

KENDALL COUNTY
PLANNING, BUILDING & ZONING COMMITTEE MEETING
111 West Fox Street • Room 209 and 210 • Yorkville, IL • 60560
(630) 553-4141 Fax (630) 553-4179
SPECIAL AGENDA

Tuesday, July 30, 2019 – 9:00 a.m.

CALL TO ORDER:

ROLL CALL: Elizabeth Flowers, Scott Gengler, Judy Gilmour, Matt Kellogg (Vice-Chairman), and Matthew Prochaska (Chairman)

APPROVAL OF AGENDA:

APPROVAL OF MINUTES: Approval of Minutes from July 8, 2019 Meeting (Pages 2-19)

PUBLIC COMMENT:

PETITIONS:

1. **18 – 04 – Kendall County Regional Planning Commission (Pages 20-88)**
Request: Proposed Amendments to Future Land Use Map for Properties Located Near Route 47 in Lisbon Township

2. **19 – 12 – Robert Bright on Behalf of the Madison Trust and Castle Bank N A and JoAnn Bright-Theis (Pages 89-108)**
Request: Request for a Special Use Permit for a Banquet Center
PIN: 04-29-300-010, 04-29-300-012, 04-30-400-007, 04-30-400-012, 04-30-400-013, 04-30-400-018, 04-30-400-019, 04-31-200-013, 04-32-100-006, and 04-32-100-008
Location: 10978 Crimmin Road (Approximately 0.54 Miles South of the Intersection of Fox River Drive and Crimmin Road on the East Side of Crimmin Road), Fox Township
Purpose: Petitioners Wish to Operate a Banquet Center at the Subject Property. Property is Zoned A-1.

NEW BUSINESS:

1. Discussion of Recreational Marijuana Zoning Regulations (Pages 109-167)

OLD BUSINESS:

1. Discussion of Planning, Building and Zoning Department Staffing (Pages 168-170)
2. Approval of a Request for an Opinion from the State's Attorney's Office Regarding the Determination of Fair Market Value Contained in the Land Cash Ordinance (Page 171)

CORRESPONDENCE:

PUBLIC COMMENT:

COMMENTS FROM THE PRESS:

EXECUTIVE SESSION:

ADJOURNMENT:

If special accommodations or arrangements are needed to attend this County meeting, please contact the Administration Office at 630-553-4171, a minimum of 24-hours prior to the meeting time.

KENDALL COUNTY PLANNING, BUILDING & ZONING COMMITTEE

Kendall County Office Building

Rooms 209 & 210

111 W. Fox Street, Yorkville, Illinois

6:30 p.m.

Meeting Minutes of July 8, 2019 – Unofficial until approved

CALL TO ORDER

The meeting was called to order by Chairman Prochaska at 6:30 p.m. Chairman Prochaska led the attendees in the Pledge of Allegiance.

ROLL CALL

Committee Members Present: Elizabeth Flowers, Scott Gengler, Judy Gilmour, Matt Kellogg (Vice-Chairman), and Matthew Prochaska (Chairman)

Committee Members Absent: None

Also Present: Matt Asselmeier (Senior Planner), Adam Theis, Mark Caldwell, Greg Stromberg, Patrick McCrimmon, and Kurt Buhle

APPROVAL OF AGENDA

Member Flowers made a motion, seconded by Member Gilmour, to amend the agenda by removing the item regarding 10 Ashlawn Avenue. Member Flowers made a motion, seconded by Member Gilmour to approve the agenda as amended. With a voice vote of five (5) ayes, the motion carried unanimously.

APPROVAL OF MINUTES

Member Gilmour made a motion, seconded by Member Flowers to approve the minutes of the June 24, 2019, special meeting. With a voice vote of five (5) ayes, the motion carried unanimously.

EXPENDITURE REPORT

Review of Expenditures from the Prior Month

The Committee reviewed the Expenditure Report.

PUBLIC COMMENT

Patrick McCrimmon spoke about a violation for operating a bed and breakfast without a special use permit in Boulder Hill. Mr. McCrimmon said his property was not a bed and breakfast, but a short-term rental. Only one (1) family or group stays at his property at a given time. He requested the Committee to consider allowing short-term rentals.

PETITIONS

19 – 11 – Dickson Valley Ministries

Mr. Asselmeier summarized the request.

Mark Caldwell, on behalf of Dickson Valley Ministries, is requesting a major amendment to their special use permit to repeal the site plan adopted by Ordinance 2014-05 and replace the site plan with the proposed site plan. The Petitioner desires this major amendment in order to have a long-range plan for their facilities and to provide more clarity to the site plan that was submitted in 2014.

The subject property is approximately one hundred sixty (160) acres in size and has a special use permit for a youth camp and retreat center. The use at the subject property was originally established in 1971. The subject property was zoned A-1 with a special use permit for a youth camp and retreat center following the 1974 Countywide rezoning.

The future land use map calls for this area to be agricultural, open space, and countryside residential. The adjacent zoning districts are A-1 and R-1. Zoning within one half (1/2) mile are A-1 and R-1.

Finnie Road is considered a scenic route and no trails are planned in the area.

There are floodplains and wetlands on the property. None of the proposed development is occurring in the floodplain or wetlands.

The Illinois Natural Heritage Database shows the following protected resources may be in the vicinity of the project location, Dixon Valley Sedge Meadow INAI Site, Fox River INAI Site, Dickson Sedge Meadow Natural Heritage Landmark, and River Redhorse (*Moxostoma carinatum*). Negative impacts to the above are considered unlikely and consultation was terminated.

The Petitioner submitted an application for NRI. The LESA Score was 173 indicating a low level of protection.

Petition information was sent to Fox Township on March 26, 2019. Fox Township submitted comments on April 16, 2019. The Township requested the following:

1. Any encroachment onto the Finnie Road right-of-way close than one hundred and twenty-six feet (126') be required to obtain a traditional variance.
2. Any permits required for storm water management must be procured prior to the issuance of any building permit.
3. Fox Township Board and the Fox Township Highway Department reserve the right to approve or disapprove any overhead walkway on Finnie Road.

The Petitioner agreed with Fox Township's requests. The Petitioner submitted a revised site plan deleting the three (3') foot encroachment in Addition 1.

Petition information was sent to the Village of Millbrook on March 26, 2019. No comments were received.

Petition information was sent to the Sandwich Fire Protection District on March 26, 2019. No comments were received.

The existing zoning regulations on the property were established by Ordinance 2014-05. This ordinance repealed several pre-existing ordinances and combined the conditions and restrictions placed upon Dickson Valley Ministries into one (1) ordinance. The restrictions placed on the special use permit were:

1. The property can be utilized all year long.

2. At such time if the not-for-profit status is discontinued for any reason a new special use shall be applied for if the property is to be used for profit.
3. The number of over-night campers shall be limited to no more than 350 at any one time.
4. No more than 8 hook-ups for RV's.
5. The sign shall be in conformance with the standards of sign illumination as set forth in the Kendall County Zoning Ordinance and can be externally lit.

Ordinance 2014-05 also included a site plan, which the Petitioner wishes to amend. ZPAC met on this proposal on April 2, 2019. The Petitioner stated that the projected number of people onsite will not change from the 2014 projection which was an increase of forty percent (40%). Discussion occurred regarding a right-of-way dedication for Finnie Road. The suggestion was made to have right-of-way dedication within ten (10) years. The sign would encroach into the setback if a dedication occurred. If the plan was developed fully, the investment would be Four Point Five Million Dollars (\$4.5 Million). Development will not occur onsite near any protected area as identified in the EcoCat Report. ZPAC unanimously recommended approval of the proposal.

At the April 24, 2019, meeting of the Kendall County Regional Planning Commission, the Commission requested less detail on the Petitioner's site plan. At the May 22, 2019, meeting, the Petitioner submitted a site plan with several changes.

The proposed changes are follows:

1. Clarification on the conditional statement that total capacity is three hundred fifty (350) "overnight campers." This number is inclusive of as many as one hundred (100) day-only campers during the summer.
2. Clarification that the live-on-site staff needed in supporting the ministry is composed of as many as six (6) full-time, long-term families; currently this figure is five (5).
3. Clarification of staffing levels at twenty-four (24) single short-term, twelve (12) month program staff, and sixty-four (64) seasonal summer staff.
4. Development A, Day Camp Area, shall consist of a Multipurpose Field-house, various free standing decks for small group activities, at least two (2) open air camper pavilions, day camp specific activities, water activities (i.e. splash pad, or wading fountain), and combined septic field serving all new restrooms will also be located in this area.
5. Development B, Resident Camp Area, shall consist of five (5) year-round camper cabins; four (4) of which are new.
6. Development C, Activity Area, shall consist of an outdoor high ropes course, mini-golf course, ice rink pavilion, free standing decks for small groups and one (1) year-round camper cabin.
7. Development D, Entrance Parking, shall consist of welcome pavilions for day camp, a chapel in the woods, camper check-in area, and volunteer RV hook-ups. The Petitioner is also considering placing a freestanding office structure in this area.

8. Development E, Entrance Drive, shall consist of a new gatehouse for a controlled entrance and a multi-bay staff lodge garage near the Whitaker Lodge just outside the zone. Upgrades to the driveway and entrance will occur and the lighted sign will remain. Landscaping will be updated.
9. Development F, Maintenance Area, shall consist of a new shop and removal or remodel of the old shop.
10. Development G, Acorn Lodge Area, shall consist of a separate activities pavilion and separate program/meeting building.
11. Development H, North Activity Area, shall consist of primitive non-public campsites, no permanent structures, and a parking area off of Finnie Road. Experiential activities similar to, but not limited to, climbing tower(s), zip line(s), team activities, a high ropes course, and a pedestrian walkway over/under/across Finnie Road are planned for this area.
12. The Retreat Development Zone shall consist of a water filtration building or addition to the existing well and well house. A new building for recreation room, snack shop, and host offices. Within this zone, several buildings will have additions and/or remodels.
13. Addition 1, Director's Lodge, shall consist of an addition to the north end of the building. The current structure is one hundred twenty-six feet (126') offset from the road.
14. Addition 2, Chrouser Lodge, shall consist of an addition for dining space to the north or west.
15. Addition 3, Dickson Lodge, shall consist of additional meeting spaces, an addition of at least two (2) separate "leaders" rooms with restrooms, and remodel and add-on to program office for camp store.
16. Addition 4, Oulund Chalet, shall consist of remodeling to improve housing space and remodeling of restrooms.
17. Addition 5, Silver Fox Lodge, shall consist of an addition for new restrooms and an addition of added housing.
18. Addition 6, Sports Center, shall consist of a south addition for upgraded activities, remodels to restrooms, and development of an exterior high ropes courses or similar.
19. Addition 7, Acorn Lodge, shall consist of a remodel of the current lodge for updated plumbing and housing.

As noted on the proposed site plan, the final locations, sizes, and designs will be approved at the time of permitting and with the approvals of local regulatory bodies.

Also at the April meeting, the Commission was concerned about Fox Township's requests of the Petitioner. Fox Township clarified that they do not want a right-of-way dedication at this time, but they would like to be informed if a structure is constructed above or below Finnie Road. The Kendall County Regional Planning Commission recommended approval of the Petition with conditions with seven (7) members in favor and two (2) members absent.

The Kendall County Zoning Board of Appeals started a public hearing on this request on April 29, 2019. The matter was continued until the Petitioner submitted a revised site plan. The Kendall County Zoning Board of Appeals resumed the public hearing on July 1, 2019. Fox Township offered to work with the Petitioner for an improved at-grade crossing of Finnie Road, including lights. Clarification was provided regarding timeframe to complete the project; the development will occur as funding allows over at least the next decade. The Board issued a positive recommendation of the request with the conditions proposed by Staff with a 5-0 vote; two (2) members of the Board were absent.

Any new buildings would have to meet applicable building codes.

The Petitioner owns property on both sides of Finnie Road.

As noted on the proposed site plan, lighting will be intentionally left low.

The subject property is heavily wooded. As noted on the proposed site plan, the Petitioner considers the natural landscape important to their operations.

Stormwater permits will be required in certain cases as the proposal is implemented.

The Petitioner proposes to make adjustments to their wells and septic systems. These changes will be evaluated as the proposal is implemented. Electricity is already onsite.

The proposed findings of fact 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 existing special use has been in existence since the 1970s with no known complaints to the Planning, Building and Zoning Department. Provided the site is developed as proposed, the proposed use of the site will not be detrimental or endanger the public health, safety, morals, comfort or general welfare.

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 proposed use has been in existence at the subject property since the 1970s and no known issues exist which might cause injury to neighboring property owners or diminished property values.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. Adequate utilities, access roads, points of ingress and egress, drainage, and other necessary facilities either exist on the site or are planned for in the proposed site plan.

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 proposed special use permit amendment conforms to the applicable regulations of the A-1 Agricultural Zoning District.

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. This statement is true.

Staff recommends approval of the proposed major amendment to an existing special use permit subject to the following conditions and restrictions:

1. The conditions and restrictions of Ordinance 2014-05 shall remain in effect including the clarifications stated in the Site Plan attached to this Ordinance amending the existing special use permit.
2. The Site Plan attached as Exhibit A to Ordinance 2014-05 is hereby repealed and replaced with the attached Site Plan. The site shall be developed substantially in conformance with the attached Site Plan.
3. Any overpass or underpass over or below the Finnie Road right-of-way shall be approved by Fox Township. This restriction shall not include at-grade crossings of Finnie Road. (Added per Fox Township)
4. The operators of the use allowed by this special use permit shall follow applicable Federal, State, and Local laws related to the operation of this type of use. (Though not mentioned specifically, the Kendall County Stormwater Management Ordinance is one (1) of the local laws that must be followed; this should address Fox Township's concerns about stormwater regulations.)
5. Failure to comply with one or more of the above conditions or restrictions or the conditions and restrictions contained in Ordinance 2014-05 could result in the amendment or revocation of the special use permit.
6. If one or more of the above conditions or restrictions or any of the conditions or restrictions contained in Ordinance 2014-05 are declared invalid by a court of competent jurisdiction, the remaining conditions and restrictions shall remain valid.
7. The Zoning Administrator and other appropriate County Officials are hereby authorized and directed to amend the Official Zoning Map of Kendall County to reflect this major amendment to an existing special use permit.

Mr. Asselmeier noted that the Dickson Valley Ministries did not use an attorney for this Petition. The ordinance will be corrected to reflect this fact.

