and one hundred sixty-nine (169) shrubs of various types. Some vegetation has not been installed.**

The conditions in Ordinance 2020-01 are as follows:

- A. The site shall be developed substantially in accordance with the attached site plan attached hereto as Exhibit C, landscaping plan attached hereto as Exhibit D, and photometric plan attached hereto as Exhibit E.
- B. Within sixty days (60) days of approval of this special use permit ordinance, the property owners shall convey land to Kendall County and Seward Township for Ridge Road and Bell Road right-of-way in the locations and depths shown on the Right-of-Way Plat of Dedication attached hereto as Exhibit F.
- C. The use allowed by this special use permit shall be located a minimum of two hundred fifty feet (250') from the lot line of lots zoned residential or shown as Residential on the Land Resource Management Plan (LRMP) map and One Hundred Fifty Feet (150') from Lots Zoned Other Than Residential or Shown on the LRMP Map as non-residential.
- D. Two (2) non-illuminated signs may be installed on the subject property in substantially the locations shown on the site plan (Exhibit C).
- E. All vegetation and berms shall be installed within six (6) months of the opening of either the kennel or veterinary establishment at the subject property. The businesses shall be considered open on the date when the Kendall County Planning, Building and Zoning Department issues a certificate of occupancy for the

building. Damaged or dead vegetation shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.

- F. A maximum of eighty (80) dogs and twenty-five (25) cats may be kennelled on the subject property at any time.
- G. All pets shall be indoors between the hours of sunset and sunrise except for the purposes of owners dropping-off and picking-up pets.
- H. In the event that the kennel operations cease at the property, the veterinary business allowed by this special use permit may not board animals overnight except for medical treatment and observations.
- I. The normal hours of operation for the businesses allowed by this special use permit shall be Monday through Friday from 6:00 a.m. until 7:00 p.m. and Saturday and Sunday from 7:00 a.m. until 7:00 p.m. The operator(s) of the business allowed by this special use permit may reduce these hours of operation. Pets experiencing medical emergencies at the kennel may be tended to outside the hours of operation. The veterinary establishment may be open beyond the hours of operation listed to handle medical emergencies.
- J. The maximum combined number of employees for the businesses allowed by this special use permit shall be seventy (70), including the business owners.
- K. Refuse shall be removed from the subject property at least one (1) time per week or as necessary to prevent litter or odors from emanating from the subject property.
- L. Any construction on the property related to the businesses allowed by this special use permit shall not be considered as agricultural purposes and shall secure applicable permits.
- M. The operator(s) of the businesses allowed by this special use permit may sell ancillary items related to their operations.
- N. The operator(s) of the businesses allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
- O. The operator(s) of the businesses allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of these types of businesses.
- P. 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.
- Q. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

The right-of-way dedication required called for in condition 2 occurred.

The proposed amendments would impact conditions 1 and 7. The vegetation referenced in condition 5 has not been installed completely. The remaining conditions shall remain valid and in effect.

The property is approximately twenty (20) acres and the special use area is approximately eight point five (8.5) acres.

The current land use is agricultural, veterinary, and kennel.

The future land use map calls for the property to be commercial.

Ridge Road is a County Road classified as an Arterial Road. Bell Road is a Township Road classified as a Minor Collector.

Shorewood has a trail planned along Ridge Road and Bell Road.

The adjacent land uses are agricultural, farmstead, and landscaping business.

The adjacent properties are zoned A-1 and A-1 special use.

The Land Resource Management Plan calls for the area to be Suburban Residential, Commercial, and Mixed Use Business.

The properties within one half (1/2) of a mile are zoned A-1, A-1 special use, and R-1.

There are twelve (12) homes located within one half (1/2) mile of the subject property.

The special uses to the north and south are landing strips. The special use to the east is for natural gas compression. The special use to the west is for a landscaping business.

EcoCat submitted on December 5, 2019, and consultation was terminated.

The NRI that was prepared for the original special use permit remains valid. The LESA Score was 207 indicating a medium level of protection. NRI information was provided

Seward Township was emailed information on December 27, 2022. As noted previously, Seward Township reviewed the proposal prior to application submittal. The Seward Township Planning Commission submitted an email on January 19, 2023, noting their approval of the project provided shades were put on all of the remaining lights in the parking lot and on the building. This email was provided.

The Minooka Fire Protection District was emailed information on December 27, 2022. They responded on December 29, 2022, saying they had no stipulations regarding this proposal. The email was provided.

The Village of Shorewood was emailed information on December 27, 2022.

ZPAC reviewed the proposal at their meeting on January 3, 2023. Discussion occurred regarding the timing of installing the landscaping. All landscaping would be installed by mid-June 2023. ZPAC recommended approval of the proposal by a vote of six (6) in favor and zero (0) in opposition with four (4) members absent. The minutes were provided.

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on January 25, 2023. Discussion occurred regarding the need for the proposed amendments. Joan Soltwisch read a statement into the record regarding lighting at the property. Discussion occurred regarding lights at nearby agricultural properties. Dr. Joe Chow provided pictures of lighting in the area and explained the need for lighting at the property. Discussion also occurred

about amending the County's special use amendment criteria related to major and minor amendments to existing special use permits. The Kendall County Regional Planning Commission recommended approval of the proposal by a vote of nine (9) in favor and zero (0) in opposition with one (1) member absent. The minutes were provided.

The Kendall County Zoning Board of Appeals held a public hearing on this proposal on January 30, 2023. Other than the Petitioner and Petitioner's Engineer, no other members of the public testified at the public hearing. It was noted that many of the proposed changes had already been installed. Planting of the landscaping would occur as outlined in the proposal. Discussion focused on lighting issues. Members reviewed pictures of the lighting in the area and the shields that had been installed on the wall pack lights. The Petitioner's Engineer explained the need for the amendments and variance. The Kendall County Zoning Board of Appeals recommended approval of the proposal with the conditions proposed by Staff by a vote of seven (7) in favor and zero in opposition. The minutes of the hearing were provided.

The Findings of Fact for the special use permit amendment 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. 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.

The Findings of Fact for the variance were as follows:

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.

Staff recommended approval of the requested variance and amendments to the existing special use permit for a kennel and veterinary establishment 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.” **(Added after ZPAC).**

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.

Staff is also of the opinion that the requirement that animals in kennels be indoors between the hours of sunset and sunrise should be revisited through the text amendment process and that specific hours not connected to sunrise or sunset be set.

The draft ordinance was provided.

Member Koukol was impressed with the development; he felt that the project looks good and was very precise.

Member Koukol asked if the business was open. Deb Howard, Petitioner, responded yes. The Petitioner owns the construction company. The business was doing good. Ms. Howard had a positive experience with working with the County.

Vice-Chairman Rodriguez expressed the need for the various amendments. He thanked Ms. Howard for bringing the businesses to Kendall County.

Member Koukol made motion, seconded by Member Shanley, to recommend approval of the special use permit and variance. With a voice vote of three (3) ayes, the motion carried.

The proposal goes to the County Board on February 21, 2023, on the consent agenda.

