

ORDINANCE NUMBER 2024- 12

**GRANTING A SPECIAL USE PERMIT FOR A LANDSCAPING BUSINESS AT THE  
PROPERTY LOCATED BETWEEN 3900 AND 3716 STEWART ROAD, OSWEGO, ON THE  
EAST SIDE OF STEWART ROAD AND IDENTIFIED BY PARCEL IDENTIFICATION  
NUMBER 03-24-400-011 IN OSWEGO TOWNSHIP**

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

*WHEREAS*, Section 7:01.D.32 of the Kendall County Zoning Ordinance permits the operation of landscaping businesses as a special use with certain restrictions in the A-1 Agricultural Zoning District; and

*WHEREAS*, the property which is the subject of this ordinance has been, at all relevant times, and remains currently located within the A-1 Agricultural District and consists of approximately four acres located between 3900 and 3716 Stewart Road on the east side of Stewart Road (PIN: 03-24-400-011), in Oswego Township. The legal description for the subject property is set forth in Exhibit A attached hereto and incorporated by reference, and the property shall hereinafter be referred to as “the subject property”; and

*WHEREAS*, the subject property is owned by Arbeen, LLC as represented by Tyler Arbeen and shall hereinafter be referred to as the “Petitioner”; and

*WHEREAS*, on or about December 18, 2023, Petitioner’s representative filed a petition for a special use permit to allow the operation of landscaping business with outdoor storage and variances to Section 7:01.G.2.b and Section 11:02.F.7..a.i of the Kendall County Zoning Ordinance to allow parking and accessory structures no closer than fifty-one feet of the centerline of Stewart Road at the subject property; and

*WHEREAS*, on or about February 28, 2024, Petitioner’s representative filed a revised site plan removing the previously requested variances; and

*WHEREAS*, following due and proper notice by publication in the Beacon News on January 9, 2024, and following due and proper notification to the Village of Oswego on or about January 10, 2024, and following due and proper notification to Oswego Township at least fifteen days prior to the hearing, and following due and proper notification to the property owners of record of properties located within seven hundred fifty feet of the subject property at least fifteen days of the hearing, the Kendall County Zoning Board of Appeals conducted a public hearing on January 29, 2024, at 7:00 p.m., in the County Office Building at 111 W. Fox Street in Yorkville and continued the public hearing to March 4, 2024, at the same time and location, at which the Petitioner’s representative presented evidence, testimony, and exhibits in support of the requested special use permit and variances and zero members of the public testified in favor or in opposition to the request and one member of the public requested a fence and berm along the southern end of the subject property; and

*WHEREAS*, based on the evidence, testimony, and exhibits, the Kendall County Zoning Board of Appeals has made their Findings of Fact and recommended approval of the special use permit with conditions as set forth in the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, dated March 4, 2024, a true and correct copy of which is attached hereto as Exhibit B; and

*WHEREAS*, the Kendall County Planning, Building and Zoning Committee of the Kendall County Board has reviewed the testimony presented at the aforementioned public hearing and has considered the Findings of

Fact and Recommendation of the Kendall County Zoning Board of Appeals, and has forwarded to the Kendall County Board a recommendation of approval of the requested special use permit; and

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

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

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

1. The Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals attached hereto as Exhibit B is hereby accepted and the Findings of Fact set forth therein are hereby adopted as the Findings of Fact and Conclusions of this Kendall County Board.
2. The Kendall County Board hereby grants approval of Petitioner's petition for a special use permit allowing the operation of a landscaping business on the subject property subject to the following conditions:
  - A. The site shall be developed substantially in accordance with the revised site plan attached hereto as Exhibit C and landscaping plan attached hereto as Exhibit D. One (1) wood post farm fence with wire mesh shall be installed around the enter perimeter of the site except at the two (2) entrances to the property and except along the southern property line east of the one hundred fifty foot (150') front yard setback. The fence shall be six feet (6') in height maximum. The landscaping shall be installed between the fence and Stewart Road. A berm three feet (3') in height shall be installed along the southern property line of the subject property east of the one hundred fifty foot (150') setback and an eleven (11') foot tall solid panel fence shall be installed on top of the berm.
  - B. The owners of the business allowed by this special use permit may place parking and temporary structures in the front yard setback after going through the minor amendment process, if the County amends the Zoning Ordinance in the future to allow these types of uses in the front yard setback.
  - C. Within ninety (90) days of the approval of the special use permit, the owners of the subject property shall dedicate a strip of land thirty-five feet (35') in depth along the western property line to Oswego Township. The Kendall County Planning, Building and Zoning Committee may grant an extension to this deadline.
  - D. Equipment and vehicles related to the business allowed by the special use permit may not be stored outdoors at the subject property when the business is closed.
  - E. None of the vehicles or equipment parked or stored on the subject property related to the business allowed by the special use permit shall be considered agricultural vehicles or agricultural equipment.
  - F. All of the vehicles and equipment stored on the subject property related to the business allowed by the special use permit shall be maintained in good condition with no deflated tires and shall be licensed if required by law.