Chairman Prochaska asked if it was normal for a township to give permission for the installation of an overpass or underpass. Mr. Asselmeier responded that, since the township maintains the road, the township has an interest in making sure the road is structurally sound and that their vehicles can travel on the road without any obstructions. If Dickson Valley installed an overpass or underpass, an amendment to the special use permit would not be required; applicable permits would be required. Discussion occurred regarding a box culvert that was removed and previously used for a trail. At-grade crossings are permitted without approval by Fox Township. Other than hiker signs, no distinctive signage exists.

Member Flowers asked about the need for a barrier between the hunting club and youth camp. Mr. Caldwell responded that no issues have existed in the last forty (40) years. The area is wooded and there is a fence in the area.

The plan will take at least ten (10) years to implement and some of the development will never occur because of funding. This proposal has everything that could happen on the property.

Member Kellogg made a motion, seconded by Member Gengler, to recommend approval of the amendment.

The votes were as follows:

Yeas (5): Flowers, Gengler, Gilmour, Kellogg, and Prochaska
Nays (0): None
Abstain (0): None
Absent (0): None

The motion carried. The Petition will go to the County Board on July 16th.

19 – 12 – Robert Bright on Behalf of the Madison Trust and Castle Bank N A and JoAnn Bright-Theis

Mr. Asselmeier summarized the request.

JoAnn Bright-Theis would like to establish the Brighter Daze Farm and Events banquet facility at the subject property which is currently owned in a trust represented by her father, Robert Bright. The subject property is approximately thirty-eight acres (38) acres in size.

Crimmin Road is a major collector and scenic route. No trails are planned along the road.

A riverine wetland is located along the southwest edge of the subject property.

The adjacent land uses are agricultural related, farmsteads, religious, or forest preserve. The adjacent zonings are A-1. Based on the aerial of the site, there are six (6) homes within a half mile of the subject property.

The Illinois Natural Heritage Database shows the following protected resources may be in the vicinity of the project location, Millington Fen INAI Site, Fox River INAI Site, Millington Railroad Fen Natural Landmark, Tucker-Millington Fen Natural Preserve, and River Redhorse (*Moxostoma carinatum*). Negative impacts to the above are considered unlikely and consultation was terminated.

The NRI application was submitted on March 14, 2019. The LESA Score was 181 indicating a low level of protection.

Fox Township was emailed information on March 27, 2019. Fox Township submitted comments on April 16, 2019. In particular, Fox Township reiterated that the Township was a dry township; the Township disagreed with the functional classification of Crimmin Road contained in the Land Resource Management Plan; the Township requested a traffic study regarding the impact of the proposed venue on Crimmin Road, including the possibility of improvements to Crimmin Road necessitated by the proposed special use permit. On May 9, 2019, the Petitioner, Fox Township, and the Kendall County Planning, Building and Zoning Department held a conference call on the proposal. The Petitioner agreed to the dry regulations of the Township. The Township stated that they would not fight the functional classification of Crimmin Road in the Land Resource Management Plan. The Township stated that they (Fox Township) would request a traffic study from the Kendall County Highway Department. This study could result in a change of the speed limit on Crimmin Road to a speed less than the current fifty-five miles per hour (55 MPH), a

requirement the Petitioners post additional one-way directional signage within their property, and the possibility that Fox Township adopt an ordinance forbidding parking along Crimmin Road. "Venue Ahead" signage along Crimmin Road was discussed. Also, the possible dedication of right-of-way was discussed.

On June 14, 2019, Fox Township submitted updated comments which are included as Attachment 20. In particular, Fox Township requested:

1. No parking on Crimmin Road.
2. A right-of-way dedication of forty-five feet (45') as measured from the centerline of Crimmin Road for the entire length of the subject property.
3. No sound greater than sixty-five (65) dBa as measured from the property line of the complaint.
4. The special use permit should be contingent on a completed traffic study with the Petitioner paying for any necessary construction caused by increased traffic on Crimmin Road.
5. A maximum of thirty (30) events per year with an operating season between April 1st and November 1st.
6. Saturday only events with a conclusion of no later than 10:00 p.m.
7. The Township believes inadequate parking is planned for the proposal.
8. No selling or serving of alcohol per Fox Township's dry regulations.

The Township also requested that the advisory bodies consider public safety when making their recommendations.

Newark Fire Protection District was emailed information on March 27, 2019. To date, no comments were received.

The Village of Newark was emailed information on March 27, 2019. To date, no comments were received.

ZPAC reviewed this proposal at their meeting on April 2, 2019. The Health Department provided information about well monitoring. A site survey will be completed defining the location of the existing septic system. The equestrian business will continue at the property as a separate business. Discussion occurred regarding the planned realignment of Crimmin Road. ZPAC recommended approval with all but (1) member voting yes. One (1) member voted present.

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on May 22, 2019. At this meeting, the Petitioners agreed to layover until the June meeting to allow Fox Township to complete their research on this request. The Kendall County Regional Planning Commission reviewed the concerns expressed by Fox Township at their meeting on June 26, 2019. Commissioners felt that having the special use permit contingent on a traffic study and requiring the Petitioners to pay for improvements to Crimmin Road was unnecessary. Commissioners also agreed to allow events to be held on weekends instead of limiting events to Saturdays only. Discussion occurred regarding Fox Township's dry regulations and the consensus of the Commission was that Fox Township's dry regulations were not a zoning matter.

Commissioners recommended approval of the special use permit with the removal of the requirement of the contingency of the traffic study and allowing events to occur on other days of the weekend including Saturdays, but only one (1) event could occur each weekend. The vote was five (5) in favor and four (4) absent.

The Kendall County Zoning Board of Appeals held a public hearing on this proposal on July 1, 2019. John Vogt express concerns about noise and safety on Crimmin Road. Kurt Buhle expressed concerns about security, enforcement of the regulations, property values, noise, traffic safety, and the potential that this proposal could open the door to other non-agricultural uses in the area. Jeff Spang, Fox Township Supervisor, expressed concerns about alcohol regulations, the use of the property for non-banquet related events, and traffic safety. By a vote of four (4) in favor and one (1) opposed, the Board issued a positive recommendation for the proposal subject to the conditions proposed by Staff with the following changes:

1. The last sentence of condition 10 was changed to read, "For events with music, all barn doors shall close by 7:00 p.m."
2. Condition 15, regarding the traffic study, should be deleted.
3. Condition 17 was changed to read, "The operator(s) of the banquet facility allowed by this special use permit shall follow all applicable Federal, State, and Local laws including, but not limited to, Fox Township's laws, related to the operation of this type of business."

Member Clementi voted no because of concerns about public safety and the impacts to property values and enjoyment of neighbors.

The business plan for the proposed operations, building elevations, landscaping plan, parking illumination plan, and interior plan were provided.

According to the information provided to the County, the proposed banquet facility will utilize the existing approximately eight thousand (8,000) square foot barn for weddings and similar events. The maximum capacity will be approximately two hundred eighty (280) people, with one (1) additional employee. While banquets will occur inside the existing barn, prospective clients could use the exterior grounds for pictures and outdoor ceremonies. The interior of the barn is a converted arena with a concrete floor. The barn is approximately twenty-six feet (26') tall at its peak and ten feet (10') tall at the ends.

An existing pond is located east of the horse barn.

The hours of operation will be Monday through Thursday from 9:00 a.m. until 10:00 p.m. and Friday and Saturday from 9:00 a.m. until Midnight. The facility would be open on the eve and day of all federal holidays. Tours of the facility for prospective customers by appointment and could occur outside the listed hours of operation. Setup for events would start at 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. The facility would close on November 1st and reopen April 1st.

The proposed business would use local sub-contractors for uses on the site, including linens, decorations, food services, beverage services, bathroom services, and cleanup services. Because Fox Township is a dry township, no cash bars are allowed.

The proposed business would use luxury trailer bathrooms for events with the intention to have permanent restroom facilities by 2021. Restroom facilities will be located north of the barn by the parking area.

The dumpster shall be located next to the parking lot by the barn.

If approved, the Petitioners hope to start operations as quickly as possible.

Ancillary items, such as Brighter Daze shirts and glasses, may be sold on the premises.

An updated Occupancy Permit will be required reflecting the change of use from a horse barn to a banquet facility.

Portable bathrooms will be used for events.

The property fronts Crimmin Road. According to the site plan, patrons will enter the property through the driveway north of the existing house. Traffic will drive southeast along the one (1) way driveway to the existing barn, a distance of approximately seven hundred feet (700'). There are thirty-four (34) parking spaces and four (4) additional handicapped accessible parking spaces by the barn. An additional seventy-five (75) parking spaces will be located east of the barn and will be accessible via a gravel driveway; these parking spaces will be served by shuttle. Traffic will exit the property through a one (1) way driveway leading to the north end of the property.

Two (2) new lights are proposed for site. According to the parking illumination plan, no light will leave the property. All lights will be turned off within one (1) hour of the conclusion of events.

One entrance and one exit sign will be installed on the property. The signs will be approximately four hundred thirty-two (432) square inches. Neither sign will be illuminated.

As shown the on proposed site plan, the site contains approximately one hundred sixty-six (166) trees of varying heights encircling the venue.

All music and noise shall originate inside the venue except for processional and recessional at weddings. The facility shall follow the noise regulations for banquet facilities. Speakers will face east and the barn doors will remain closed after 7:00 p.m.

With the combination of distance and plantings, the Petitioners believe noise will not be an issue.

According to information provided to the County, the Petitioners did not charge for events held previously on the property prior to June 1, 2019. On June 3, 2019, the Petitioners contacted the County and stated that they had an event on June 1, 2019, and charged a rental fee for this event. The Petitioners believed that the special use permit would be approved prior to the June 1st date and did not want to cancel the event.

The proposed findings of fact 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 establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, or general welfare, provided that the site is developed in accordance with an approved site plan, landscaping plan, and lighting plan. Proper buffering and noise controls

will be necessary to prevent noise from negatively impacting neighboring properties. The Kendall County Sheriff's Department has not submitted comments expressing concerns for public health and safety, based on the information provided by the Petitioners. Member Clementi disagreed with this finding.

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 proposed use could be injurious to the enjoyment of other property in the immediate vicinity due to noise, light created from the proposed use, and increased traffic. Some of the negative impacts of the proposed use on properties in the immediate vicinity could be mitigated by restrictions related to hours and days of operation, and buffering within the ordinance granting the special use permit. Member Clementi and Chairman Mohr disagreed with this finding.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. True, the Petitioner's site plan addresses utilities, drainage, and points of ingress and egress.

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 site conforms to the regulations of the A-1 Agricultural Zoning District.

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 3-6 of the Kendall County Land Resource Management Plan which states as an objective "Encourage Agriculture and Agribusiness."

Staff recommends approval of the requested special use permit subject to the following conditions and restrictions:

1. The site shall be developed substantially in accordance with the attached site plan, landscaping plan, and parking illumination plan.
2. Permanent restroom facilities shall be installed by 2021. When the permanent restroom facilities are installed, the portable bathrooms shown on the attached site plan shall be removed.
3. A maximum of two hundred eighty (280) guests in attendance at a banquet center related event may be on the subject property at a given time.
4. The subject parcel must maintain a minimum of five (5) acres.
5. The use of this property shall be in compliance with all applicable ordinances. The banquet facility shall conform to the regulations of the Kendall County Health Department and the Kendall County Liquor Control Ordinance. (Ord. 99-34)
6. Off-street parking, lighting and landscaping shall be provided in accordance with the

provisions of Section 11 of the Zoning Ordinance.

7. All signage shall comply with the provisions of Section 12 of the Kendall County Zoning Ordinance. The signage shall be developed in accordance to the attached site plan. Any signage provided will not be illuminated. The owners of the business allowed by this special use permit may install additional non-illuminated traffic directional signs not shown on the approved site plan within their property. (Last sentence added after discussion with Fox Township).

8. Retail sales are permitted as long as the retail sales will be ancillary to the main operation.

9. 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.

10. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings. For events with music, barn doors shall close by 7:00 p.m. (Changed by ZBA).

11. Events shall be held on weekends only and shall conclude by 10:00 p.m. Only one (1) event per weekend may occur. For the purposes of this special use permit, weekends shall be Fridays, Saturdays, Sundays, Mondays, and any Federal or State Holiday falling on a Thursday or Tuesday. Tours of the facility for prospective customers shall be by appointment and could occur outside the listed hours of operation. Setup for events would start at 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. The facility would close on November 1st and reopen April 1st. The number of events per year shall be capped at thirty (30). (Changed per Fox Township and KCRPC Meeting).

12. A new certificate of occupancy must be issued for the barn.

13. Within ninety (90) days of the approval of this special use permit ordinance, the owners of the subject property shall dedicate a strip of land along the entire western boundary of the property at a depth of forty-five feet (45') as measured from the centerline of Crimmin Road to Fox Township to be used as Crimmin Road right-of-way. (Added per Fox Township).

14. No patron or other entity associated with the business allowed by this special use permit shall be allowed to park on Crimmin Road (Added per Fox Township).

~~15. A traffic study shall be conducted by the Kendall County Highway Department. (Deleted by~~

ZBA).

16. The operator(s) of the banquet facility acknowledge and agree to follow Kendall County's Right to Farm Clause.
17. The operator(s) of the banquet facility allowed by this special use permit shall follow all applicable Federal, State, and Local laws, including, but not limited to, Fox Township's laws, related to the operation of this type of business. (Changed at ZBA).
18. 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.
19. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

Member Gilmour asked about Fox Township's dry regulations. Mr. Asselmeier stated that the Petitioners have a disagreement with Fox Township regarding the scope of dry regulations. The Petitioners believe that alcohol can be served at events if the alcohol is not sold on the premises. Adam Theis acknowledged that Fox Township may litigate this issue.

Member Flowers asked about previous events. Mr. Theis responded that many events have been housed through Brighter Daze Farms related to horse events. The first banquet center related event was held on June 3rd. The CASA event was a fundraiser and the Petitioners did not charge for the space.

Discussion occurred regarding the evolution of the restriction containing days and hours of operation and number and times of events. This restriction grew out of compromises between the Petitioners and Fox Township. Mr. Theis anticipated more events at the beginning and end of the season and fewer events mid-season. Mr. Theis favored allowing patrons to come in the day before events for setup. The crowd has to be off the property within one (1) hour after closing.

Member Gilmour asked about the landscaping plan. Mr. Theis stated that all of the trees are mature and the berm is already in place. There are one hundred sixty-four (164) trees; two (2) trees were recently lost in a storm.