### **NEW BUSINESS**

**Approval to Initiate Text Amendments to the Kendall County Subdivision Control Ordinance and Kendall Zoning Ordinance Related to the Following Items:**



Delete Phone Numbers Listed in Appendix 7 of the Subdivision Control Ordinance  
Delete Direct References to Individuals and Individual Engineering Companies in Appendix 7 of the Subdivision Control Ordinance  
Delete Dead Website Links in Appendix 9 A and 9 B of the Subdivision Control Ordinance and Add Alternative Language for Website Links Where Appropriate  
Amend the Definitions of Brew Pub and Micro Brewery to Match State Law in Section 3:02 of the Zoning Ordinance  
Amend the Definition of Tent to Apply to Structures Beyond Outdoor Camping Uses in Section 3:02 of the Zoning Ordinance  
Deleting the Reference to the Illinois Mobile Home Safety Act and Replacing the Reference to a General Reference to State Law in Section 11:05.D.2 of the Zoning Ordinance  
Repealing Ordinance 1998-10 Pertaining to the Procedure for Closing Inactive Petitions and Amending Section 13:01.A of the Zoning Ordinance by Adding a Procedure for Closing a Petition Due to Inactivity

Mr. Asselmeier summarized the issue.

For the past several months, Staff has been working with the codifiers to get all of the Kendall County's regulations into one (1) code. The codifiers recommended several changes to the Kendal County Zoning Ordinance and Subdivision Control Ordinance. During the review, Staff also identified several changes to these regulations. The codifiers recommended that these changes occur prior to adoption of the new code. Below please find the proposed changes:

1. Subdivision Control Ordinance-Appendix 7  
Several phone numbers are listed in the Appendix. The accuracy of all of these phone numbers is unknown. Staff would like to list the organization only and not the phone numbers.
2. Subdivision Control Ordinance-Appendix 7  
Greg Chismark and WBK Engineering are listed by name. Staff would like to have a general statement regarding stormwater engineering contact information.
3. Subdivision Control Ordinance-Appendix 9 A  
In the Performance Criteria Section, there is a dead link to information about invasive species. Staff would like a general statement instead of a website link.
4. Subdivision Control Ordinance-Appendix 9 B  
In the Native Plan Resources Section, there are several dead links. Staff would like general references instead of website links.
5. Zoning Ordinance Section 3:02  
The definitions of Brew Pub and Microbrewery should be amended to correspond to State law.
6. Zoning Ordinance Section 3:02  
The definition of Tent should be expanded to include tents outside of campgrounds.
7. Zoning Ordinance Section 11:05.D.2  
This section references a State law that does not exist.
8. Ordinance 1998-10  
This Ordinance established procedures for closing inactive petitions. This Ordinance is outdated and now only applies to the Zoning Ordinance and Stormwater Management

Ordinance. Staff is working with the State to incorporate the language in the Stormwater Ordinance; the Zoning Ordinance should be changed prior to adoption of the new code.

Redlined versions of the proposed changes were provided.

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

The proposal goes to ZPAC on March 7, 2023.

*Approval to Initiate Text Amendments to the Kendall County Zoning Ordinance Pertaining to Commercial Solar Energy Facilities, Commercial Wind Energy Facilities, Test Solar Energy Facilities, and Test Wind Towers*

Mr. Asselmeier summarized the request.

In January 2023, the Illinois General Assembly approved and the Governor signed House Bill 4412 pertaining to commercial wind and solar energy systems. If the County wishes to have regulations governing commercial solar energy facilities and commercial wind energy facilities, the attached amendments to the Kendall County Zoning Ordinance would be required.

For reference, items in red are issues that would require changes and changes in bolded black are items that need to be discussed.

General proposed changes are as follows:

1. Various definitions related to solar and wind energy facilities will need to be amended, added, and deleted. Many terms are defined in State law and were referenced as such. The definitions of solar farm and solar gardens were removed. The definitions of solar energy system, private and wind energy system, small were adjusted to reflect State law. Onsite consumption would include energy generated within a subdivision, planned development, or business park and consumed within the development.
2. Small wind energy systems would remain conditional uses in the A-1, R-1, R-2, RPD, Business, and Manufacturing Districts. Solar energy system, private would become permitted uses in all zoning districts.
3. Commercial solar energy facilities, test solar energy systems, commercial energy wind facilities and test wind towers would become special uses in the A-1, R-1, RPD Districts, and Manufacturing Districts.
4. Adding a statement that the regulations do not apply to commercial wind energy facilities within one point five (1.5) miles of a municipality, unless the County has an Intergovernmental Agreement with the municipality to provide zoning services to the municipality. Staff would like to add a requirement that solar and wind energy facilities within one point five (1.5) miles of a municipality must either annex to the municipality or enter into a pre-annexation agreement with the municipality using the Chatham annexation rules.
5. Add a requirement that the County Board shall make its decision on the application not more than thirty (30) days after the conclusion of the public hearing.

6. A determination will need to be made if the County wants to allow smaller setbacks than allowed under the law. As proposed, the setbacks would follow State law.
7. A determination will need to be made if the County will allow changes in setbacks, certain height requirements for solar, and fencing requirements if nonparticipating property owners consent to these requirements. As proposed, the change would be allowed to occur if documentation was provided at the time of application submittal.
8. A determination will need to be made if the County wants to allow sound limitations for wind towers less restrictive than the regulations set forth by the Illinois Pollution Control Board. As proposed, sound regulations would follow State law.
9. A determination will need to be made if agricultural impact mitigation agreements have to be submitted with the application.
10. The County's landscaping requirements will need to be adjusted to reflect the law.
11. Statements requiring compliance with EcoCat reports, Fish and Wildlife Service reports, and Illinois State Historic Preservation consultations be added to the Zoning Ordinance.
12. Statements regarding road use agreements will need to be adjusted to reflect the bill.
13. A determination will need to be made regarding enforcement of damaged drain systems.

Counties are required to amend their ordinances within one hundred twenty (120) days of the signing of the bill.

The new law was also provided.

#### Section 3:02 (Definitions)

**BUILDING-INTEGRATED SOLAR ENERGY SYSTEMS.** An active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

**COMMERCIAL SOLAR ENERGY FACILITY.** Shall have the same meaning as defined in 55 ILCS 5/5-12.

**COMMERCIAL WIND ENERGY FACILITY.** Shall have the same meaning as defined in 55 ILCS 5/5-12.

~~**GRID-INTERIE SOLAR ENERGY SYSTEM.** A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.~~

~~**GROUND MOUNT SOLAR ENERGY SYSTEM.** A solar energy system mounted on a rack or pole that rests on or is attached to the ground.~~

**FACILITY OWNER.** For the purposes of commercial solar energy facilities and commercial wind energy facilities, a facility owner shall have the same meaning defined in 55 ILCS 5/5-12.

**NONPARTICIPATING PROPERTY.** For the purposes of commercial solar energy facilities and commercial wind energy facilities, a nonparticipating property shall have the same meaning as defined in 55 ILCS 5/5-12.

**NONPARTICIPATING RESIDENCE.** For the purposes of commercial solar energy facilities and commercial wind energy facilities, a nonparticipating residence shall have the same meaning as defined in 55 ILCS 5/5-12.

**OCCUPIED COMMUNITY BUILDING.** For the purposes of commercial solar energy facilities and commercial wind energy facilities, an occupied community building shall have the same meaning as defined in 55 ILCS 5/5-12.

**PARTICIPATING PROPERTY.** For the purposes of commercial solar energy facilities and commercial wind energy facilities, a participating property shall have the same meaning as defined in 55 ILCS 5/5-12.

**PARTICIPATING RESIDENCE.** For the purposes of commercial solar energy facilities and commercial wind energy facilities, a participating residence shall have the same meaning as defined in 55 ILCS 5/5-12.