- G. The owners of the businesses allowed by this special use permit shall diligently monitor the property for leaks from equipment and vehicles parked and stored and items stored on the subject property and shall promptly clean up the site if leaks occur.
- H. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated storage areas shown on the revised site plan attached hereto as Exhibit C. The maximum height of the piles of landscaping related material shall be ten feet (10') in height.
- I. A maximum of twenty-five (25) employees of the business allowed by this special use permit, including the owners of the business allowed by this special use permit, may report to this site for work.
- J. The hours of operation of the business allowed by this special use permit shall be daily from 6:00 a.m. until 6:00 p.m. and the business shall be open twenty-four (24) hours to address snow events. The owners of the business allowed by this special use permit may reduce these hours of operation.
- K. Any structures constructed, installed, or used related to the business allowed by this special use permit on the property shall not be considered for agricultural purposes and must secure applicable building permits.
- L. One (1) sign as described in the sign description attached hereto as Exhibit E may be installed along Stewart Road at the subject property. The sign shall not be illuminated.
- M. Only lighting related to security may be installed outdoors at the subject property.
- N. Damaged or dead plantings described on the landscaping plan attached hereto as Exhibit D shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.
- O. The materials and vegetation described in the landscaping plan attached hereto as Exhibit D shall be installed by September 1, 2024. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to install the vegetation. Materials and vegetation stored in the nursery stock storage areas and landscaping material storage area shall not be subject to this requirement and shall not be considered part of the landscaping plan.
- P. No landscape waste generated off the property can be burned on the subject property.
- Q. The noise regulations are as follows:
  - Day Hours: No person shall cause or allow the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential land which exceeds sixty-five (65) dBA when measured at any point within such receiving residential land, provided; however, that point of measurement shall be on the property line of the complainant.
  - Night Hours: No person shall cause or allow the emission of sound during nighttime hours (10:00 P.M. to 7:00 A.M.) from any noise source to any receiving residential land which exceeds fifty-five (55) dBA when measured at any point within such receiving residential land provided; however, that point of measurement shall be on the property line of the complainant.


**EXEMPTION: Powered Equipment:** Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted from the noise regulations between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.

Only homes permitted prior to the date of the issuance of the special use permit shall have standing to file noise complaints.

- R. At least one (1) functioning fire extinguisher and one (1) first aid kit shall be on the subject property. Applicable signage stating the location of the fire extinguisher and first aid kit shall be placed on the subject property.
  - S. The dumpster area shall be fenced with board-on-board fencing as shown by the image attached hereto as Exhibit F. The maximum height of the fence shall be eight feet (8').
  - T. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
  - U. The property owner and operator of the business allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business.
  - V. 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.
  - W. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
3. This special use permit shall be treated as a covenant running with the land and are binding on the successors, heirs, and assigns as to the same special use conducted on the property.
4. The Zoning Administrator and other appropriate County Officials are hereby authorized and directed to amend the Official Zoning Map of Kendall County to reflect this special use permit.

IN WITNESS OF, this ordinance has been enacted by a majority vote of the Kendall County Board and is effective this 16<sup>th</sup> day of April, 2024.