Discussion occurred regarding riding horses in the Millington Forest Preserve. There are no horse trails inside the Millington Forest Preserve. Mr. Theis promised to obtain any necessary permits for riding in the Millington Forest Preserve.

Member Kellogg expressed allowing the property to be divided into smaller parcels. Mr. Theis indicated that the property owners have no intentions of dividing the property.

Sales tax would be collected on the sale of ancillary items.

The barn is not air conditioned. Discussion occurred regarding closing the barn doors at 7:00 p.m. Questions were raised regarding enforcement. The Petitioners must follow noise regulations. The nearest neighbors are approximately nine hundred fifty feet (950') from the facility.

If a special use permit is not activated within two (2) years or ceases operations for a two (2) year period, the County Board may revoke the special use permit.

Discussion occurred whether rehearsal dinners on the night before a wedding and the wedding itself constituted two (2) events. Discussion occurred regarding capping the number of people at events.

Member Gilmour asked why events were held before the approval of the special use permit. Mr. Theis stated that they came across the business plan after they hosted a friend's wedding for free and they wanted to make money on future events.

No changes in access to the Millington Forest Preserve were foreseen.

Chairman Prochaska made a motion, seconded by Member Kellogg, to delete the restriction stating "the use of this property shall be in compliance with all applicable ordinances. The banquet facility shall conform to the regulations of the Kendall County Health Department and the Kendall County Liquor Control Ordinance" because this restriction is duplicative with a later restriction.

The votes were as follows:

Yeas (5): Flowers, Gengler, Gilmour, Kellogg, and Prochaska
Nays (0): None
Abstain (0): None
Absent (0): None

The motion carried.

Chairman Prochaska made a motion, seconded by Member Kellogg, allow setup for events to occur starting at 9:00 a.m. on the day prior to an event as well as the day of the event.

The votes were as follows:

Yeas (5): Flowers, Gengler, Gilmour, Kellogg, and Prochaska
Nays (0): None
Abstain (0): None
Absent (0): None

The motion carried.

Member Kellogg made a motion, seconded by Member Gengler, to delete the restriction pertaining to closing barn doors at 7:00 p.m.

The votes were as follows:

Yeas (5): Flowers, Gengler, Gilmour, Kellogg, and Prochaska
Nays (0): None
Abstain (0): None
Absent (0): None

The motion carried.

Member Kellogg made a motion, seconded by Member Gengler, to amend the restriction that states "the subject parcel must maintain a minimum of five (5) acres" to "the subject parcel must follow the site plan configuration with the exception of the right-of-way dedication."

The votes were as follows:

Yeas (5): Flowers, Gengler, Gilmour, Kellogg, and Prochaska
Nays (0): None
Abstain (0): None
Absent (0): None

The motion carried.

Member Kellogg made a motion, seconded by Member Gengler, to allow the Petitioners to have one (1) additional event per weekend with a maximum of fifty (50) guests.

The votes were as follows:

Yeas (3): Gengler, Kellogg, and Prochaska
Nays (2): Flowers and Gilmour
Abstain (0): None
Absent (0): None

The motion carried.

Chairman Prochaska made a motion to add Wednesday if it is the eve of a Federal or State holiday to the definition of weekend. No second and no vote occurred on this motion.

Member Flowers made a motion, seconded by Member Kellogg, to recommend approval of the requested special use permit.

The votes were as follows:

Yeas (4): Flowers, Gengler, Kellogg, and Prochaska
Nays (1): Gilmour
Abstain (0): None
Absent (0): None

The motion carried. The Petition will go to the Committee of the Whole on July 11th.

The Committee recessed between 7:53 p.m. and 7:54 p.m.

NEW BUSINESS

Discussion of Bed and Breakfast and AirBnB Related Zoning Regulations

Mr. Asselmeier summarized the request.

Bed and breakfast establishments are special uses in the A-1, R-1, RPDs, and R-2 zoning districts.

It has to come to the attention of the Kendall County Planning, Building and Zoning Department that a property on Rock Creek Road was advertising on AirBnB. This establishment was also featured recently in an article in Glance Magazine.

Upon review of AirBnB's website, another property in Boulder Hill was advertised on the site. Bed and breakfast establishments are not allowed in the R-6 and R-7 zoning districts.

Both of the previously mentioned properties were sent notices to comply with the Kendall County zoning regulations.

Mr. Asselmeier noted that the County's definition of bed and breakfast does not require the owner to live on the property; the State's definition requires the owner to live on the premises. The County's regulation does not require food service.

Discussion occurred regarding the County's definition of hotel.

The consensus of the Committee was that the Department should prepare an amendment to the definition of hotel to encourage this type of use in order to maintain properties.

OLD BUSINESS

Update on 45 Cheyenne Court

Greg Stromberg stated that he is staining currently with the hope to be finished by the end of July. The stain is cured in the sun.

Zoning Ordinance Project Update

Mr. Asselmeier provided an update. He is currently working on a list of changes proposed by Teska Associates. The County paid Teska half of the cost at the beginning of the project and there is one (1) invoice waiting to be paid. The consensus of the Committee was to withhold paying Teska for additional invoices until the project is completed.

Update on Contract with Randy Erickson D.B.A. Erickson Construction Plumbing Inspection

Mr. Asselmeier reported that Mr. Erickson's fee would raise Ten Dollars (\$10) to cover the proposed insurance cost.

The consensus of the Committee was to approve the contract and raise the fee.

Member Kellogg left at this time (8:11 p.m.).

REVIEW VIOLATION REPORT

The Committee reviewed the Violation Report.

Approval to Forward to the Kendall County State's Attorney's Office a Violation of Section 11.05.A.1.b.ii of the Kendall County Zoning Ordinance (Prohibited Parking of a Trailer in the Front Yard Setback) at 54 Marnel Road

Mr. Asselmeier provided background on this case.

Member Gilmour made a motion, seconded by Member Flowers, to forward the complaint to the State's Attorney's Office.

The votes were as follows:

Yeas (4): Flowers, Gengler, Gilmour, and Prochaska

Nays (0): None

Abstain (0): None

Absent (1): Kellogg

The motion carried.

REVIEW NON-VIOLATION COMPLAINT REPORT

The Committee reviewed the report.

The Committee requested that the reports be printed in larger fonts.

UPDATE FROM HISTORIC PRESERVATION COMMISSION

Mr. Asselmeier reported that the Commission sent the amendments to the Historic Preservation Ordinance to the Illinois Historic Preservation Agency. The position responsible for viewing the changes is vacant; the Illinois Historic Preservation Agency hopes to fill the position later this summer. The Commission will also be nominating new officers at their next meeting.

REVIEW PERMIT REPORT

The Committee reviewed the report.

REVIEW REVENUE REPORT

The Committee reviewed the report. Revenues are higher year-to-date for fiscal year ending in 2019 compared to this point year-to-date in fiscal year ending in 2018.

CORRESPONDENCE

None

PUBLIC COMMENT

Patrick McCrimmon agreed with Member Kellogg's opinion regarding short-term rentals. He has had few problems with any tenants; tenants can be removed immediately under AirBnB's rules.

Kurt Buhle had concerns with Petition 19-12 and was disappointed by the decision to allow the barn doors to be opened. Noise was a significant concern. He was also concerned about the changes in days of operation and number of events.

COMMENTS FROM THE PRESS

None

EXECUTIVE SESSION

None

ADJOURNMENT

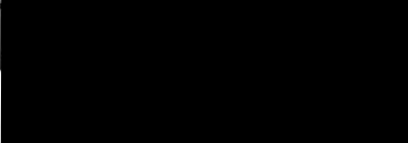
Member Flowers made a motion, seconded by Member Gilmour, to adjourn. With a voice vote of four (4) ayes, the motion carried unanimously. Chairman Prochaska adjourned the meeting at 8:21 p.m.

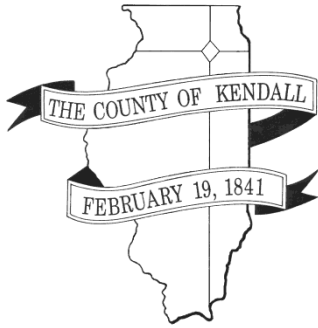
Minutes prepared by Matthew H. Asselmeier, AICP, Senior Planner

Enc.

**KENDALL COUNTY
PLANNING, BUILDING, & ZONING COMMITTEE
JULY 8, 2019**

IF YOU WOULD LIKE TO BE CONTACTED ON FUTURE MEETINGS REGARDING THIS TOPIC, PLEASE PROVIDE YOUR ADDRESS OR EMAIL ADDRESS

NAME	ADDRESS (OPTIONAL)	EMAIL ADDRESS (OPTIONAL)
Patrick McCrinmon		
John R. Jones		
Kurt P. Bahl		



DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 204

Yorkville, IL • 60560

(630) 553-4141

Fax (630) 553-4179

MEMORANDUM

To: Kendall County Planning, Building and Zoning Committee

From: Matthew H. Asselmeier, AICP, Senior Planner

Date: July 22, 2019

Re: Proposed Future Land Use Map Change Along Route 47 in Lisbon Township

At their meeting on February 27, 2019, the Comprehensive Land Plan and Ordinance Committee suggested removing all of the mining area around the Village of Lisbon. That same evening, the Kendall County Regional Planning Commission voted to remove mining around the Village of Lisbon except for those areas already zoned for mining uses. These two (2) maps are attached to this memo.

At their meeting on June 10, 2019, the Planning Building and Zoning Committee voted 2-1 in favor of forwarding the proposal to the Committee of the Whole with a neutral recommendation.

On July 11, 2019, Vulcan Materials Company contacted the Kendall County Planning, Building and Zoning Department and stated four (4) properties shown on the maps as unincorporated had been annexed into the Village of Lisbon. The County had no record of this annexation. At their meeting later that day, the Committee of the Whole voted to forward the proposal back to the Planning, Building and Zoning Committee. On July 16, 2019, Vulcan Materials Company provided Kendall County with annexation agreement dated March 24, 2008, annexing the properties in question into the Village of Lisbon. To the Planning, Building and Zoning Department's knowledge, this document was not recorded. A copy of the agreement is attached.

Also attached to this memo are the proposed Future Land Use Map incorporating the old Village of Lisbon Future Land Use Map's mining area, the old Village of Lisbon's Future Land Use Map, the new Village of Lisbon's Future Land Use Map, a map incorporating the Mining Area on the new Village of Lisbon's Future Land Use Map, a map showing sections 32 and 33 as mixed use business, and the existing Future Land Use Map for Lisbon Township.

If you have any questions, please let me know.

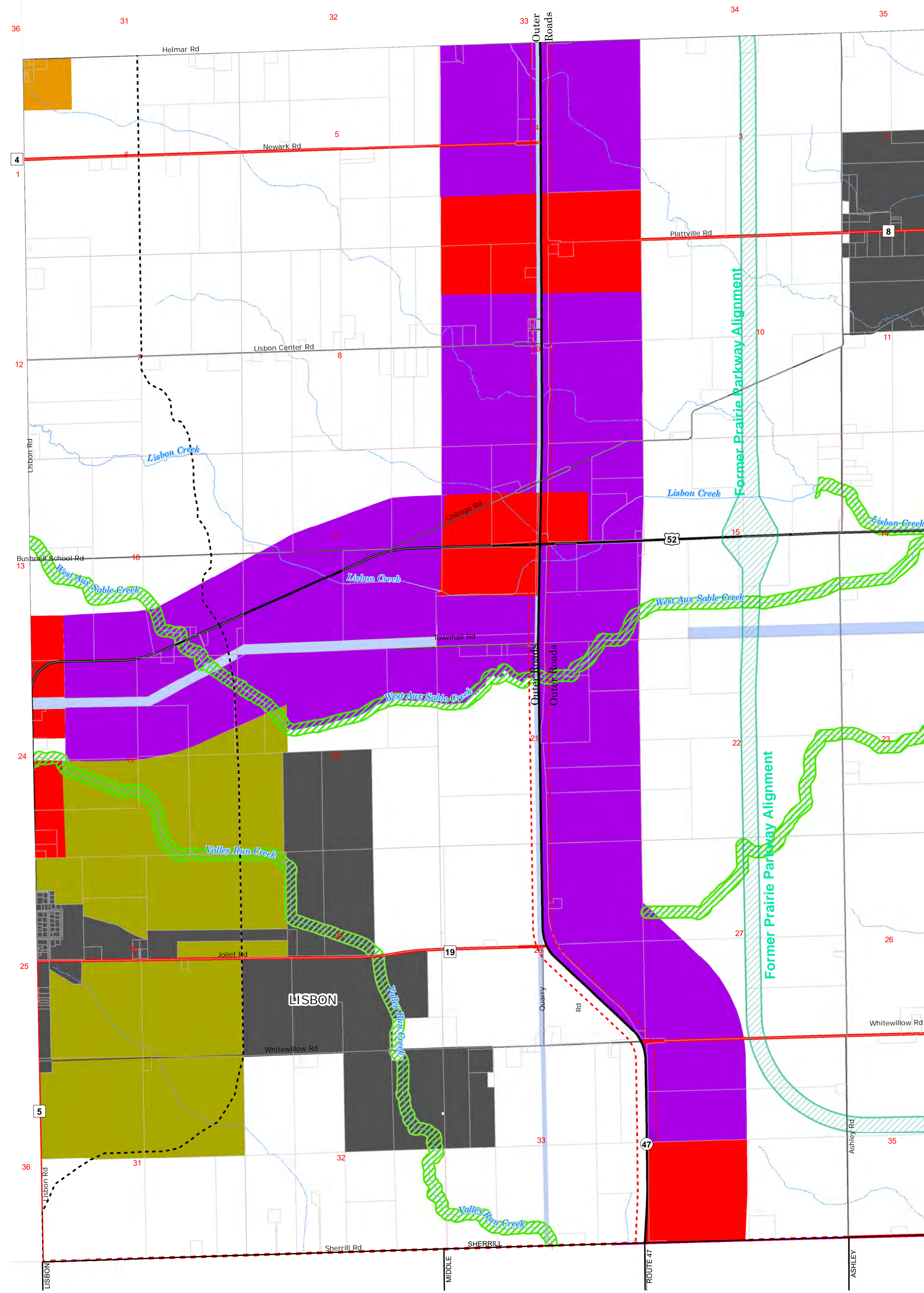
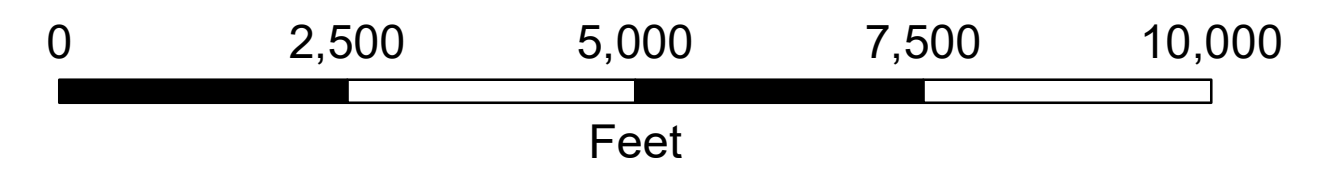
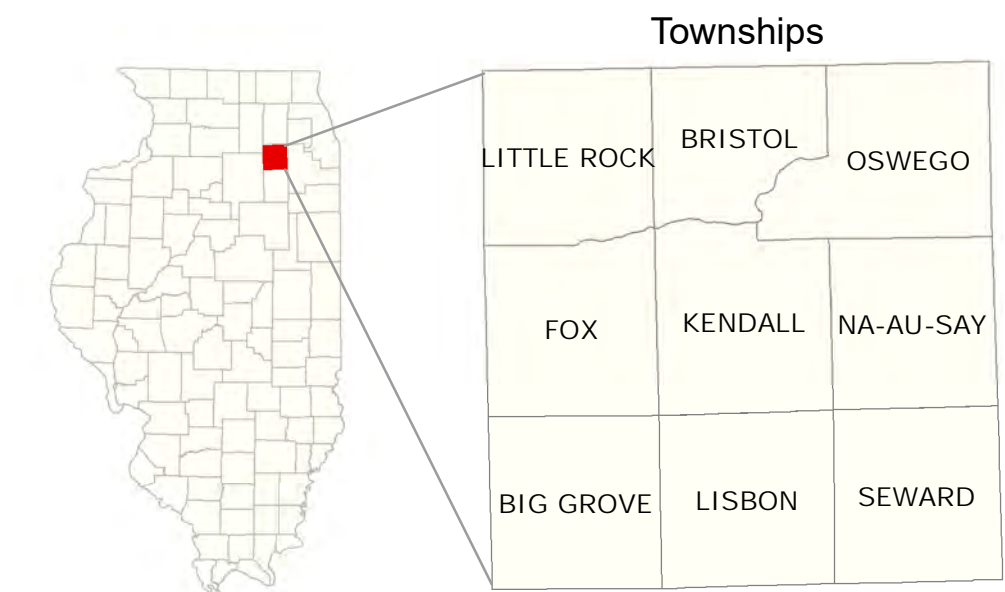
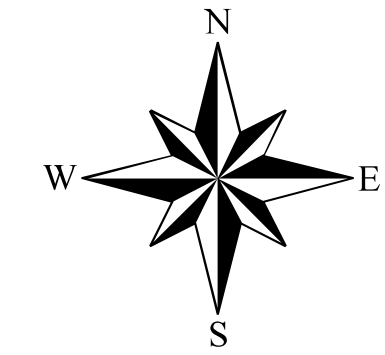
MHA