~~**PASSIVE SOLAR ENERGY SYSTEM.** A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.~~

~~**PHOTOVOLTAIC SYSTEM.** An active solar energy system that converts solar energy directly into electricity.~~

**PROTECTED LANDS.** For the purposes of commercial solar energy facilities and commercial wind energy facilities, protected lands shall have the same meaning as defined in 55 ILCS 5/5-12.

~~**SOLAR ACCESS.** Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.~~

~~**SOLAR ENERGY EASEMENT.** An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.~~

~~**SOLAR ENERGY SYSTEM ADDITION.** A private solar energy system which is structurally attached to a building or structure on the zoning lot on which said system is located. Said system shall be considered part of the building and shall comply with all provisions of this ordinance pertaining thereto.~~

**SOLAR ENERGY SYSTEM, PRIVATE.** A collection of one (1) or more solar collectors designed for use by the occupant(s) of the zoning lot, **planned development, commercial and industrial park, or subdivision** on which or **in which** said system is located; excess power generation is limited to net metering or similar technology with regulations set by the local power utility, community, county, and state. Private solar energy system equipment shall conform to applicable industry standards, and applicants for building permits for private solar energy

systems shall submit certificates from equipment manufacturers that the equipment is manufactured in compliance with industry standards.

~~**SOLAR FARM. A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located.**~~

~~**SOLAR GARDEN. A commercial solar electric (photovoltaic) array, of no more than 20 acres in size, that provides retail electric power (or a financial proxy for retail power) to multiple households or businesses located off-site from the location of the solar energy system.**~~

~~**SOLAR HEAT EXCHANGER. A component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.**~~

~~**SOLAR MOUNTING DEVICES. Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.**~~

~~**SOLAR STORAGE UNIT. A component of a solar energy device that is used to store solar generated electricity or heat for later use.**~~

~~**SUPPORTING FACILITIES. For the purposes of commercial solar energy facilities and commercial wind energy facilities, supporting facilities shall have the same meaning as defined in 55 ILCS 5/5-12.**~~

WIND ENERGY SYSTEM, SMALL A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity ~~of not more than 100 kW that does not meet the kilowatt capacity in total nameplate generating capacity as defined by 55 ILCS 5/5-12~~ and which is intended to primarily reduce onsite consumption of utility power. If all applicable regulations are met a small wind energy system may contain more than one wind energy conversion system. ~~This system may power properties in planned developments, commercial and industrial parks, or subdivisions on which or in which said system is located.~~

~~**WIND FARM, COMMERCIAL A single wind driven machine or a collection of wind driven machines or turbines that convert wind energy into electrical power for the primary purpose of sale, resale or offsite use.**~~

~~**WIND TOWER. For the purposes of commercial solar energy facilities and commercial wind energy facilities, a wind tower shall have the same meaning as defined in 55 ILCS 5/5-12.**~~

#### Section 4:05.A. (Accessory Uses)

12. Small wind energy system (Permitted as **Conditional Accessory** Use only in the A-1, R-1, R-2, **R-3**, and all Business and Manufacturing Districts – may also be approved as part of a Residential Planned Development) subject to the conditions of Section 4:17.

13. ~~Solar panels~~ **Solar Energy System, Private** subject to the conditions of Section 4:18.

Mr. Asselmeier suggested making small wind energy systems purely accessory uses and not conditional uses.

Section 4:18

**Solar Panels-Solar Energy System, Private**

A. Roof Mounted for On-Site Energy Consumption. Solar panels located on the roof of an existing structure shall be permitted in all districts. Roof mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted. Roof mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. Roof mounted or building integrated private solar energy systems for residential or business use shall be considered an accessory use in all zoning districts where there is a principal structure and shall meet the regulations of the Kendall County Zoning Ordinance. Roof mounted solar panels used as accessory to agricultural uses and which the energy generated from the solar panels is consumed on-site shall be exempt from building permits. The use of roof mounted solar panels for on-site energy consumption shall comply will all applicable federal, state, and local laws and the rules of the local electrical utility.

B. Freestanding for On-Site Energy Consumption. Solar panels located on the ground or attached to a framework located on the ground shall be classified as accessory structures in all zoning districts provided that the system is no larger than necessary to provide one hundred twenty percent (120%) of the electrical and/or thermal requirements of the structure, **planned development, commercial and industrial park, or subdivision** to which it is accessory as determined by a contractor licensed to install photovoltaic and thermal solar energy systems. **Freestanding solar energy systems, private may be the first structure constructed on lots zoned residential, business, or manufacturing.** Freestanding solar panels shall be permitted if they comply with the standards listed in the Kendall County Zoning Ordinance. Ground or pole mounted solar energy systems shall not exceed the maximum height, when oriented at maximum tilt, for the zoning district in which it is located. Freestanding solar panels used as accessory to agricultural uses and which the energy generated from the solar panels is consumed on-site shall be exempt from building permits. The use of freestanding solar panels for on-site energy consumption shall comply will all applicable federal, state, and local laws and the rules of the local electrical utility.

~~C. Solar Gardens. Solar gardens shall be allowed in all zoning districts and shall require a special use permit whether accessory or principal use of the property subject to the following requirements:~~

- ~~1. Unless otherwise noted in the Kendall County Zoning Ordinance, solar gardens must comply with all required standards for structures in the district in which the system is located.~~
- ~~2. Rooftop community systems are permitted in all zoning districts where buildings are permitted.~~
- ~~3. Ground-mount community solar energy gardens must be less than or equal to twenty (20) acres in total size. Ground-mount solar developments covering more than twenty (20) acres shall be considered solar farms.~~

~~4. Solar gardens are subject to Kendall County's Stormwater Management Ordinance and NPDES permit requirements.~~

~~5. An interconnection agreement must be completed with the electric utility in whose service territory the system is located.~~

~~6. Ground-mount systems must comply with all required standards for structures in the district in which the system is located. All solar gardens shall also be in compliance with all applicable local, state and federal regulatory codes, including the National Electric Code, as amended. Also, Health Department requirements for wells and septic systems must be met.~~

~~D. Solar Farms. Ground-mount solar energy systems that are the primary use on the lot, designed for providing energy to off-site uses or export to the wholesale market are permitted under the following standards:~~

~~1. Unless otherwise noted in the Kendall County Zoning Ordinance, solar farms must comply with all required standards for structures in the district in which the system is located.~~

~~2. Solar farms are subject to Kendall County's Stormwater Management Ordinance and NPDES permit requirements.~~

~~3. Top soils shall not be removed during development, unless part of a remediation effort. Soils shall be planted to and maintained in perennial vegetation to prevent erosion, manage run-off and build soil. A plan must be approved by the Kendall County Soil and Water Conservation District and paid for by the developer. Applicable noxious weed ordinances shall be followed. Due to potential County liability under the Illinois Endangered Species Protection Act (520 ILCS 10/11(b)), it is required that any crops or vegetation planted be in compliance with all federal and state laws protecting endangered species. This will also include pollinators such as bees. A report showing demonstration of plan compliance shall be submitted annually and paid for by the developer.~~

~~4. A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.~~

~~5. All solar farms shall be in compliance with all applicable local, state and federal regulatory codes and the National Electric Code, as amended.~~

~~6. Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by Kendall County in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines or distance makes undergrounding infeasible, at the discretion of the Kendall County Planning, Building and Zoning Department. In addition, the Illinois Department of Agriculture (IDOA) has established standards and policies in the Agricultural Impact Mitigation Agreements (AIMA) regarding the construction or burial of electric transmission lines which should be agreed to and adhered to between the landowner and the developer.~~

~~7. A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, farm tile, electric equipment, fencing, and screening materials and all other characteristics requested by Kendall County. The site plan should also show all zoning districts and overlay districts.~~

~~E. C.~~ Setback Requirements. Unless otherwise stated in the Kendall County Zoning Ordinance, the setback requirements for all solar energy systems shall meet the structure minimum setback requirements when the solar energy system is oriented at any and all positions. No solar energy system shall be located in any front yard of any residentially zoned or used property.