Attest:

  
Kendall County Clerk  
Debbie Gillette

  
Kendall County Board Chairman  
Matt Kellogg



Exhibit A

**The Northerly 360.0 feet of the Westerly 484.01 feet (as measured along the Westerly and Northerly Lines thereof) of the South Half of the Southeast Quarter of Section 24, Township 37 North, Range 8 East of the Third Principal Meridian in Oswego Township, Kendall County, Illinois.**

## Exhibit B

The Kendall County Zoning Board of Appeals held a public hearing on the Petition 23-35 on January 29, 2024, and March 4, 2024. Zero (0) members of the public, other than the Petitioner's Attorney, testified in favor or in opposition to the request. One (1) person requested a fence and berm along the southern end of the subject property at the public hearing. On the same date, the Kendall County Zoning Board of Appeals issued the following findings of fact and recommendation by a vote of six (6) in favor and zero (0) in opposition. Member Prodehl was absent.

### Findings of Fact

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. Numerous landscaping businesses have been approved throughout unincorporated Kendall County. The proposed use is along Stewart Road, which is classified as a major collector. Reasonable restrictions can be placed in the special use permit to ensure the health, safety, and general welfare of the area are protected.

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 makes adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. The subject property is in a large A-1 Agricultural District. The use will not impede farms or residential uses on the adjoining properties. Reasonable restrictions may be placed on the special use permit to address hours of operation, noise, landscaping, and site layout to prevent neighboring property owners from being negatively impacted by the proposed use.

Adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. The proposal identifies locations for the future well and septic field. Two (2) points of ingress/egress are proposed. The proposed use likely will generate little traffic onsite and adequate space exists for parking for customers and employees of the proposed use. The proposal will have to obtain a stormwater permit to address drainage concerns. Adequate space exists for storage of equipment and materials related to the proposed uses.

The special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. This is true if the hoop houses and landscape material storage bins are located at least ten feet (10') from the southern property line.

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. The proposal is also consistent with a goal and objective found on page 6-34 of the Land Resource Management Plan, "A strong base of agriculture, commercial and industrial uses that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents." "Encourage opportunities for locally owned business." In addition, the future land use map calls for this property to be Mixed Use Business. Similar types of uses were planned for the subject property and properties in the vicinity of the subject property.

### RECOMMENDATION

Approval subject to the following conditions and restrictions:

1. The site shall be developed substantially in accordance with the revised site plan and landscaping plan. One (1) wood post farm fence with wire mesh shall be installed around the enter perimeter

of the site expect at the two (2) entrances to the property. The fence shall be six feet (6') in height maximum. The landscaping shall be installed between the fence and Stewart Road.

2. The owners of the business allowed by this special use permit may place parking and temporary structures in the front yard setback without the need of obtaining an amendment to the special use permit, if the County amends the Zoning Ordinance in the future to allow these types of uses in the front yard setback.
3. Within ninety (90) days of the approval of the special use permit, the owners of the subject property shall dedicate a strip of land thirty-five feet (35') in depth along the western property line to Oswego Township. The Kendall County Planning, Building and Zoning Committee may grant an extension to this deadline.
4. Equipment and vehicles related to the business allowed by the special use permit may not be stored outdoors at the subject property when the business is closed.
5. None of the vehicles or equipment parked or stored on the subject property related to the business allowed by the special use permit shall be considered agricultural vehicles or agricultural equipment.
6. All of the vehicles and equipment stored on the subject property related to the business allowed by the special use permit shall be maintained in good condition with no deflated tires and shall be licensed if required by law.
7. The owners of the businesses allowed by this special use permit shall diligently monitor the property for leaks from equipment and vehicles parked and stored and items stored on the subject property and shall promptly clean up the site if leaks occur.
8. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated storage areas shown on the revised site plan. The maximum height of the piles of landscaping related material shall be ten feet (10') in height.
9. A maximum of twenty-five (25) employees of the business allowed by this special use permit, including the owners of the business allowed by this special use permit, may report to this site for work.
10. The hours of operation of the business allowed by this special use permit shall be daily from 6:00 a.m. until 6:00 p.m. and the business shall be open twenty-four (24) hours to address snow events. The owners of the business allowed by this special use permit may reduce these hours of operation.
11. Any structures constructed, installed, or used related to the business allowed by this special use permit on the property shall not be considered for agricultural purposes and must secure applicable building permits.
12. One (1) sign as described in the sign description may be installed along Stewart Road at the subject property. The sign shall not be illuminated.
13. Only lighting related to security may be installed outdoors at the subject property.
14. Damaged or dead plantings described on the landscaping plan shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.
15. The materials and vegetation described in the landscaping plan shall be installed by September 1, 2024. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to install the vegetation. Materials and vegetation stored in the nursery stock storage areas and landscaping material storage area shall not be subject to this requirement and shall not be considered part of the landscaping plan.