ENC: Mining Removed
Mining Removed Except Where Zoned
Proposed Future Land Use Map (Old Lisbon Map)
Proposed Future Land Use Map (New Lisbon Map)
Mixed Use Business Map
Old Lisbon Future Land Use Map
New Lisbon Future Land Use Map
Current Future Land Use Map for Lisbon Township
March 24, 2008 Annexation Agreement

Lisbon Future LRMP Helmar Rd to Sherrill Rd KENDALL COUNTY

- 2019 -

<http://www.co.kendall.il.us>



Legend

- - - Outer Roads
- - - Proposed Roadways
- Future LRMP Abbreviation**
- Urbanized Areas
- Mixed Use Business
- Public Institutional
- Rural Settlements
- Commercial
- Continued Growth Suburban Residential

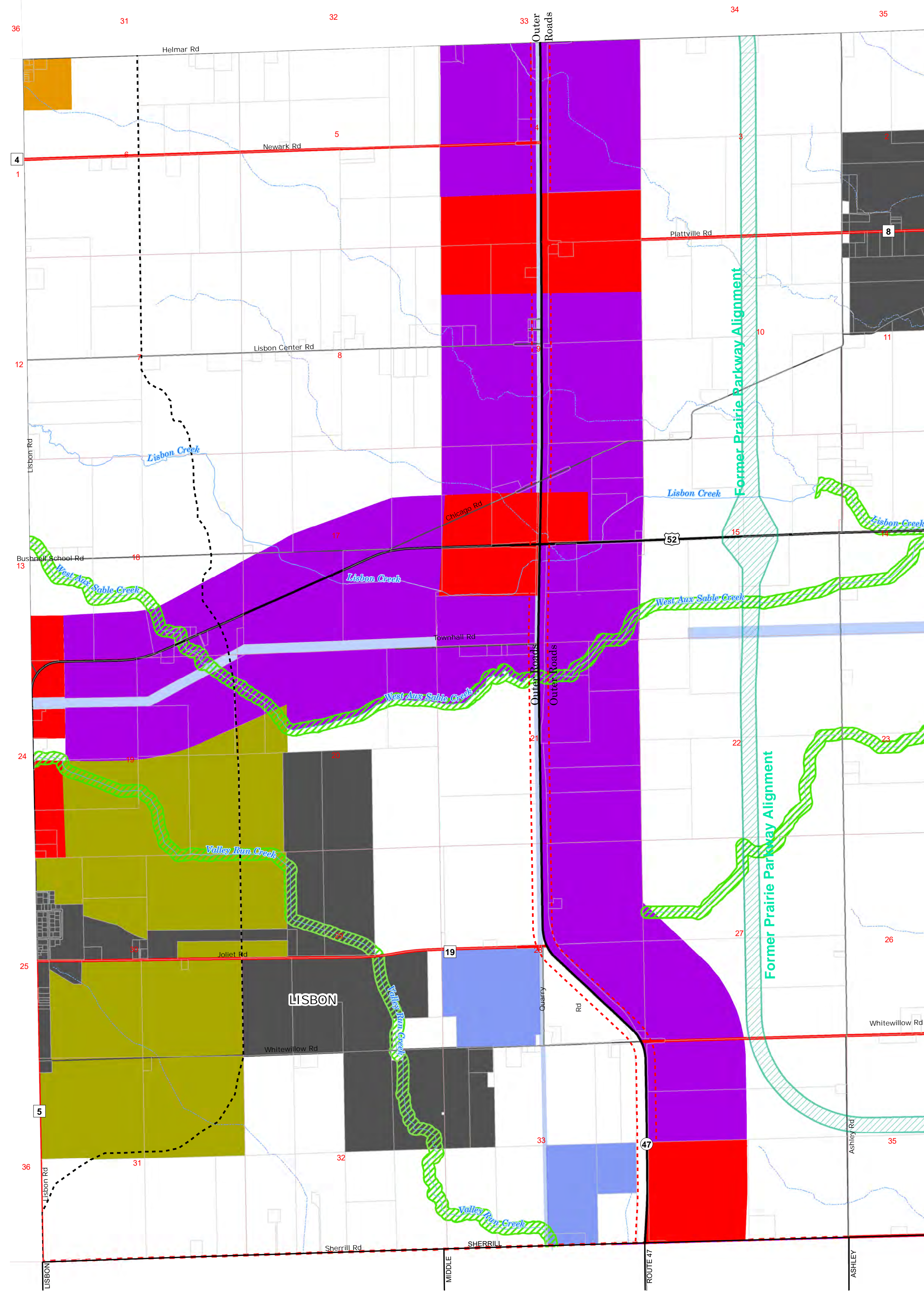
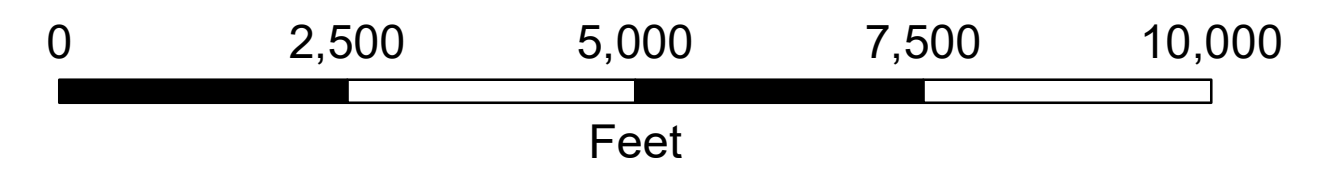
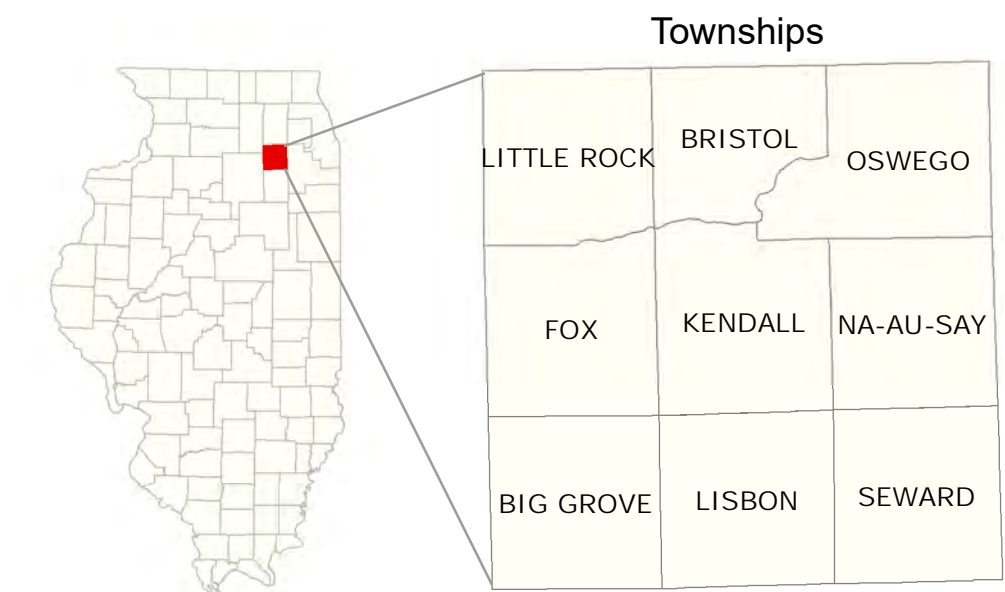
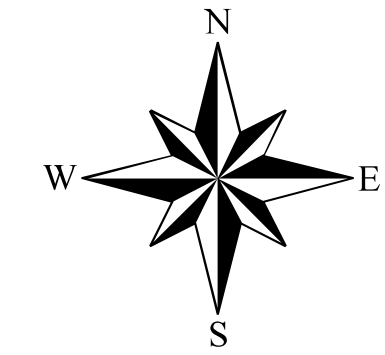


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Lisbon Future LRMP Helmar Rd to Sherrill Rd KENDALL COUNTY

- 2019 -

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- Legend**
- - - Outer Roads
 - - - Proposed Roadways
- Future Land Use**
- Land Use Type**
- Mining
- Future LRMP Abbreviation**
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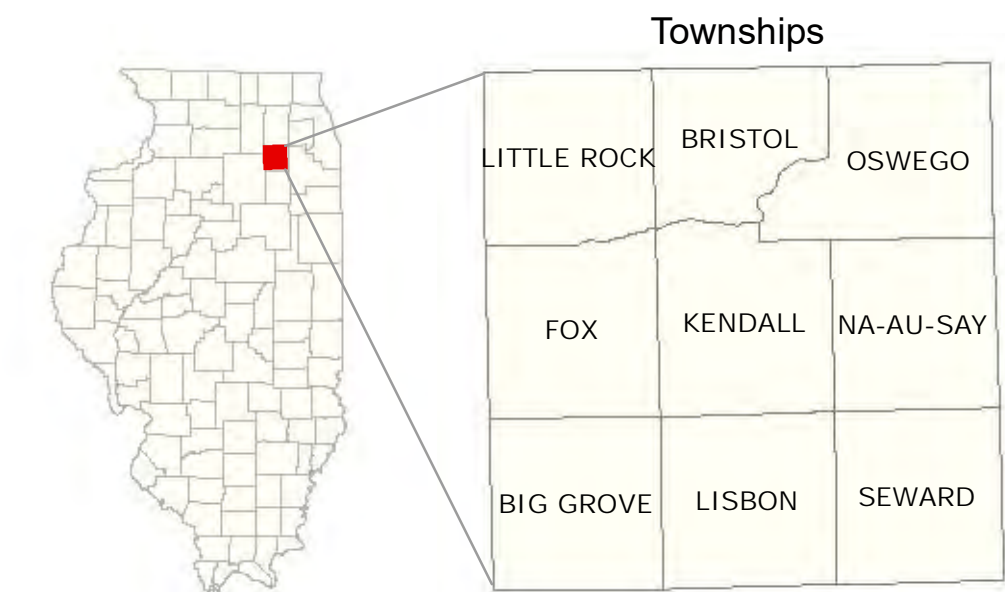
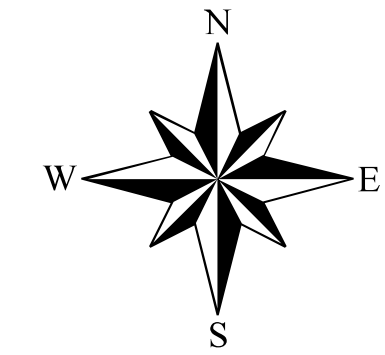


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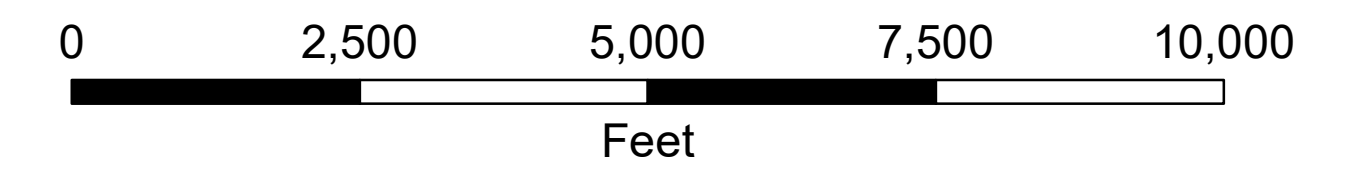
Lisbon Future LRMP Helmar Rd to Sherrill Rd KENDALL COUNTY