~~F. D.~~ Design Standards. Active solar energy systems shall be designed to conform to the County's Land Resource Management Plan and to blend into the architecture of the building or may be required to be screened from the routine view from public rights-of-way other than alleys. Screening may be required to the extent it does not affect the operation of the system. The color of the solar collector is not required to be consistent with other roofing materials.

1. Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the district in which the building is located.

2. Solar energy systems using roof mounting devices or ground-mount solar energy systems shall not be restricted if the system is not visible from the closest edge of any public right-of-way or immediately adjacent to a residential structure.

3. All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties. Measures to minimize glare include selective placement of the system, screening on the north side of the solar array, modifying the orientation of the system, reducing use of the reflector system, or other remedies that limit glare.

4. Damaged field drain tile shall be repaired or rerouted on a timetable approved by the Kendall County Planning, Building and Zoning Department.

~~G. E.~~ Coverage. Roof or building mounted solar energy systems, excluding building-integrated systems, shall allow for adequate roof access for firefighting purposes to the south-facing or flat roof upon which the panels are mounted. Ground-mount private solar energy systems shall be exempt from impervious surface calculations if the soil under the collector is not compacted and maintained in vegetation. Foundations, gravel, or compacted soils are considered impervious.

~~H. F.~~ Plan Approval Required. All solar energy systems shall require administrative plan approval by the Kendall County Building Official via the review of the application for a building permit.

1. Plan applications for solar energy systems shall be accompanied by horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system including the property lines.



2. For all roof-mounted systems other than a flat roof, the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.

3. For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.

4. Applications that meet the design requirements of the Kendall County Zoning Ordinance and do not require an administrative variance shall be granted administrative approval by the Zoning Administrator and not require Planning, Building and Zoning Committee review. Plan approval does not indicate compliance with Building or Electrical Codes.

**I. G.** Approved Solar Components. Electric solar energy system components must have a UL listing approved equivalent and solar hot water systems must have an SRCC rating.

**J. H.** Compliance with Building Code. All active solar energy systems shall meet approval of County building officials; solar thermal systems shall comply with HVAC-related requirements of the Illinois State Energy Code. All County adopted building codes will apply and take precedence where applicable.

**K. I.** Utility Notification. All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

**L. J.** Building Permit Requirements and Fees. All solar energy systems will be required to have a Kendall County Building Permit before any work can be started. A written plan and a plat/drawing for the proposed solar energy system shall be provided with the Building Permit Application. The plat/drawing must show the location of the system on the building or on the property, (for a ground-mount system show arrangement of panels), with all property lines and set back footages indicated. Fees for processing the applications for building permits shall be established by the County Board. Any solar energy system that construction has started before a Building Permit has been applied and paid for will be charged double the permit fee. The above fees do not apply to solar energy systems used to generate energy for on-site consumption of energy for agricultural purposes.

#### **~~M. Liability Insurance and Indemnification.~~**

**~~1. For Solar Farms and Solar Gardens, commencing with the issuance of building permits, the Applicant, Owner, or Operator shall maintain a current general liability policy covering bodily injury and property damage with limits of at least Three Million Dollars (\$3 Million) per occurrence and Five Million Dollars (\$5 Million) in the aggregate. Such insurance may be provided pursuant to a plan of selfinsurance, by a party with a net worth of Twenty Million Dollars (\$20 Million) or more. The County shall be named as an individual insured on the policy to the extent the county is entitled to indemnification.~~**

**~~2. Any SES(s), applicant, owner, or operator, whether individual or commercial, shall defend, indemnify, and hold harmless the County and its officials, employees, and~~**

~~agents (collectively and individually, the “Indemnified Parties”) from and against any and all claims, demands, losses, suits, causes of actions, damages, injuries, costs, expenses, and liabilities whatsoever, including reasonable attorney’s fees, except to the extent arising in whole or part out of negligence or intentional acts of such Indemnified Parties (such liabilities together known as “liability”) arising out of applicant, owner, or operators selection, construction, operation, and removal of the SES(s) and affiliated equipment including, without limitation, liability for property damage or personal injury (including death), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limited or qualifying the County’s other indemnification rights available under the law.~~

**N. K. Decommissioning Plan.**

1. Upon the request of the Kendall County Planning, Building and Zoning Department, an owner of a solar energy system must provide documentation, within thirty (30) days, that the solar energy system is still in use. If the solar energy system is not in use, the owner of the system shall have 180 days, after notification from the Kendall County Planning, Building and Zoning Department, to remove the solar energy system from the property.

~~2. A decommissioning plan shall be required at the time of applying for all solar farms and solar gardens to ensure that the facilities are properly removed after their useful life.~~

~~3.~~ 2. Decommission of solar panels must occur in the event they are not in use for ninety (90) consecutive days.

~~4. The owner or operator will have six (6) months to complete the decommissioning plan after operation of a solar farm or solar garden ceases.~~

~~5. The decommissioning plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation, and a plan ensuring financial resources will be available to fully decommission the site.~~

~~6. The Kendall County Board shall require the posting of a bond, letter of credit, or the establishment of an escrow account to ensure the proper decommissioning. The posting of a bond may be required prior to the issuance of a building permit for the facility.~~

~~7. In the event that the State of Illinois enacts a law with regards to the decommissioning of a solar farm, the strictest requirements shall prevail.~~

**O. L. Other Requirements.**

~~1. Upon request from the Kendall County Planning, Building and Zoning Department, the owner or operator of a solar farm or a solar garden must submit, within fourteen (14) calendar days, a current operation and maintenance report to the Department.~~

~~2. In all undeveloped areas, the solar energy developer will be required to complete a consultation with both the Illinois Historic Preservation Agency (IHPA) and the Illinois Department of Natural Resources (IDNR) through the Department’s online EcoCat Program. The cost of this consultation shall be at the developer’s expense. The final~~

~~certificate from EcoCat shall be provided to the Kendall County Planning, Building and Zoning Department before a permit or special use permit will be issued.~~

~~3. 1.~~ No fencing is required; however, if installed on the property the fencing shall have a maximum height of eight (8) feet. The fence shall contain appropriate warning signage that is posted such that is clearly visible on the site.

~~4. Any lighting for solar farms or solar gardens shall be installed for security and safety purposes only. Except for lighting that is required by the FCC or FAA, all lighting shall be shielded so that no glare extends substantially beyond the boundaries of the facility.~~

~~5. 2.~~ Reflection angles for solar collectors shall be oriented such that they do not project glare onto adjacent properties.

~~6. 3.~~ Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).

~~7. 4.~~ Solar energy systems must be in compliance with all State of Illinois Plumbing and Energy Codes.