16. No landscape waste generated off the property can be burned on the subject property.

17. The noise regulations are as follows:

Day Hours: No person shall cause or allow the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential land which exceeds sixty-five (65) dBA when measured at any point within such receiving residential land, provided; however, that point of measurement shall be on the property line of the complainant.

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

**EXEMPTION: Powered Equipment:** Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted from the noise regulations between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.

Only homes permitted prior to the date of the issuance of the special use permit shall have standing to file noise complaints.

18. At least one (1) functioning fire extinguisher and one (1) first aid kit shall be on the subject property. Applicable signage stating the location of the fire extinguisher and first aid kit shall be placed on the subject property.

19. The dumpster area shall be fenced with board-on-board fencing as shown by the image provided. The maximum height of the fence shall be eight feet (8').

20. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.

21. The property owner and operator of the business allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business.

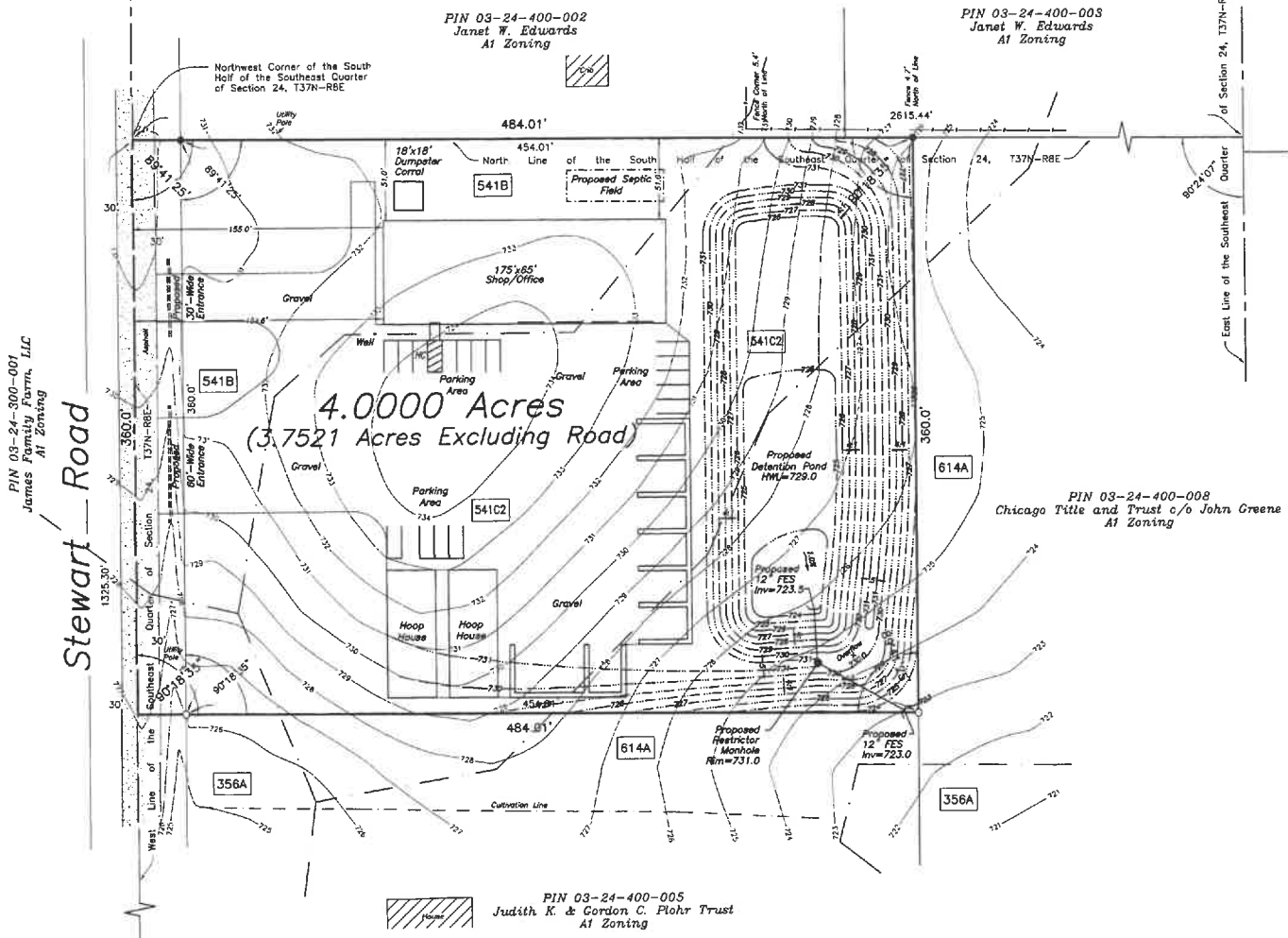
22. Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permit.

23. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

24. This special use permit shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property.



**ZONING PLAT OF  
PART OF THE SOUTHEAST QUARTER OF SECTION 24, T37N-R8E, 3rd PM  
OSWEGO TOWNSHIP KENDALL COUNTY ILLINOIS**



PIN 03-24-400-002  
Janet W. Edwards  
At Zoning

PIN 03-24-400-003  
Janet W. Edwards  
At Zoning

PIN 03-24-400-008  
Chicago Title and Trust c/o John Greene  
At Zoning

PIN 03-24-400-005  
Judith K. & Gordon C. Plohr Trust  
At Zoning

**4.0000 Acres  
(3.7521 Acres Excluding Road)**

Stewart Road

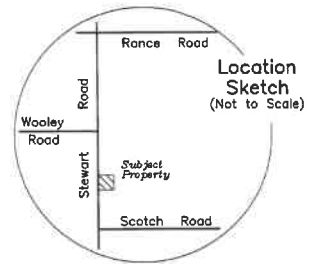
**DEVELOPER:**  
Arbeen, LLC  
2410 Collins Road  
Oswego, Illinois 60543

**AREA TO BE REZONED:**  
4.0000 Acres  
(3.7521 Acres Excluding Road)

**PRESENT ZONING:**  
A-1

**PROPOSED ZONING:**  
A-1, SU

**PROPERTY LOCATION:**  
Part of PIN: 03-24-400-005  
Stewart Road  
Oswego, Illinois 60543



**LEGAL DESCRIPTION OF TRACT TO BE REZONED:**

The Northerly 360.0 feet of the Westerly 484.01 feet (as measured along the Westerly and Northerly Lines thereof) of the South Half of the Southeast Quarter of Section 24, Township 37 North, Range 8 East of the Third Principal Meridian in Oswego Township, Kendall County, Illinois.

**FLOODPLAIN STATEMENT:**

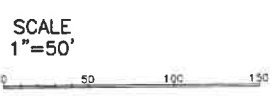
The Subject property is located in Zone X (areas of minimal flood hazard determined to be outside the 0.2% annual chance floodplain) as shown on FEMA Flood Insurance Rate Map Panel No. 17093C0070G with an effective date of February 4, 2009.

**WETLANDS STATEMENT:**

The National Wetlands Inventory Map does not depict any wetlands on the Subject Property.

**SOILS (From Web Soil Survey)**

356A	Elpaso Silty Clay Loam, 0%-2% slopes
541B	Graymont Silt Loam, 2%-5% slopes
541C2	Graymont Silt Loam, 5%-10% slopes, eroded
614A	Chenoa Silty Clay Loam, 0%-2% slopes



- Indicates Iron Stake Found
- Indicates Iron Stake Set
- Indicates Concrete Right of Way Monument
- Indicates Line of Fence
- Indicates Overhead Utilities
- Indicates Soils Boundary
- △ Indicates Tree Location and Diameter
- 632.82 Indicates Existing Spot Elevation
- 632.82 Indicates Existing Contour Elevation
- Indicates Proposed Contour Elevation
- Indicates Direction of Flow

PIN: 03-24-400-005

*January 30, 2024*

JOB NO.	23086
JOB NAME	ATTY. KRAMER
DWG FILE	23086D

**Phillip D. Young and Associates, Inc.**  
LAND SURVEYING - TOPOGRAPHIC MAPPING - Lic.#184-002775

1107B South Bridge Street  
Yorkville, Illinois 60560  
Telephone (630)553-1580

Please see attached drawing.