- 2018 -

<http://www.co.kendall.il.us>



Scale: 1 in = 1,667 feet



Legend

--- Outer Roads

- - - Proposed Roadways

Future LRMP

Abbreviation

Natural Resource Areas

Grundy Mixed Use Business

Court Ordered Mining

Open Space

Urbanized Areas

Mixed Use Business

Transportation Corridors

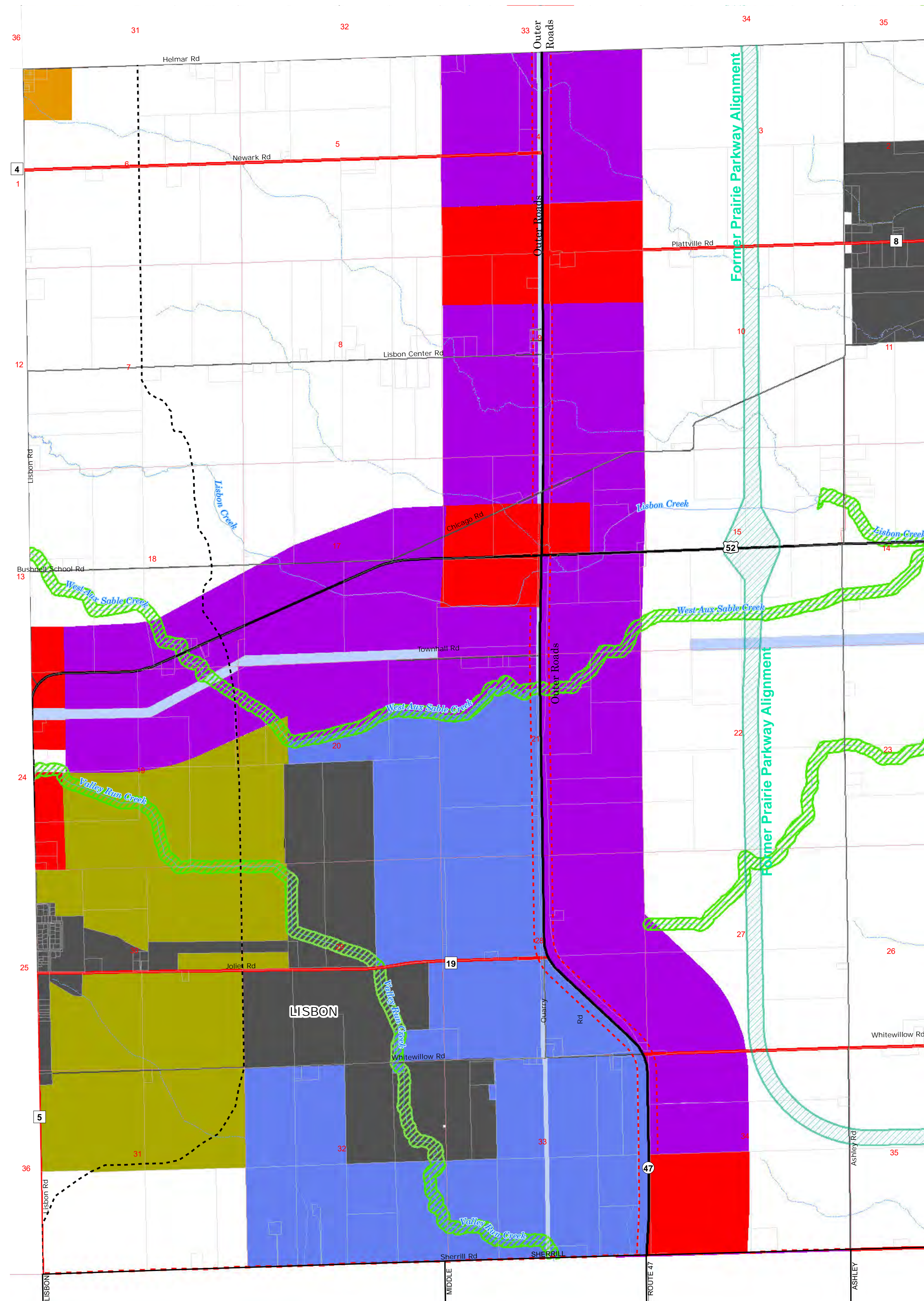
Public Institutional

Mining

Rural Settlements

Commercial

Continued Growth Suburban Residential

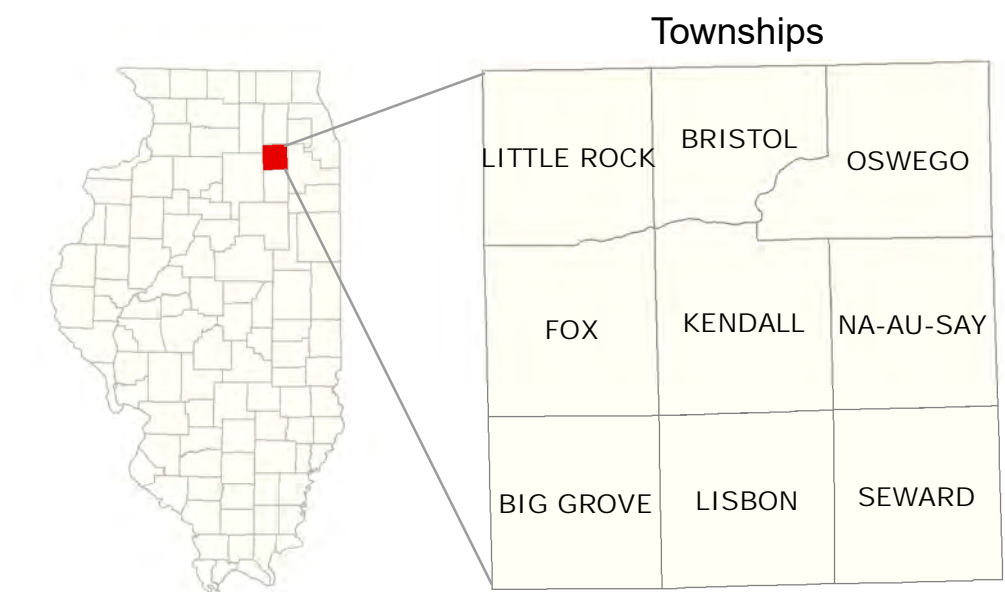
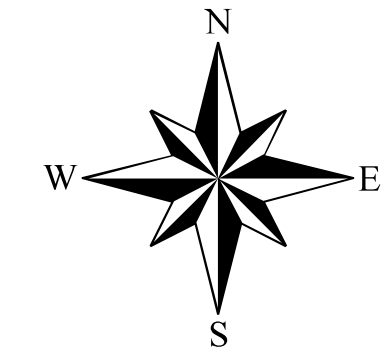


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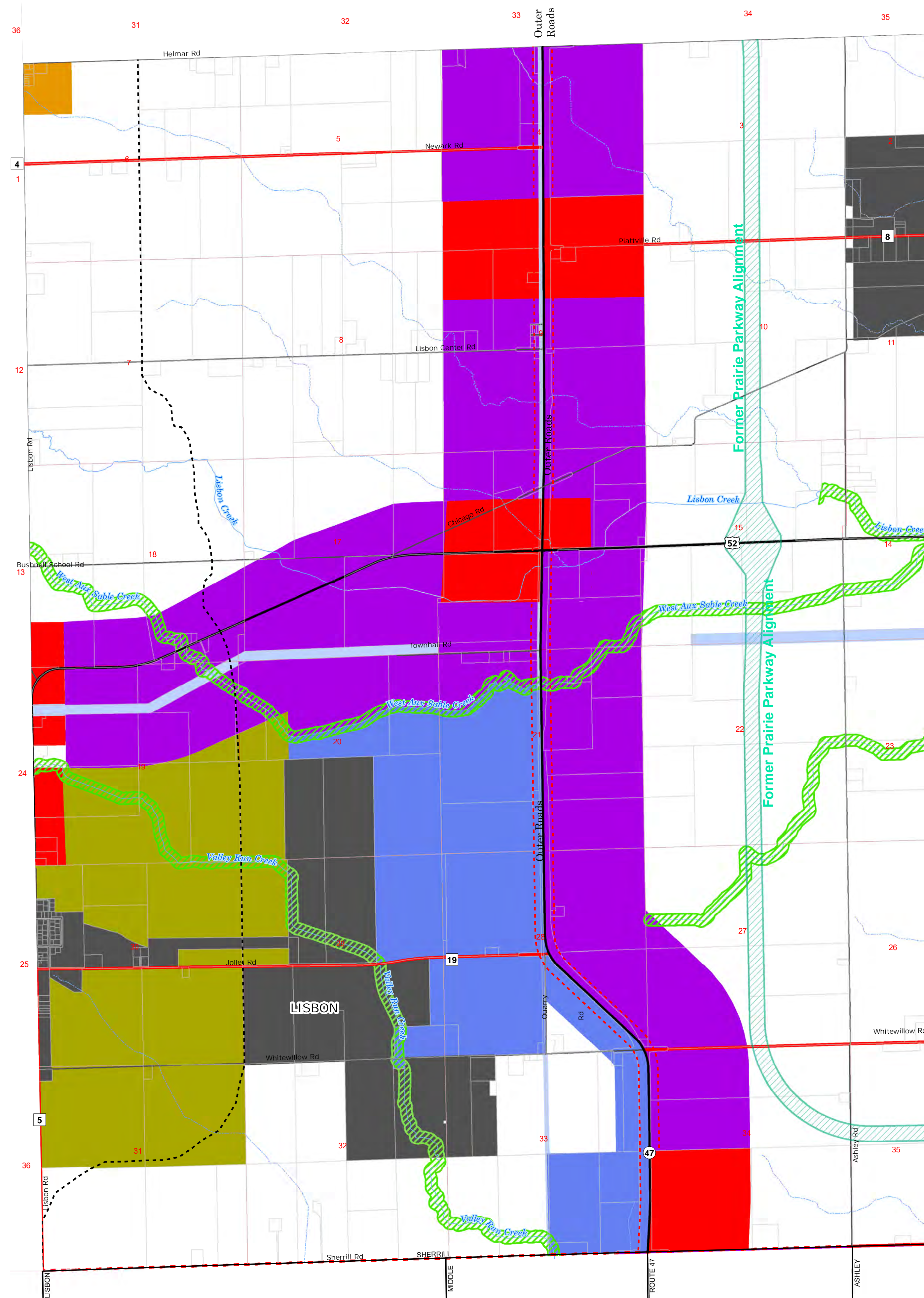
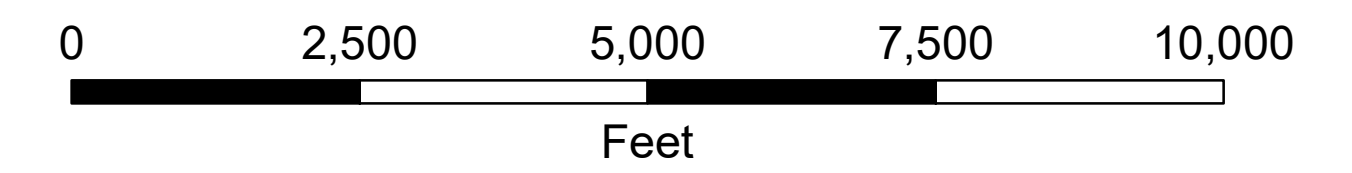
Lisbon Future LRMP Helmar Rd to Sherrill Rd KENDALL COUNTY

- 2018 -

<http://www.co.kendall.il.us>



Scale: 1 in = 1,667 feet



Legend

--- Outer Roads

--- Proposed Roadways

Future LRMP

Abbreviation

Urbanized Areas

Mixed Use Business

Public Institutional

Mining

Rural Settlements

Commercial

Continued Growth Suburban Residential



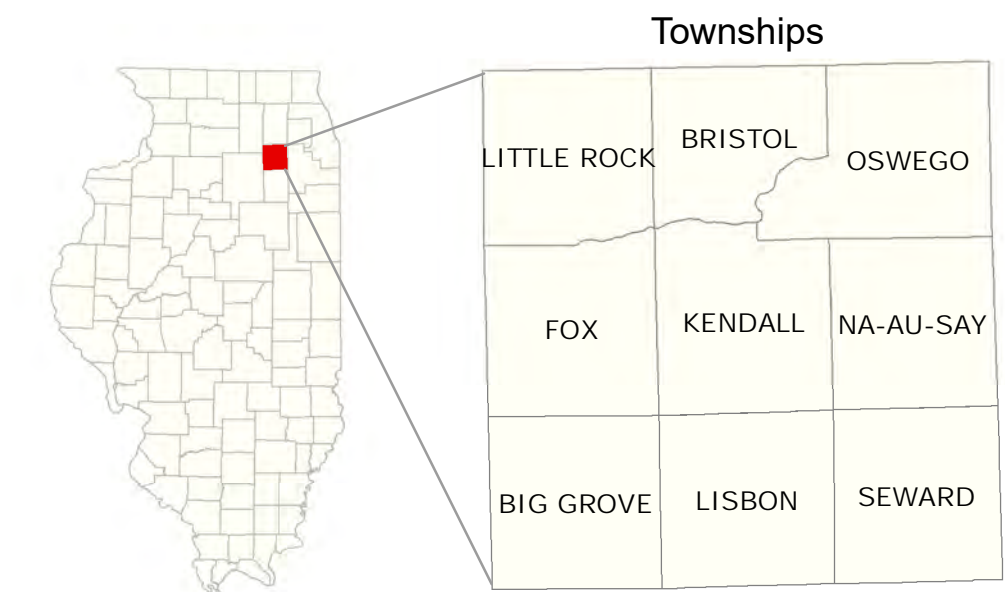
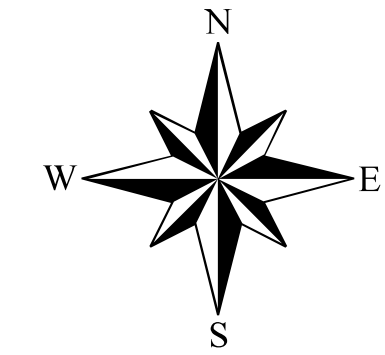
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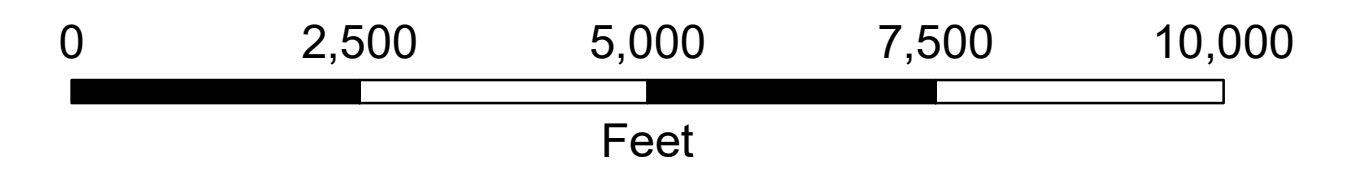
Lisbon Future LRMP Helmar Rd to Sherrill Rd KENDALL COUNTY