~~8. 5.~~ For solar energy systems located within five hundred feet (500') of an airport or within approach zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

**N. Applicability. The regulations in this Section apply only to solar energy system, private and do not apply to commercial solar energy facilities.**

Section 7:01.D (A-1 Special Uses)

**Add Commercial Solar Energy Facilities and Test Solar Energy Systems to the appropriate place alphabetically in the list of special uses subject to the following:**

- a. All commercial solar energy facilities located within one point five (1.5) miles of a municipality shall either annex to the municipality or obtain an annexation agreement with the municipality requiring the municipality's regulations to flow through the property.**
- b. The setbacks for commercial solar energy facilities shall be measured from the nearest edge of any component of the facility as follows:**

**Occupied Community Buildings  
Dwellings on Nonparticipating  
Properties**

**One hundred fifty feet (150') from the  
nearest point on the outside wall of the  
structure**

**Boundary Lines of Participating**

**None**

**Properties**

**Boundary Lines of Nonparticipating Properties**

**Fifty feet (50') to the nearest point on the property line of the nonparticipating property**

**Public Road Rights-Of-Way**

**Fifty feet (50') from the nearest edge**

**The above setbacks do not exempt or excuse compliance with electric facility clearances approved or required by the National Electrical Code, the National Electrical Safety Code, Illinois Commerce Commission, Federal Energy Regulatory Commission, and their designees or successors.**

- c. A commercial solar energy facility's perimeter shall be enclosed by fencing having a height of at least six feet (6') and no more than twenty-five feet (25').**
- d. No component of a solar panel as part of a commercial solar energy facility shall have a height of more than twenty feet (20') above ground when the solar energy facility's arrays are at full tilt.**
- e. The above setback, fencing, and component height requirements may be waived subject to written consent of the owner of each affected nonparticipating structure. This written consent shall be submitted at the time of application submittal.**
- f. Sound limitations for components in commercial solar energy facilities shall follow the sound limitations established by the Illinois Pollution Control Board.**
- g. The County shall not require standards for construction, decommissioning, or deconstruction of a commercial solar energy system or related financial assurances to be more restrictive than agricultural impact mitigation agreement set in State law. The amount of any decommissioning payment shall be limited to the cost identified in the decommissioning or deconstruction plan, as required by the agricultural impact mitigation agreement, minus the salvage value of the project. A copy of the agricultural impact mitigation agreement shall be submitted with the application materials.**
- h. A vegetative screening shall be placed around the commercial solar energy facility.**
- i. Commercial solar energy facility applicants shall provide the results and recommendations from consultations with the Illinois Department of Natural Resources that obtained through the Ecological Compliance Assessment Tool (EcoCat) or a comparable successor tool. The commercial solar energy facility applicant shall adhere to the recommendations provided through this consultation.**
- j. Commercial solar energy facility applicants shall provide the results of the United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor toll that is consistent with the U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines and any applicable**

United States Fish and Wildlife Service solar wildlife guidelines that have been subject to public review.

- k. A facility owner shall demonstrate avoidance of protected lands as identified by the Illinois Department of Natural Resources and the Illinois Nature Preserve Commission or consider the recommendations of the Illinois Department of Natural Resources for setbacks from protected lands, including areas identified by the Illinois Nature Preserve Commission.
- l. A facility owner shall provide evidence at the time of application submittal of consultation with the Illinois State Historic Preservation Office to assess potential impacts on State-registered historic sites under applicable State law.
- m. A commercial solar energy facility owner shall plant, establish, and maintain for the life of the facility vegetative ground cover consistent with State law and the guidelines of the Illinois Department of Natural Resources' vegetative management plans. The vegetation management plan shall be required at the time of application submittal.
- n. The facility owner shall enter into a road use agreement with the jurisdiction having control over the applicable roads. The road use agreement shall follow applicable law. The facility owner shall supply the Kendall County Planning, Building and Zoning Department with a copy of the road use agreement. This provision shall be waived if the jurisdiction having control over the applicable roads does not wish to enter into an agreement.
- o. The facility owner shall repair or pay for the repair of all damage to the drainage system caused by the construction of the commercial solar energy system within a reasonable time after construction of the commercial solar energy facility is complete. The specific time shall be set in the special use permit.

Add Commercial Wind Energy Facility and Test Wind Towers to the appropriate place alphabetically in the list of special uses subject to the following:

- a. The following conditions apply to all commercial wind energy facilities located outside the one point five (1.5) mile zoning jurisdiction of municipalities and within the one point five (1.5) mile zoning jurisdictions of municipalities under intergovernmental agreements with the County for zoning services. All commercial wind energy facilities located within one point five (1.5) miles of a municipality shall either annex to the municipality or obtain an annexation agreement with the municipality requiring the municipality's regulations to flow through the property, unless not required to do so by applicable law.
- b. The setbacks for wind towers as measured from the center of the base of the wind tower shall be as follows:

<b>Occupied Community Buildings Nonparticipating Residences</b>	<b>Two point one (2.1) times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure</b>
<b>Participating Residences</b>	<b>One point one (1.1) times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure</b>
<b>Boundary Lines of Participating Properties</b>	<b>None</b>
<b>Boundary Lines of Nonparticipating Properties</b>	<b>One point one (1.1) times the maximum blade tip height of the wind tower to the nearest point on the property line of the nonparticipating property</b>
<b>Public Road Rights-Of-Way</b>	<b>One point one (1.1) times the maximum blade tip height of the wind tower to the center point of the public road right-of-way</b>
<b>Overhead Communication and Electric Transmission and Distribution Facilities (Not Including Overhead Utility Service Lines to Individual Homes or Outbuildings)</b>	<b>One point one (1.1) times the maximum blade tip height of the wind tower to the nearest edge of the property line, easement, or right-of-way containing the overhead line</b>
<b>Overhead Utility Service Lines to Individual Houses or Outbuildings</b>	<b>None</b>
<b>Fish and Wildlife Areas and Illinois Nature Preserve Commission Protected Lands</b>	<b>Two point one (2.1) times the maximum blade tip height of the wind tower to the nearest point on the property line of the fish and wildlife or protected land</b>

**The above setbacks do not exempt or excuse compliance with electric facility clearances approved or required by the National Electrical Code, the National**

**Electrical Safety Code, Illinois Commerce Commission, Federal Energy Regulatory Commission, and their designees or successors.**

**A wind tower of a commercial wind energy facility shall be sited so that industry standard computer modeling indicates that any occupied community building or nonparticipating residence will not experience more than thirty (30) hours per year of shadow flicker under planned operating conditions.**

**The above setback may be waived subject to written consent of the owner of each affected nonparticipating structure. This written consent shall be submitted at the time of application submittal.**

- c. Sound limitations for wind towers in commercial win energy facilities shall follow the sound limitations established by the Illinois Pollution Control Board.**
- d. The County shall not require standards for construction, decommissioning, or deconstruction of a commercial wind energy system or related financial assurances to be more restrictive than agricultural impact mitigation agreement set in State law. The amount of any decommissioning payment shall be limited to the cost identified in the decommissioning or deconstruction plan, as required by the agricultural impact mitigation agreement, minus the salvage value of the project. A copy of the agricultural impact mitigation agreement shall be submitted with the application materials.**
- e. A vegetative screening shall be placed around the commercial wind energy facility.**
- f. The commercial wind energy facility shall follow applicable federal regulations pertaining to blade tip height maximums.**
- g. Commercial wind energy systems applicants shall provide the results and recommendations from consultations with the Illinois Department of Natural Resources that obtained through the Ecological Compliance Assessment Tool (EcoCat) or a comparable successor tool. The commercial wind energy system applicant shall adhere to the recommendations provided through this consultation.**
- h. Commercial wind energy systems applicants shall provide the results of the United States Fish and Wildlife Service’s Information for Planning and Consulting environmental review or a comparable successor toll that is consistent with the U.S. Fish and Wildlife Service’s Land-Based Wind Energy Guidelines and any applicable United States Fish and Wildlife Service solar wildlife guidelines that have been subject to public review.**
- i. A facility owner shall demonstrate avoidance of protected lands as identified by the Illinois Department of Natural Resources and the Illinois Nature Preserve Commission or consider the recommendations of the Illinois Department of Natural Resources for setbacks from protected lands, including areas identified by the Illinois Nature Preserve Commission.**