1. Colorado Blue Spruce = (8' at time of planting, 50' max height)
2. Techny Arborvitae = (6' at time of planting, 15' max height)
3. Bald Cypress = (8' at time of planting, 40-50' max height)
4. Purple Birch = (10 or 2.5'' at time of planting, 35-40' max height)

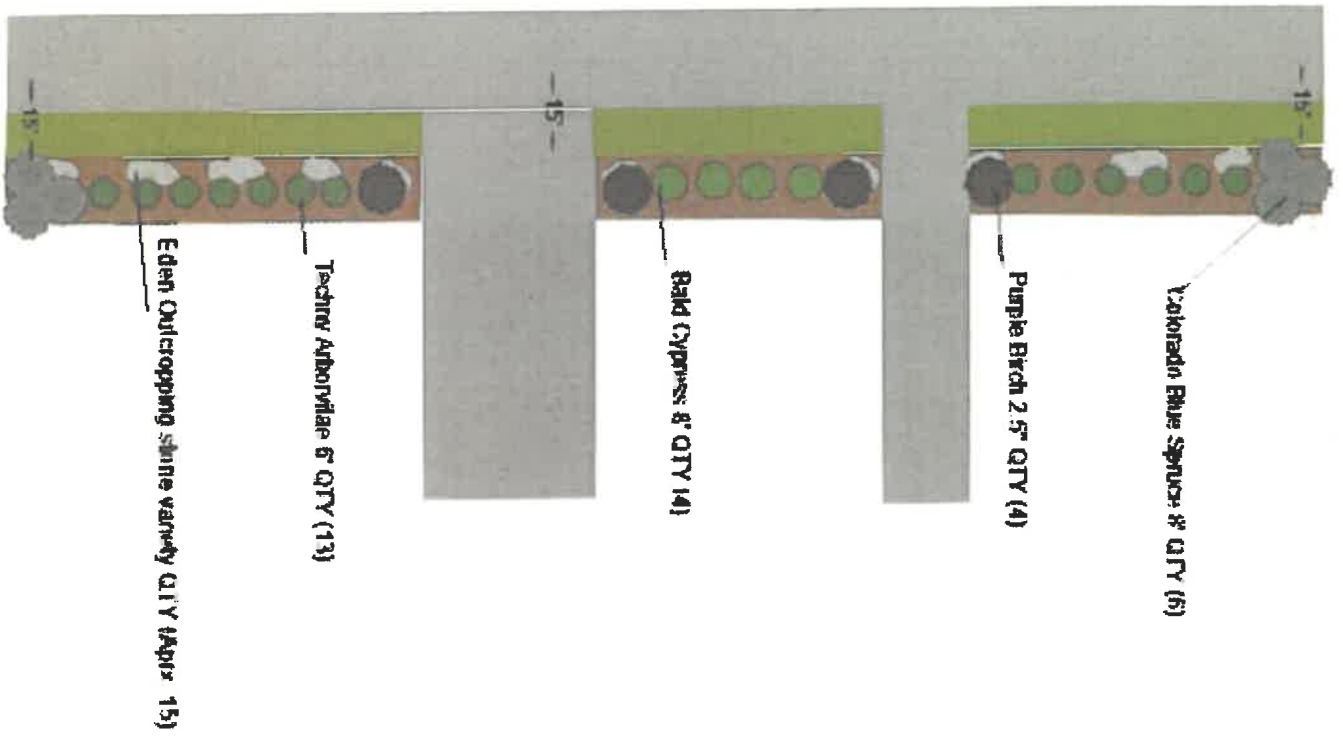






Exhibit F