- 2018 -

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Natural Resource Areas

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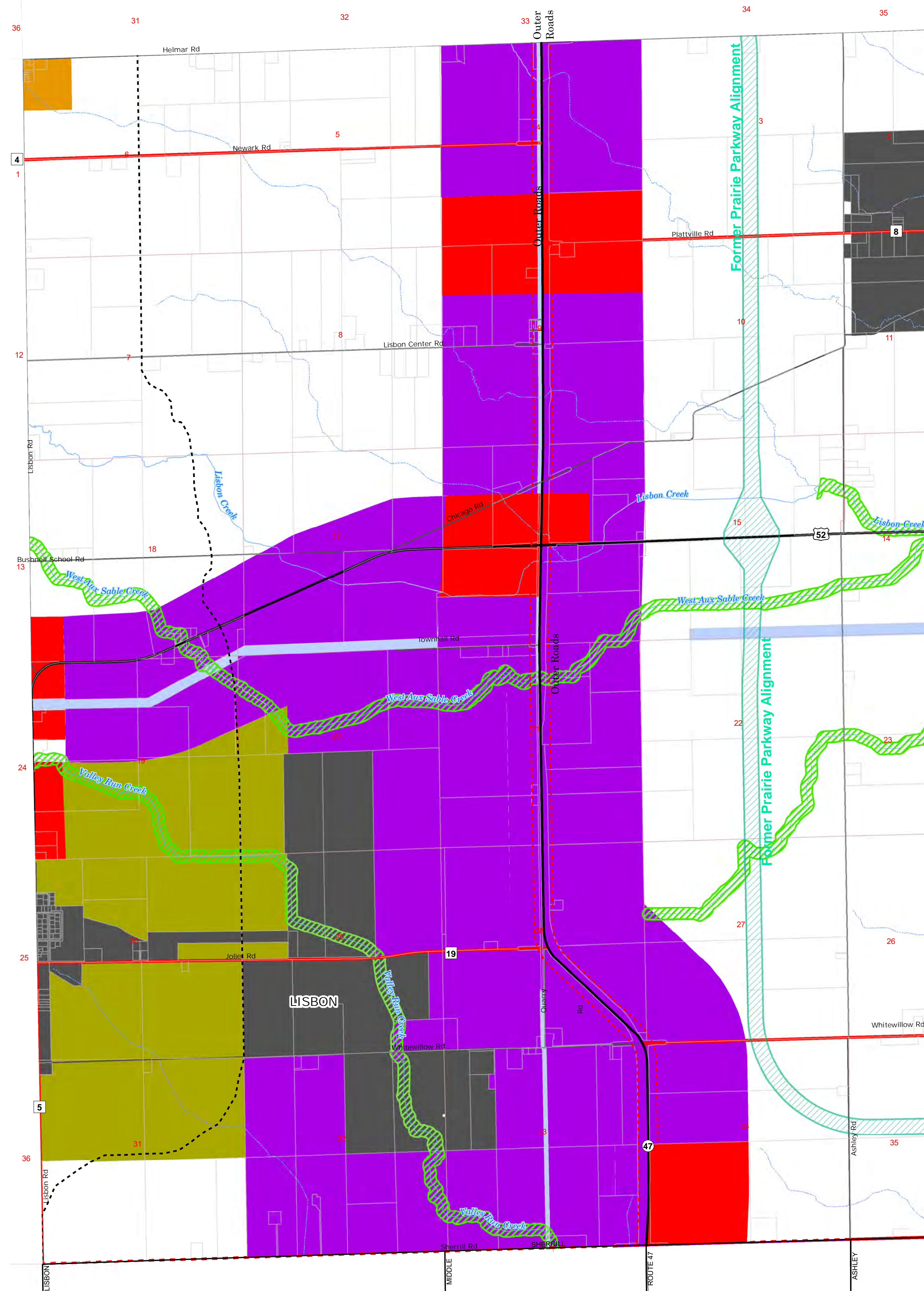
Public Institutional

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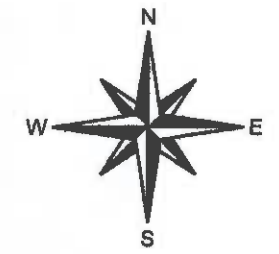
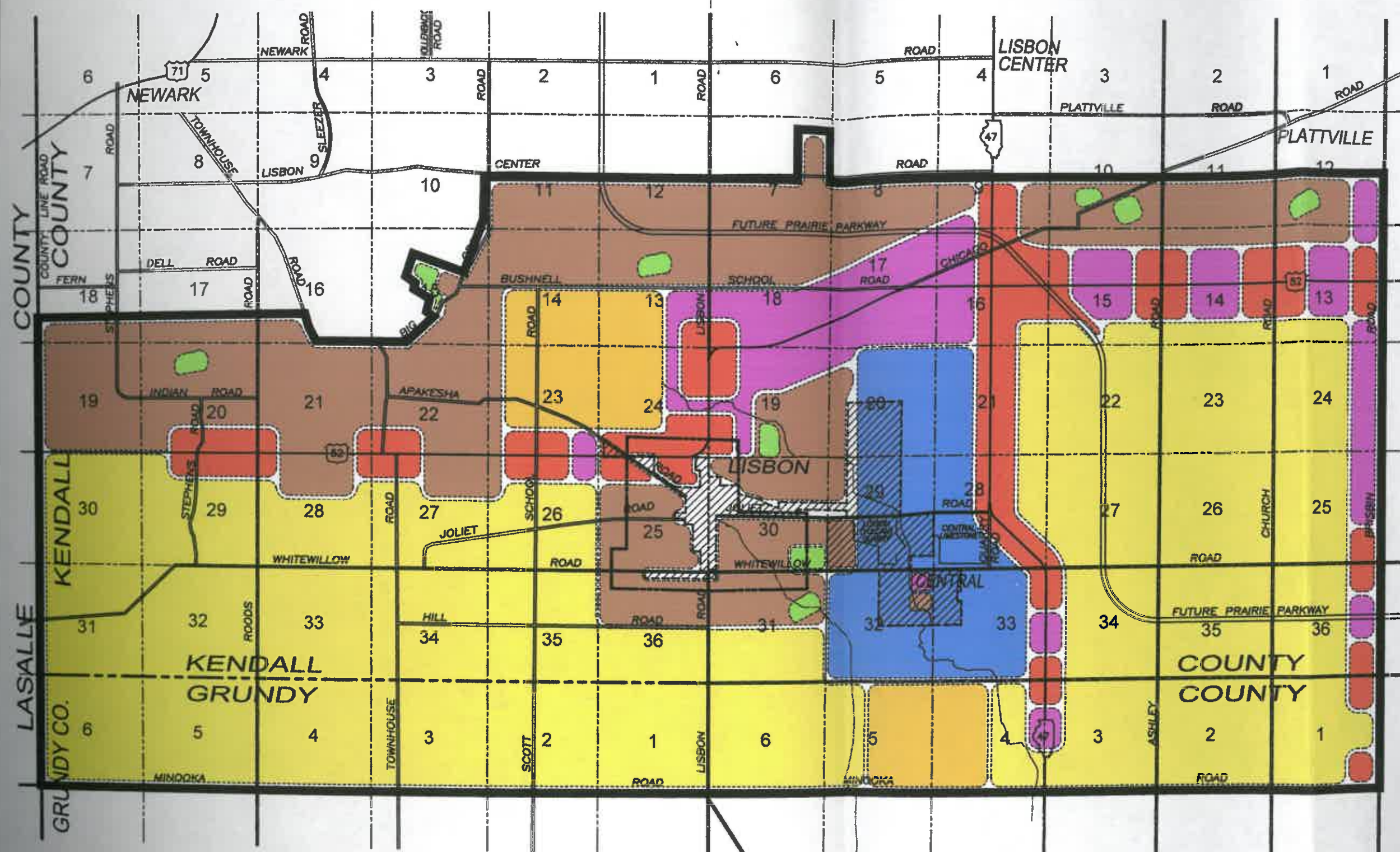
Continued Growth Suburban Residential





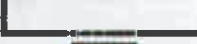







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RANGE 6 EAST RANGE 7 EAST



LEGEND

-  LISBON COMPREHENSIVE BOUNDARY
-  EXISTING LISBON VILLAGE LIMITS
-  ORIGINAL LISBON VILLAGE LIMITS
-  COMMERCIAL
-  MIXED USE BUSINESS
-  MINING
-  OPEN SPACE
-  1 ACRE CITY LOTS
-  INDUSTRIAL
-  AGRICULTURAL

TOWNSHIP 34 NORTH
TOWNSHIP 33 NORTH

RANGE 6 EAST RANGE 7 EAST

DRAWN BY: MAR	DATE: 8/14/07
CHECKED BY: GRC	

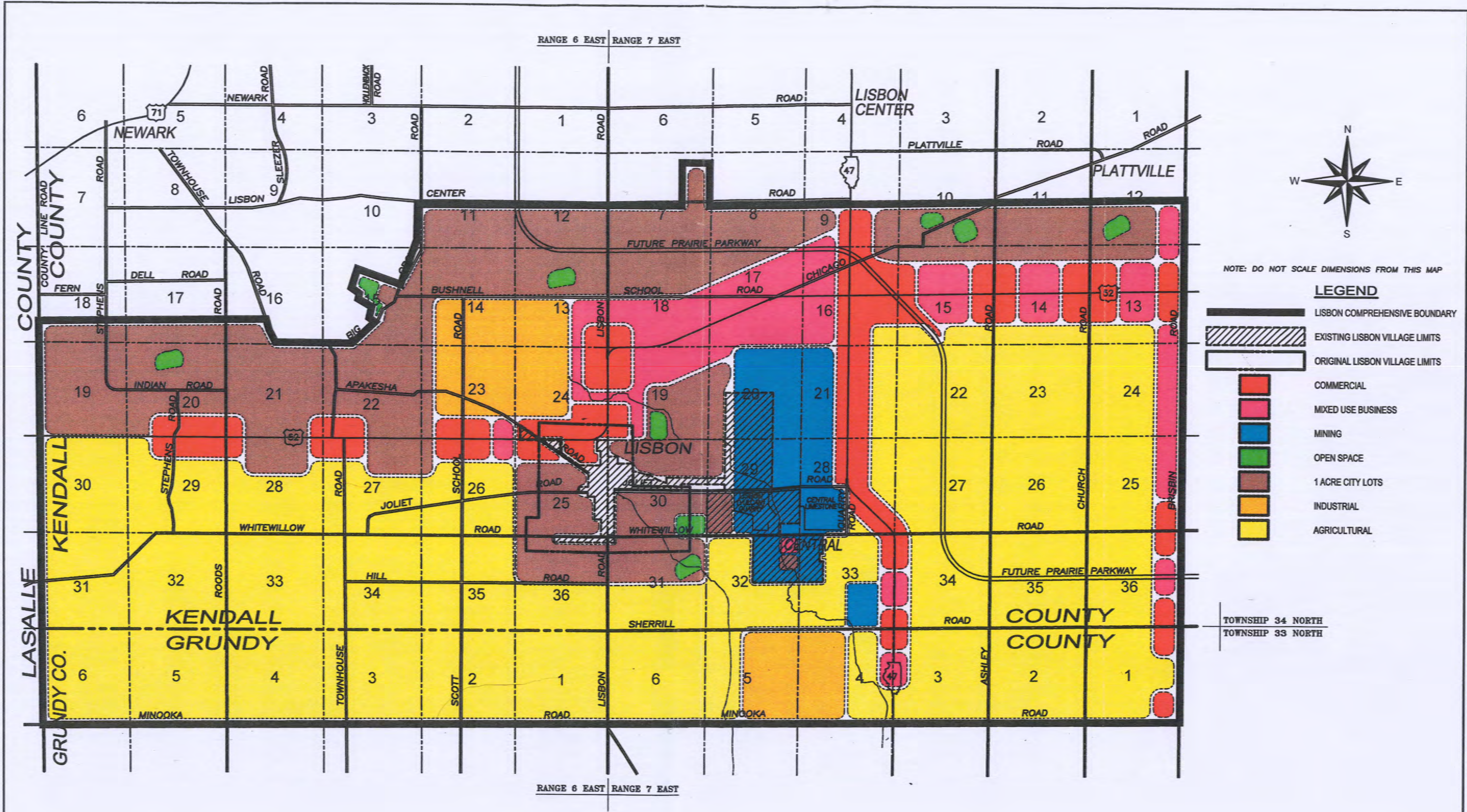
REVISIONS	
DATE	BY
10/25/06	MM
11/13/06	MM
11/20/06	MM

CHAMLIN ASSOCIATES
PERU MORRIS ILLINOIS

COMPREHENSIVE PLANNING MAP
VILLAGE OF LISBON, KENDALL COUNTY, ILLINOIS

PLANNING AREAS

SCALE: 1 = 1700	SHEET
FILE NO.:	OF



NOTE: DO NOT SCALE DIMENSIONS FROM THIS MAP

LEGEND

- LISBON COMPREHENSIVE BOUNDARY
- EXISTING LISBON VILLAGE LIMITS
- ORIGINAL LISBON VILLAGE LIMITS
- COMMERCIAL
- MIXED USE BUSINESS
- MINING
- OPEN SPACE
- 1 ACRE CITY LOTS
- INDUSTRIAL
- AGRICULTURAL