- j. A facility owner shall provide evidence at the time of application submittal of consultation with the Illinois State Historic Preservation Office to assess potential impacts on State-registered historic sites under applicable State law.
- k. The facility owner shall enter into a road use agreement with the jurisdiction having control over the applicable roads. The road use agreement shall follow applicable law. The facility owner shall supply the Kendall County Planning, Building and Zoning Department with a copy of the road use agreement. This provision shall be waived if the jurisdiction having control over the applicable roads does not wish to enter into an agreement.
- l. The facility owner shall repair or pay for the repair of all damage to the drainage system caused by the construction of the commercial wind energy system within a reasonable time after construction of the commercial wind energy facility is complete. The specific time shall be set in the special use permit.

~~52. Solar Gardens subject to the provisions of Section 4:18.D.~~

~~53. Solar Farms subject to the provisions of Section 4:18.C.~~

~~57. Wind Farms, Commercial, subject to the following:~~

~~a. Location Guidelines – The following guidelines shall be considered in evaluating the appropriateness of proposed locations for Wind Farms and the proposed project components. The purpose of these guidelines is to assist decision-makers in uniformly analyzing the site-specific impacts of each proposed project and thereby arrive at consistent and balanced decisions.~~

~~i. Natural and Biological Resources – Wind Farms should not be located in areas that have a large potential for biological conflicts. Wind Farms should not be located in large impact areas such as wilderness study areas, areas of critical environmental concern, county and state parks, historic trails, and special management areas. Wind Farms should not significantly impact important wildlife habitat.~~

~~ii. Visual Impacts – Wind Farms should avoid those visual corridors that are designated by the County as essential view sheds or scenic areas. Essential view sheds or scenic areas are those areas designated in the County’s LRMP or in other locations determined by the County Board after analyzing the applicant’s wind farm visual simulations and considering public hearing comments. A Wind Farm project should maintain visual unity among clusters of turbines. To promote visual uniformity, the rotors, nacelles and towers of all turbines in an array should appear similar. To avoid visual clutter, intra-project power lines having a voltage of 34,500 volts or less, should be buried unless the applicant can sufficiently demonstrate that burying the lines will violate other guidelines/standards, violate applicable law, render the project economically infeasible or be hidden from public view. To avoid cluttering the skyline, transformers and other electric equipment should be hidden from view or otherwise constructed in harmony with the surrounding landscape.~~

~~iii. Soil Erosion & Water Quality – Wind Farms should avoid erosion. Disturbance and construction on erodible slopes should be minimized. The number of improved roads~~



~~and construction staging areas should be kept to a minimum. The grading width of roads should be minimized. One-lane roadways with turnouts are recommended. The number and size of staging areas and crane pad sites should be minimized.~~

~~iv. Historical, Cultural & Archeological Resources – Wind Farms should avoid sites with known sensitive historical, cultural or archeological resources.~~

~~v. Public Safety – Wind Farms shall be developed in a manner that utilizes sound engineering practices and considers public safety regarding the potential hazards to adjacent properties, public roadways, communities, aviation, etc. that may be created.~~

~~b. Performance Standards – The following standards are to be achieved by each Wind Farm project without exception. Because they are standards, they are requirements of any Wind Farm project. The final decision on whether or not a particular standard is achieved by a Wind Farm project shall be made by the County Board after considering the recommendations of all advisory bodies.~~

~~i. Noise Management – The noise level caused by the operation of the project, measured at five (5) feet above ground level at the property line coincident with or outside the project boundary, shall not exceed 65 decibels (A-weighted) and shall not exceed 50 decibels (A-weighted) if it is determined that a pure tone noise is generated by the project. The level, however, may be exceeded during shortterm events such as utility outages and/or severe windstorms.~~

~~ii. Wind Farm Design: Wind Farms that are not designed in “accordance with proven good engineering practices” or not purchased from a national manufacturer with a proven track record shall be prohibited. Wind Farms designed with the following characteristics shall be deemed in “accordance with proven good engineering practices”:~~

~~1. at least 3 blades.~~

~~2. upwind rotor.~~

~~3. no furling, where “furling” means that the wind turbine is designed to limit its power output in high winds by changing the rotor’s plane of rotation to a plane that is not perpendicular to the prevailing wind direction.~~

~~4. tapered and twisted blades.~~

~~5. a well-designed braking system.~~

~~iii. Visual Impacts – To provide visual order to a Wind Farm project, all individual turbines shall have the same number of rotor blades and all rotor blades shall spin in the same direction (i.e., clockwise or counter-clockwise) in relation to the wind. To promote visual uniformity, all turbines at a similar ground elevation shall have the same height from blade tip to the ground. Except during construction, reconstruction or removal, outdoor storage is not permitted within the project boundary except at locations that are screened from view. To avoid cluttering the skyline, inverters and pendant power cables shall be located inside the wind turbine tower, nacelle or structure. No telecommunications dishes, antennas, cellular telephone repeaters or other similar devices shall be attached to wind turbine towers. Aircraft obstruction~~

~~markings of the turbines by use of alternating red and white bands shall be prohibited. No Billboards, logos and advertising signs of any kind shall be located on the turbines.~~

~~iv. Soil Erosion & Water Quality – Construction and maintenance shall be done in strict accordance with the erosion and sediment control plan submitted with the Building Permit so as to minimize soil erosion and damage to existing vegetation. If vegetation is damaged during construction, in areas not occupied by the Wind Farms and related facilities and roads, it shall be restored after construction is complete. Disturbed areas shall be reseeded to the landowner's or manager's requirements. Dust control on the project site is required.~~

~~v. Setback – Individual wind turbines shall be set back from all property lines coincident with or outside of the project boundary a distance equal to 1.1 times the turbine hub height. Individual wind turbines shall be set back from all public roads a distance equal to at least 1.1 times the turbine hub height.~~

~~vi. Lighting – Individual wind turbine heights and markings shall comply with Federal Aviation Administration (FAA) regulations. Approval from the FAA stating that the turbines will not pose a hazard to aviation must be obtained prior to final recommendation by the Kendall County Regional Plan Commission. If lighting of turbines, or other structures, is required, “daytime white nighttime red” shall be the only type of lighting allowed unless prohibited by law. All required lighting effects shall be in synchronization with each turbine located on the same or contiguous zoning lot and under the same ownership of a single wind energy system organization. All turbines and towers shall be a shade of white in color. (Amended 2/16/2010)~~

~~c. Roads – All routes on either County or Township roads that will be used for the construction and maintenance purposes shall be identified on the site plan. All routes for either ingress or egress need to be shown. The routing shall be subject to the approval of the Kendall County Highway Engineer in coordination with the Township Road Commissioner(s). The developer shall provide and complete a pre-construction baseline survey to determine existing road conditions for assessing potential future damage due to development related traffic. The developer shall provide a road repair plan to improve any and all damage, installation or replacement of roads that might be required by the developer. The developer shall provide a letter of credit or a surety bond in amount and form approved by the highway official(s).~~