TOWNSHIP 34 NORTH
TOWNSHIP 33 NORTH

DRAWN BY: MAB	DATE: 8/14/07	REVISIONS
CHECKED BY: GRC		DATE BY
		11/20/06 MAB
		2/5/08 MAB
		2/24/08 MAB

CHAMLIN ASSOCIATES
PERU MORRIS ILLINOIS

COMPREHENSIVE PLANNING MAP
VILLAGE OF LISBON, KENDALL COUNTY, ILLINOIS

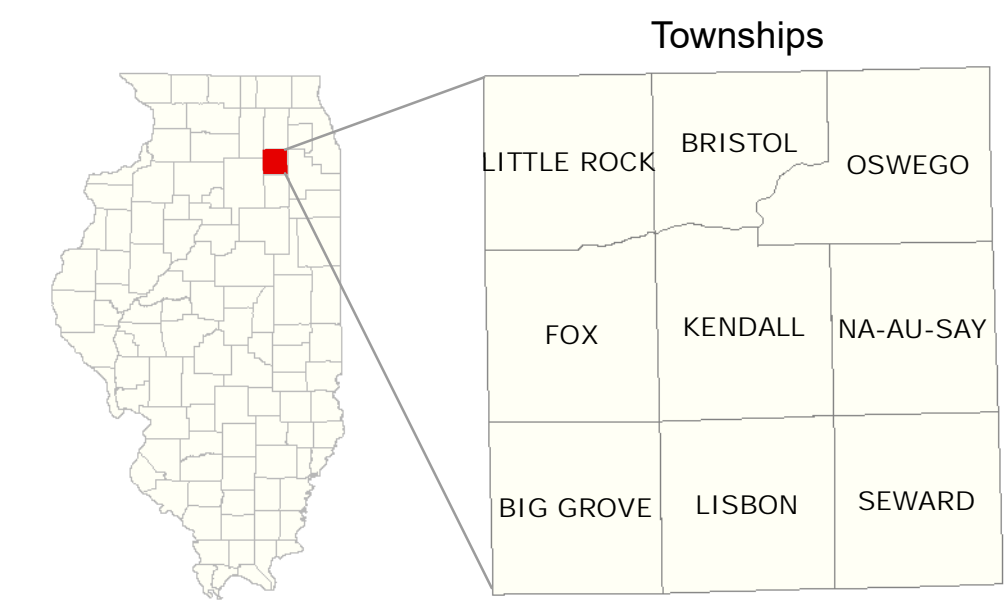
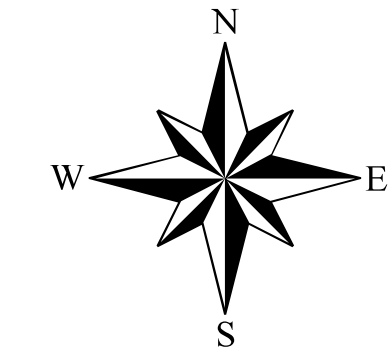
PLANNING AREAS

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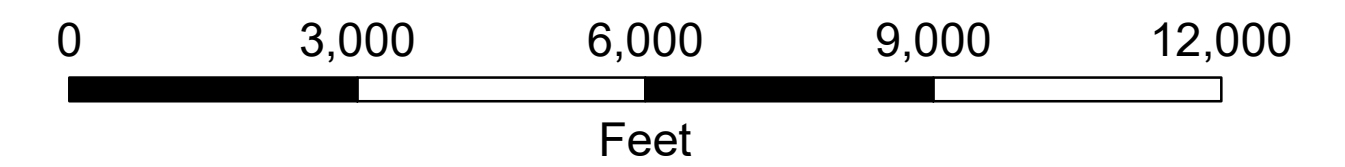
Future Land Use Lisbon Township KENDALL COUNTY

- 2017 -

<http://www.co.kendall.il.us>



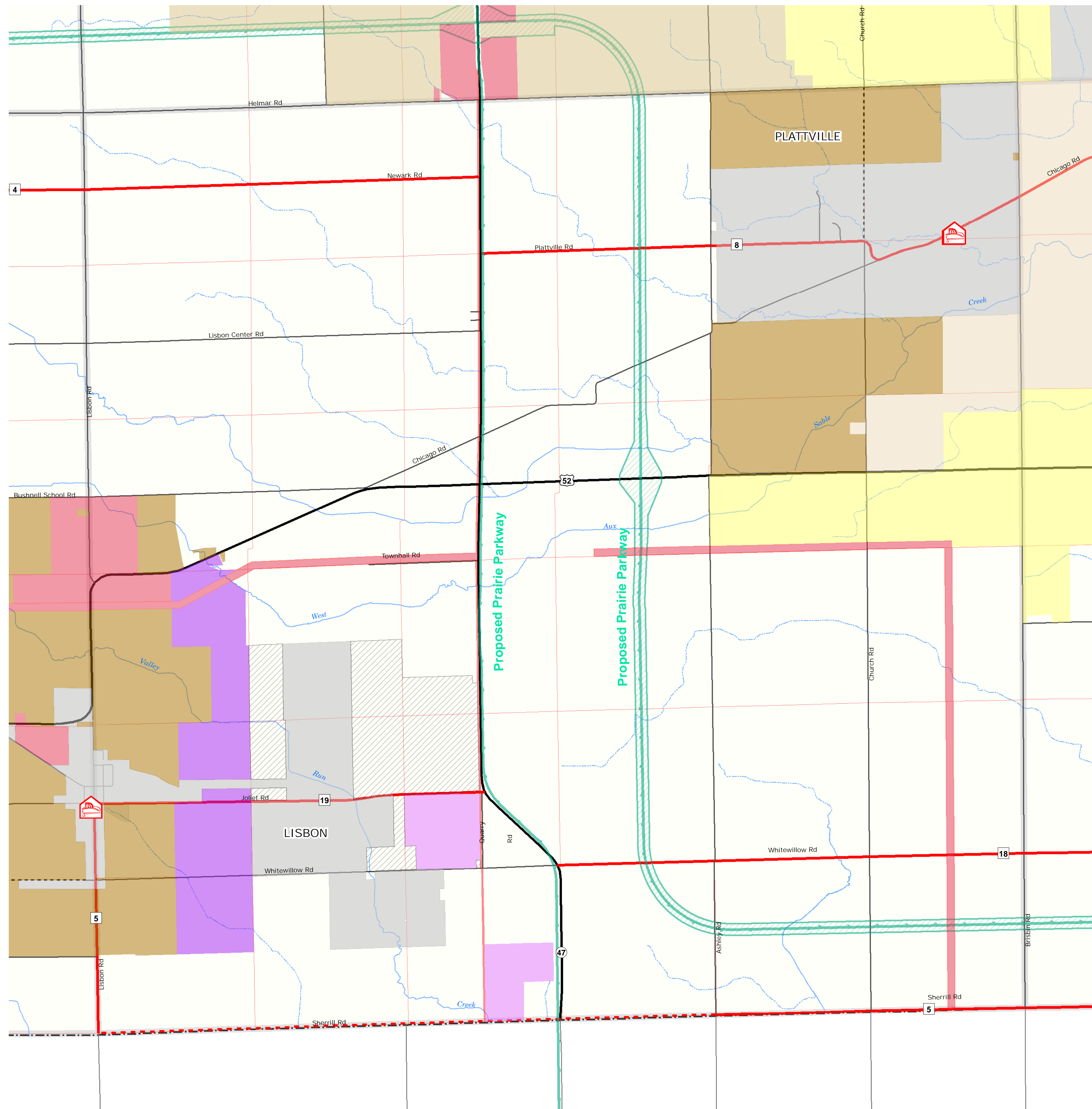
Scale: 1 in = 2,000 feet



Legend

Future Land Use

- Land Use Type
- Urban Areas - Incorporated
- Suburban Residential - Max Density 1.00 DU Acres
- Rural Residential Max Density 0.65 DU Acres
- Rural Estate Residential Max Density 0.45 DU Acre
- Countryside Residential Max Density 0.33 DU Acre
- Commercial
- Commonwealth Edison
- Mixed Use Business
- Transportation Corridors
- Mining
- Potential Mining District
- Public/Institutional
- Agriculture
- Open Space
- Forest Preserve/State Parks
- Unknown
- FEIS_centerline
- Protected Corridor - 2007



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VILLAGE OF LISBON
RESOLUTION NUMBER 2008.0324

RESOLUTION AUTHORIZING
MAYOR TO SIGN ANNEXATION AGREEMENT

WHEREAS, the Village of Lisbon has negotiated terms of a VILLAGE OF LISBON ANNEXATION AGREEMENT FOR VULCAN MATERIALS COMPANY, LLC AND VULCAN LANDS, INC (hereinafter ANNEXATION AGREEMENT) (a draft copy of which is attached and incorporated hereto); and,

WHEREAS, the Village of Lisbon fixed March 17, 2008 at 6:00 P.M. at the Village Hall in Lisbon as the time and place for a public hearing on such Annexation Agreement; and,

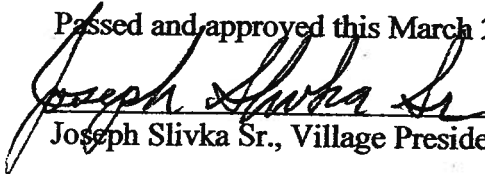
WHEREAS, not more than 30 nor less than 15 days before March 17, 2008, the Village caused to be published notice that a public hearing would be held on March 17, 2008 at 6:00 P.M. at the Village Hall in Lisbon as to said Annexation Agreement; and,

WHEREAS, a public hearing was held at 6:00 P.M. on March 17, 2008 by the Trustees of the Village of Lisbon where all interested parties were given an opportunity to comment on said draft ANNEXATION AGREEMENT; and,

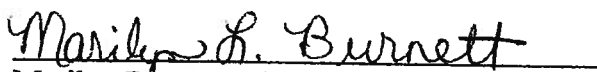
WHEREAS, the Village of Lisbon desires to continue to proceed with said ANNEXATION AGREEMENT;

THEREFORE, BE IT RESOLVED by the Village of Lisbon that Village President Joseph Slivka Sr. and Village Clerk Marilyn Burnett are hereby authorized to sign an ANNEXATION AGREEMENT substantially similar to the draft copy attached hereto.

Passed and approved this March 24, 2008


Joseph Slivka Sr., Village President

ATTEST


Marilyn Burnett, Village Clerk

Roll Call Vote taken:	Yes	No
Mayor Slivka	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Trustee Benckendorf	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Trustee Morris	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Trustee Rehberg	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Trustee Pope	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Trustee Stacy	<u>Abent</u>	<input type="checkbox"/>
Trustee Zeznanski	<input checked="" type="checkbox"/>	<input type="checkbox"/>

ORDINANCE NO. 2008 17.21.002

AN ORDINANCE GRANTING ZONING FOR
VULCAN MATERIALS COMPANY, LLC AND VULCAN LANDS, INC
PURSUANT TO ANNEXATION AGREEMENT

WHEREAS, the VULCAN MATERIALS COMPANY, LLC AND VULCAN LANDS, INC. as the owners of the territory described on Exhibit "A" as is attached and incorporated hereto have negotiated a certain Annexation Agreement with the Village of Lisbon, Kendall County, Illinois; and,

WHEREAS, said Annexation Agreement provides that the 238 acre parcel, more or less, as described in Exhibit "A" be zoned by the Village of Lisbon as within the I-2 AGGREGATE MATERIAL EXTRACTION DISTRICT as established under the LISBON ZONING ORDINANCE and that specified special uses and a variance be issued; and,

WHEREAS, the Village of Lisbon Zoning and Planning Commission has conducted a public hearing as to zoning as proposed in said Annexation Agreement pursuant to notice requirements set forth in Section 12.09 of the LISBON ZONING ORDINANCE and 65 ILCS 5/11-13-14 and at the conclusion of the public hearing said Zoning and Planning Commission recommended to the Village Board that the zoning identified in said Annexation Agreement be granted based upon findings of fact identified in their minutes; and,

WHEREAS, this Village Board agrees with the recommendations and findings of the Zoning and Planning Commission and desires to grant zoning identified in the Annexation Agreement.

NOW, WHEREFORE, BE IT ORDAINED upon motion duly made, seconded and approved by a majority vote that the official zoning map of the Village of Lisbon is amended so that the 238 acre parcel, more or less, as described in Exhibit "A" be zoned by the Village of Lisbon as within the I-2 AGGREGATE MATERIAL EXTRACTION. BE IT FURTHER ORDAINED that pursuant to the terms of said annexation agreement, a Special Use is granted for a Ready-Mix Cement Plant and a Special Use is granted for an Asphalt Plant. FINALLY, BE IT ORDAINED that pursuant to the terms of said annexation agreement, a variance is granted concerning hours of operation to permitted mining and crushing operations on-site from 5:00 a.m. to 9:00 p.m. from April 1st through November 15th of each calendar year, with maintenance personnel allowed to perform maintenance on the equipment at additional times. From November 16 through March 31 of the following calendar year, hours shall be as per the Village Zoning Ordinance. This ordinance may be published in pamphlet form as provided by law. This ordinance shall take effect upon passage and following execution of said Annexation Agreement.

Passed and approved this July 21, 2008.



JOE SLIVKA, VILLAGE PRESIDENT

ATTEST:

Jessica Gynonsl
Clerk

Exhibit A

Parcel One

The Northwest $\frac{1}{4}$ of Section 28, Township 35 North, Range 7, East of the Third Principal Meridian, Lisbon Township, (Except the following: the South 26 rods of the West 6 rods thereof: the Easterly 82.5 feet thereof), situated in Kendall County, Illinois.

AND

Parcel Two

The South $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 21, Township 35 North, Range 7, East of the Third Principal Meridian, Except the Easterly 82.5 feet and except the North 264 feet of the Westerly 171 feet of the East 253.5 feet thereof; in the Township of Lisbon, Kendall County, Illinois.

CERTIFICATION OF ORDINANCE

State of Illinois)
County of Kendall)

I, the below subscribing Clerk do hereby certify that I am the Clerk for the Village of Lisbon and that the attached Ordinance Granting Zoning is a true and correct copy of such Ordinance duly passed by the Village Board at its regular meeting on July 21, 2008.

This certification is made this date of July 21, 2008.


Village Clerk

(SEAL)

ORIGINAL

COPY

STATE OF ILLINOIS)
) SS
COUNTY OF KENDALL)

**VILLAGE OF LISBON
ANNEXATION AGREEMENT
FOR
VULCAN MATERIALS COMPANY, LLC
AND VULCAN LANDS, INC.**

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This annexation agreement (the "AGREEMENT") is made and entered into this 21st day of July, 2008, by and between the VILLAGE of Lisbon, an Illinois Municipal Corporation, (hereinafter "VILLAGE") and Vulcan Lands, Inc., a New Jersey Corporation (hereinafter "OWNER/DEVELOPER"). The VILLAGE, and OWNER/DEVELOPER are collectively referred to as the "PARTIES" and individually referred to as a "PARTY".