~~d. Fees – All applications for a Commercial Wind Farm shall be accompanied by a fee for a Commercial Wind Farm Special use in accordance with fee structure as established by the County Board and as amended from time to time. The County Board may, at its discretion, retain the services of attorneys and professional consultants to assist the Board and County staff in the amendment and zoning process. The application fee shall serve as an initial deposit from which any costs and expenses incurred by the county as a result of the application for amendment and the hearing process set forth herein shall be deducted. Such costs shall include, but not be limited to, the fees and costs of: County employees or staff review time, attorney's fees, expert witnesses, scientific testing, records or other investigations, data searches, notices, court reporters,~~

~~transcription costs, consultants, the ZBA, and other expenses incurred by the County in reviewing the application, the public hearing, and decision, or any issues raised at any time during any hearings up to and including the County Board decision. If the actual costs incurred by the County in conducting its review and recommendation of the requested map amendment exceed the amount of the application fee deposit, the applicant shall be billed and shall be required to pay any and all additional costs incurred by the County in the completion of their review and recommendation of the special use. Costs in excess of the application fee deposit are required to be paid in full by the applicant prior to scheduling the matter for action by the County Board.~~

~~e. Removal of Defective Wind Energy Systems: Any wind energy system found to be unsafe by an authorized county official shall be repaired by the owner to meet federal, state and local safety standards or removed within sixty (60) days. If any wind energy system is not operated for a continuous period of 12 months, the county will notify the landowner by registered mail and provide 45 days for a response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the county deems the timetable for corrective action as unreasonable, they must notify the operator and such operator shall remove the turbine within 120 days of receipt of notice from the county.~~

~~f. Decommissioning Plan: A Commercial Wind Farm shall submit a decommissioning plan to ensure it is properly decommissioned upon the end of the project life or facility abandonment. Facility abandonment shall include the ceasing of operations for a period of not less than one (1) year. Decommissioning shall include: removal of all structures (including transmission equipment and fencing) and debris to a depth of four (4) feet, restoration of the soil, and restoration of vegetation within six (6) months of the end of the project life or facility abandonment. At the time of decommissioning, an Alta Survey shall be submitted to the County. The decommissioning plan shall state how the facility will be decommissioned, a professional engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the escrow agent with which the resources shall be deposited. The decommissioning plan shall also include an agreement between the applicant and the County which states:~~

~~i. The financial resources for decommissioning which shall be in the form of a surety bond, or shall be deposited in an escrow account with an escrow agent acceptable to the County.~~

~~ii. If the Applicant chooses an escrow agreement:~~

~~i. A written escrow agreement will be prepared, establishing upon what conditions the funds will be disbursed; and~~

~~ii. The County shall have access to the escrow account funds for the express purpose of completing decommissioning if decommissioning is not completed by the applicant within sixty (60) days of the end of the project life or facility abandonment.~~

~~iii. The County is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.~~

~~iv. The County is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the County's right to seek reimbursement from applicant or applicant's successor for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by the applicant or applicant's successor, or in which they have an interest, for the amount of excess, and to take all steps allowed to enforce said lien.~~

~~Financial provisions shall not be so onerous as to make Commercial Wind Farm projects unfeasible.~~

Renumber the list of special uses in the A-1 accordingly.

Section 8:02.C (Special Uses in the R-1, R-2, and R-3)

~~18. Solar Gardens subject to the provisions of Section 4:00 of the Kendall County Zoning Ordinance.~~

**Add Commercial Solar Energy Facilities and Test Solar Energy Systems Subject to the Conditions Contained in Section 7:01.D and Commercial Wind Energy Facilities and Test Wind Towers Subject to the Conditions in Section 7:01.D to the List of Special Uses in the Appropriate Places Alphabetically.**

The list of special uses would be renumbered.

Section 8:03.H.1 (Special Uses in the RPD-1, RPD-2, and RPD-3)

~~o. Solar Gardens subject to the provisions of Section 4:00 of the Kendall County Zoning Ordinance.~~

**Add Commercial Solar Energy Facilities and Test Solar Energy Systems Subject to the Conditions Contained in Section 7:01.D and Commercial Wind Energy Facilities and Test Wind Towers Subject to the Conditions in Section 7:01.D to the List of Special Uses in the Appropriate Places Alphabetically.**

The list of special uses would be renumbered.

Section 8:06.B (Special Uses in the R-2)

1. Any use permitted as a special use in the R-1 One-Family Estate Residence District, Section 8:02.C, **except Commercial Solar Energy Facilities, Test Solar Energy Facilities, Commercial Wind Energy Facilities, and Test Wind Towers**, and that Planned Developments may be considered where the zoning lot proposed for development has a gross area of not less than forty acres.

Section 8:07.B (Special Uses in the R-3)

1. Any use permitted as a special use in the R-1 One-Family Estate Residence District, Section 8:02.C, except a bed and breakfast, **Commercial Solar Energy Facilities, Test Solar Energy Facilities, Commercial Wind Energy Facilities, and Test Wind Towers**, and that Planned Developments may be considered where the zoning lot proposed for development has a gross area of not less than forty acres.

Section 8:08.B (Special Uses in R-4, R-5, R-6, and R-7)

**~~9. Solar Gardens — See Section 4:00~~**

Section 9:01.C (Special Uses in B-1)

**~~13. Solar Gardens~~**

Section 9:02.C (Special Uses in B-2)

**~~24. Solar Gardens~~**

Section 9:03.C (Special Uses in B-3)

**~~29. Solar Gardens~~**

Section 9:04.C (Special Uses in B-4)

**~~18. Solar Gardens~~**

Section 9:05.E (Special Uses in B-5)

**~~7. Solar Gardens shall be a special use in the B-5 Business Planned Development District.~~**

Section 9:06.C (Special Uses in B-6)

**~~17. Solar Gardens~~**

Section 10:01.C. (Special Uses in M-1 and M-2)

**~~30. Wind Farms, Commercial, subject to the conditions in Section 7:01.D (Amended 9/15/20).~~**

**Add Commercial Solar Energy Facilities and Test Solar Energy Systems Subject to the Conditions Contained in Section 7:01.D and Commercial Wind Energy Facilities and Test Wind Towers Subject to the Conditions in Section 7:01.D to the List of Special Uses in the Appropriate Places Alphabetically.**

**The list of special uses would be renumbered.**

Section 10:03.C (Special Uses in M-3)

**~~5. Solar Gardens~~**

**Add Commercial Solar Energy Facilities and Test Solar Energy Systems Subject to the Conditions Contained in Section 7:01.D and Commercial Wind Energy Facilities and Test Wind Towers Subject to the Conditions in Section 7:01.D to the List of Special Uses in the Appropriate Places Alphabetically.**

**The list of special uses would be renumbered.**

Section 13:08.E. (Decisions on Special Use Permits)

- 4. In cases involving special use permit applications or applications for major amendments to existing special use permits for commercial solar energy facilities**

**and commercial wind energy facilities, the County Board shall make its decision not more than thirty (30) days after the conclusion of the public hearing.**

#### Appendix 9 (Table of Uses)

**Add Commercial Solar Energy Facility and Test Solar Energy Systems as a special use to A-1, R-1, RPD-1, RPD-2, RPD-3, M-1, M-2, and M-3**

**Add Commercial Wind Energy Facility and Test Wind Towers as a special use to A-1, R-1, RPD-1, RPD-2, RPD-3, M-1, M-2, and M-3**

**Add Solar Energy System, Private as permitted uses in all zoning districts.**

**Change Small Wind Energy Systems to permitted uses in the A-1, R-1, RPD-1, RPD-2, RPD-3, R-2, B-1, B-2, B-3, B-4, B-5, B-6, M-1, M-2, M-3.**

**Add Small Wind Energy Systems as a Permitted Use in the R-3.**

**Delete Solar Farms, Solar Gardens, and Wind Farms, Commercial.**

#### General

##### **Citation Corrections caused by the amendments.**

Pre-existing commercial solar energy systems would have to follow their existing special use permits.

The County would encourage entire projects to annex, in cases where a portion of the project lies outside one point five (1.5) miles of a municipality.

Mr. Asselmeier explained the adoption timeline.

Member Shanley made motion, seconded by Member Koukol, to initiate the text amendments as proposed.

The votes were as follows:

Yeas (3): Koukol, Rodriguez, and Shanley

Nays (0): None

Abstain (0): None

Absent (2): Flowers and Wormley

The motion carried.

The proposal goes to ZPAC on March 7, 2023.

##### **Approval to Initiate Text Amendments to the Kendall County Zoning Ordinance Pertaining to Allowing Animals to Be Outdoors after Sunset at Kennel Establishments**

Mr. Asselmeier provided the following proposed amendment:

Amend Section 7:01.D

29. Kennels provided that the kennels must be located inside and must be located a minimum of **two hundred fifty feet (250')** from the lot line of lots zoned residential or shown as Residential on the LRMP map and **one hundred fifty feet (150')** from lots zoned other than residential or shown on the LRMP map as non-residential. The animals must be indoors by sunset, **except for the purposes of owners picking-up and dropping-off pets and regular bathroom breaks until 10:00 p.m.**

Amend Section 9:03.C

14. Kennels **with the conditions contained in Section 7:01.D. with the condition that the kennels must be located inside and must be located a minimum of 250' from the lot line of lots zoned residential or shown as Residential on the LRMP map and 150' from lots zoned other than residential or shown on the LRMP map as non-residential. The animals must be indoors by sunset.**

Amend Section 9:04.C

10. Kennels **with the conditions contained in Section 7:01.D. when located more than 600' from any occupied residential structure other than the owners residence**

The M-1 and M-2 Districts already reference Section 7:01.D.

Kennels are special uses in the A-1, B-3, B-4, M-1, and M-2 Zoning Districts.

Member Shanley made motion, seconded by Member Koukol, to initiate the text amendments as proposed.

Member Koukol asked what happens if the new time created a problem. Mr. Asselmeier responded a new text amendment would be required and the new outdoor deadline was for specific purposes.

The votes were as follows:

Yeas (3): Koukol, Rodriguez, and Shanley

Nays (0): None

Abstain (0): None

Absent (2): Flowers and Wormley

The motion carried.

The proposal goes to ZPAC on March 7, 2023.

*Approval of a Resolution Approving an Intergovernmental Agreement for Reciprocal Building Inspection Services between Kendall County, Illinois and the United City of Yorkville, Illinois*

Mr. Asselmeier summarized the request.

The Intergovernmental Agreement between Kendall County and the United City of Yorkville for reciprocal building inspection services expires in February.

A renewal proposal was provided. Other than dates, there were no changes to the agreement from the 2022 version.

The United City of Yorkville will be reviewing the proposal during their meetings in February.

Member Koukol made a motion, seconded by Member Shanley, to recommend approval of the intergovernmental agreement. With a voice vote of three (3) ayes, the motion carried.

The proposal goes to the County Board on February 21, 2023, on the consent agenda.

*Approval of Publishing the Annual Noxious Weed Notice in the Kendall County Record at a Cost Not to Exceed \$125.00; Related Invoice(s) to Be Paid from the PBZ Legal Publications Line Item 11001902-62090*

Member Koukol made a motion, seconded by Member Shanley, to recommend approval of publishing the notice. With a voice vote of three (3) ayes, the motion carried.

The proposal goes to the County Board on February 21, 2023, on the consent agenda.

*Approval of Proposal from WBK Engineering for Work Related to the Submittal of the Annual Report for the 2022 NPDES – MS 4 Requirements in an Amount of \$2,500 Plus Reimbursable Costs (Costs + 10 %)*

Mr. Asselmeier summarized the issue.

Kendall County is required to submit certain documents annually as required by its NPDES Permit. The proposal from WBK for this work was provided.

The cost is Two Thousand Five Hundred Dollars (\$2,500) which is an increase from Two Thousand Dollars (\$2,000) for the same scope of work which occurred in 2021.

Mr. Asselmeier provided an email from Greg Chismark outlining the reasons for the increase.

The Illinois Environmental Protection Agency has not changed the June 1<sup>st</sup> due date for the Annual Report.

Member Shanley made a motion, seconded by Member Koukol, 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 February 21, 2023, on the consent agenda.

*Follow-Up on Kendall County Regional Planning Commission Annual Meeting*

Discussion occurred regarding changing regulations for chickens on residentially zoned properties. Mr. Asselmeier said that Chairman Wormley would like to discuss a proposal at the March Planning, Building and Zoning Committee meeting.

*2022 County-Wide Building Permit Memo*

The Committee reviewed the memo.

**OLD BUSINESS**

*Update on Revoking the Special Use Permit for a Specialty Gift Store at 7275 Route 34, Oswego (PIN: 02-14-452-005)*

Mr. Asselmeier reported that he spoke with the property and the property own desires to voluntarily revoke the special use permit. Mr. Asselmeier hopes to have the proposal on the March Planning, Building and Zoning Committee agenda.

*Kendall County Historic Preservation Commission Annual Meeting-February 15, 2023, at 6:00*



p.m., at the Oswego Brewing Company at 61 Main Street, Oswego

Member Flowers reported the Kendall County Historic Preservation Commission Annual Meeting would be February 15<sup>th</sup> at the Oswego Brewing Company in Oswego. She discussed the Commission's wish to meet at various historic locations throughout the County. Mr. Asselmeier noted that a portion of downtown Oswego was added to the National Register of Historic Places and the meeting location was located inside the new historic district.

Update on 1038 Harvey Road

Mr. Asselmeier provided correspondence from the State's Attorney's Office. He also reported that the business appears to have ceased at the property, but the Department will continue to monitor the site.

Update on 8150 Schlapp Road

Mr. Asselmeier reported that the property owner has not submitted a stormwater permit application. Per the January Planning, Building and Zoning Committee meeting, the owner has until March 31, 2023, to have a stormwater permit issued.

**REVIEW VIOLATION REPORT**

The Committee reviewed the violation report.

The Committee requested an update on 1539 Collins Road. Mr. Asselmeier will forward the request to Scott Koeppel.

**REVIEW PRE-VIOLATION REPORT**

The Committee reviewed the report.

**UPDATE FOR HISTORIC PRESERVATION COMMISSION**

None

**REVIEW PERMIT REPORT**

The Committee reviewed the report.

**REVIEW REVENUE REPORT**

The Committee reviewed the report.

**CORRESPONDENCE**

None

**COMMENTS FROM THE PRESS**

None

Member Koukol discussed doing salary adjustments for two (2) employees in the Planning, Building and Zoning Department in order to retain staff. He would like the Finance Committee to discuss this matter.

**EXECUTIVE SESSION**

None

## **ADJOURNMENT**

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

Vice-Chairman Rodriguez adjourned the meeting at 7:48 p.m.

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