RECITALS

WHEREAS, OWNER/DEVELOPER is the owner of record of 238 +/- acres of real property located North of Joliet Road in Lisbon Township, Kendall County, Illinois, (hereinafter "PROPERTY") legally described in Exhibit "A" attached hereto and incorporated herein by reference.

WHEREAS, the PROPERTY is not currently located within the corporate limits of any municipality, is anticipated to become contiguous to the VILLAGE, and is currently located within the One and One Half Mile Planning Area of the VILLAGE; and

WHEREAS, OWNER/DEVELOPER, and VILLAGE desire to (i) annex the PROPERTY described in Exhibit "A" to the VILLAGE and (ii) develop and improve all of the PROPERTY in accordance with this AGREEMENT for the purpose of quarrying, crushing, and selling limestone and related commodities, as well as obtaining Special Use Permits to allow for the operation of an asphalt plant and a ready-mix cement plant; and

WHEREAS, the OWNER/DEVELOPER has agreed to perform certain conditions above the requirements of the VILLAGE; and the VILLAGE has agreed to the variation of certain performance standards for the benefit of OWNER/DEVELOPER; and the VILLAGE as set out such variances in this AGREEMENT; and

WHEREAS, the anticipated development of the PROPERTY will take more than 20 years to complete and the VILLAGE and OWNER/DEVELOPER wish to provide for the orderly and planned development of the PROPERTY following the expiration of this AGREEMENT by agreeing within the term of this AGREEMENT to execute a Development Agreement, restrictive covenants or other measure designed to legally extend the terms of this agreement which will take more than 20 years to complete; and,

WHEREAS, the PARTIES agree to use of the PROPERTY set forth in the proposed concept plan, attached hereto as Exhibit "B", and as set forth in the Development Agreement attached hereto as Exhibit "F", will (i) permit orderly growth and development of the VILLAGE, (ii) further the planning objectives of the VILLAGE, and (iii) annexation of the PROPERTY to the VILLAGE will be of substantial benefit to the VILLAGE and its residents; and

WHEREAS, the PARTIES agree that the I-2 Aggregate Material Extraction District with Special Uses as described herein is the most appropriate district for the

development of the PROPERTY attached hereto and incorporated herein by reference; and

WHEREAS, OWNER/DEVELOPER has submitted prior approval of this AGREEMENT to the VILLAGE a proper Application for Annexation and Zoning Application to be approved by the VILLAGE Board after Public Hearing before the VILLAGE Board and review by VILLAGE staff, legal counsel, and consultants of the VILLAGE; and

WHEREAS, the petition for annexation, all exhibits, concept plan, and this AGREEMENT are collectively referred to as the “Petition”; and

WHEREAS, pursuant to proper notice and in accordance with Illinois Municipal Code, VILLAGE Ordinances and all applicable laws, the VILLAGE Board and other corporate authorities held a public hearing and, by Ordinance Duly Adopted, approved the Petition for the Property and authorized the VILLAGE President to execute and the VILLAGE Clerk to attest this AGREEMENT on behalf of the VILLAGE; and

WHEREAS, the OWNER/DEVELOPER certifies that all notices, publications, procedures, public hearings and other matters and actions required by Applicable Law in connection with the consideration and approval of the Petition, and the annexation and zoning of the PROPERTY as described herein have been properly given, made, held and performed by the OWNER/DEVELOPER.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants and agreements made herein, the PARTIES hereby agree as follows:

1. **Recitals and Exhibits.** The PARTIES acknowledge and agree that the statements and representations set forth in the foregoing recitals are true and correct, material to this AGREEMENT, and are incorporated into this AGREEMENT as if they were fully set out in this paragraph. Furthermore the Exhibits attached hereto also form a material part of this AGREEMENT and are incorporated herein as if fully set in this paragraph.
2. **Annexation of the Property.**
 - a. Following the execution of this AGREEMENT and upon the Property becoming adjacent and contiguous to the corporate limits of the VILLAGE, the VILLAGE will annex the PROPERTY described in Exhibit “A” and zone all of the PROPERTY in accordance with this AGREEMENT. This AGREEMENT, all ordinances, resolutions, plats, affidavits and other documents necessary to accomplish annexation shall be recorded by the VILLAGE at the expense of OWNER/DEVELOPER. At such time as the PROPERTY is annexed, the parties agree to enter into and record an DEVELOPMENT AGREEMENT, substantially similar to the draft DEVELOPMENT AGREEMENT attached as Exhibit “F”

designed to legally extend the terms of this agreement which will take more than 20 years to complete; and,

- b. No action will be taken by the VILLAGE to annex the PROPERTY to the VILLAGE unless this AGREEMENT has been fully executed by the PARTIES.
- c. Owner agrees to execute this AGREEMENT within sixty (60) days of approval by the VILLAGE. VILLAGE agrees to fully execute this AGREEMENT within ten (10) days of receipt of an executed copy by the Owner.
- d. OWNER/DEVELOPER hereby waives and forever relinquishes any defense to any obligation set forth herein on the basis that this AGREEMENT has expired or is no longer valid due solely to the passage of time.

3. Zoning and Development of the Property.

- a. Upon approval of this agreement by the Village, the VILLAGE shall enact such further ordinances, adopt such further resolutions, and take such other further actions, if any, as are necessary to immediately:

- i. Zone and classify the PROPERTY as follows:

I-2 Aggregate Material Extraction, Processing and Site Reclamation permitting mining, quarrying, and the sale of limestone, and related commodities.

I-2 Aggregate Material Extraction Special Use for a Ready-Mix Cement Plant.

I-2 Aggregate Material Extraction Special Use for an Asphalt Plant.

For the proposed "Commercial Pockets", Planned Unit Development.

- ii. Approve the Concept Plan (Exhibit "B"). OWNER/DEVELOPER shall, at such time as the precise location is determined, file a Preliminary / Plan / Plat containing the location of any proposed asphalt plant and ready-mix cement plant for approval by the

VILLAGE, consistent with the VILLAGE zoning ordinance. Approval of said Preliminary / Plan / Plat shall not be unreasonably withheld by the VILLAGE.

- b. The zoning classifications and permitted exceptions and variations described in this AGREEMENT including the Concept Plan which is incorporated herein shall remain in effect and shall not be changed throughout the entire term of this Agreement, unless changed by the VILLAGE at the written request of OWNER/DEVELOPER in writing and by approval of the VILLAGE. However, if during the term of this AGREEMENT any changes or interpretations of the VILLAGE'S zoning ordinance are made which make such Ordinances less restrictive in their application to other like property, then OWNER/DEVELOPER, at its option, may choose to have said less restrictive ordinance applicable to the development of its PROPERTY.
 - i. The portion of the PROPERTY considered herein for a Special Use Permit to operate a ready-mix cement plant as approved as described in the attached Exhibit "B" shall not be developed with said use until OWNER/DEVELOPER has submitted a site development plan and building permit application which shall be reviewed and approved by the VILLAGE consistent with VILLAGE zoning ordinances and other applicable ordinances prior to construction of any ready-mix cement plant thereon which shall be subject to the normal building permit approval process and preliminary and final plat approval if required.
 - ii. The portion of the PROPERTY considered herein for a Special Use Permit to operate an asphalt plant as described in the attached Exhibit "B" shall not be developed with said use until OWNER/DEVELOPER has submitted a site development plan which shall be reviewed and approved by the VILLAGE consistent with the VILLAGE zoning ordinance other applicable Ordinances prior to construction of any asphalt plant thereon which shall be subject to the normal building permit approval process and preliminary and final plat approval if required.

4. Codes and Ordinances.

- a. Throughout the term of this Agreement, the VILLAGE'S zoning ordinance, subdivision control ordinance, and the international building code as adopted and amended from time to time by Kendall County, unless the VILLAGE adopts its own building code in place of the county building code, or other applicable ordinances in effect on the date of this AGREEMENT (i) shall remain in effect and not be changed except as set out in paragraph 4.b., (ii) which shall govern the development of the

PROPERTY and (iii) shall all be deemed hereby varied as necessary to permit development of the PROPERTY in accordance with this AGREEMENT (including the Concept Plan incorporated herein as Exhibit "B"). Whenever the terms zoning ordinance, subdivision control ordinance, or building code are used in this AGREEMENT, it shall refer to the ordinance or code in effect on the date of this AGREEMENT, unless the text specifically states otherwise or as pertains to amendments from time to time made as to said ordinances. No other VILLAGE ordinances, codes or regulations shall apply to the development of the PROPERTY except the inclusion and adoption by ordinance approved by the VILLAGE as Section 9.05a of the VILLAGE'S zoning ordinance and any modifications thereof adopted by the VILLAGE, simultaneously with the approval of this AGREEMENT as it relates to mining, licensing of mining, and the permitting of Asphalt and Redi-Mix Cement Plants as permitted or Special Uses regulated by the VILLAGE, except other applicable VILLAGE ordinances as are time to time in effect throughout the VILLAGE and applied in a uniform manner as to all like uses within the VILLAGE.

- b. Notwithstanding paragraph 4.a, above:
 - i. Except as provided in paragraph 8 hereof, fees contained in the VILLAGE'S zoning ordinance, subdivision control ordinance and building code may be changed by the VILLAGE, provided such change applies to all like uses within the VILLAGE on a uniform basis; and
 - ii. The VILLAGE'S zoning ordinance, subdivision control ordinance, and building code may be amended on a general basis as to be applicable to all property within the VILLAGE the purpose of directly furthering the public health and safety, provided such amendments do not conflict with the terms of this AGREEMENT. However, if during the term of this AGREEMENT, those Ordinances are hereafter amended or interpreted so as to be less restrictive upon OWNER/DEVELOPER with respect to the operation of the subject business by OWNER/DEVELOPER or Stormwater Management of the PROERTY than is the case under existing law, then, at the option of OWNER/DEVELOPER, such less restrictive amendment or interpretation shall control.
- c. To the extent of any conflict or inconsistency between the terms or standards of this AGREEMENT and the terms or standards of the zoning ordinance, Building Code or any other presently existing or hereafter adopted VILLAGE code, ordinance, rule or regulation, the terms and standards of this AGREEMENT shall control over said ordinance, resolutions, or regulations of the VILLAGE of Lisbon.

5. Drainage.

- a. The OWNER/DEVELOPER shall provide all necessary water detention systems, settling ponds and compensatory storage in compliance with State Law and under VILLAGE ordinances currently in effect pursuant to the terms of this AGREEMENT all as per Exhibit B.
- b. OWNER/DEVELOPER further acknowledges and agrees that it must obtain a valid NPDES discharge permit for all drainage, which it shall keep in full force and effect under all applicable Illinois Department of Natural Resources Regulations and shall continue to comply with all reporting requirements thereunder.
- c. OWNER/DEVELOPER has furnished with its Application current storm water and groundwater studies and agrees that once operations commence it will provide the VILLAGE with copies of its discharge reports filed with the State of Illinois to demonstrate that its release rate is not exceeding its NPDES permit; and OWNER/DEVELOPER further agrees that it will comply with all applicable water quality standards of the Illinois Department of Natural Resources or other agencies having jurisdiction.
- d. OWNER/DEVELOPER has provided data, calculations, reports and studies, and reviews of reports and studies, demonstrating that its storm water management complies with the Kendall County Storm Water Ordinance and any other agencies currently having jurisdiction.

6. Excavation, Grading and Preparation of the Property for Development.

- a. OWNER/DEVELOPER shall have the right to undertake excavation, preliminary grading and soil stripping work, berm building, and soil stockpiling on the PROPERTY in preparation for the development of the PROPERTY, with the condition that all work is in compliance with the Illinois Surface-Mined Land Conservation and Reclamation Act. No letter of credit or other security shall be required by the VILLAGE from OWNER/DEVELOPER as a condition precedent to the commencement of such work so long as OWNER/DEVELOPER provides a suitable Reclamation Plan and Bond under the terms of the adopted zoning ordinance of the VILLAGE, to the Illinois Department of Mines and Minerals, as necessary under requirements in the Illinois Surface Mined Land Conservation and Reclamation Act.
- b. OWNER/DEVELOPER shall, other than where approved landscape elements or drainage ways are substituted, construct berms that are at least twelve (12) foot high along all property lines consistent with the concept

plan attached hereto as Exhibit B that are no steeper than a 3 to 1 rise to run ratio and no closer than 35 feet to the adjacent right of ways existing as of the date of this Agreement..

- c. The VILLAGE shall not require OWNER/DEVELOPER to construct any berming prior to commencement of mining activities. The OWNER/DEVELOPER shall phase berm construction to coincide with the excavation, preliminary grading, soil stripping, and stockpiling on the PROPERTY in preparation of mining activities. OWNER/DEVELOPER shall construct the berm or wall to be located along Joliet Road as the first phase of berm construction. OWNER/DEVELOPER shall then construct the remainder of the required berming commencing at the Southern most points of the East and West property lines as permitted in Section 7(b) of this AGREEMENT and progressing North, in conjunction with mining activities.
- d. Consistent with the Landscape Plan attached hereto as Exhibit C, OWNER/DEVELOPER may construct concrete and/or masonry walls in accordance with construction plans approved by the VILLAGE.

7. Signage, Buffering/Landscaping, Road Dedication.

- a. The following signage will be approved by the VILLAGE upon submittal and approval of written sign permit applications and conformance to VILLAGE ordinances, provided all signage must be located on the PROPERTY and not on any dedicated right-of-way.
 - i. One eight foot by ten foot (8'x10') double-sided informational sign may be installed for each of the following: quarry, asphalt operation, concrete operation, adjacent to the Joliet Road Right-of-Way disclosing the location of each of said businesses. Each such sign may be erected two (2) months prior to the anticipated time which OWNER/DEVELOPER will begin selling any product. Prior to installation of said sign, OWNER/DEVELOPER shall submit a sign application to the VILLAGE including landscaping for the sign to be approved by the VILLAGE. Should the VILLAGE approve a commercial PUD for a commercial lot at the corner of Joliet Road and Route 47, then additional signage shall be provided as part of the PUD.
 - ii. OWNER/DEVELOPER may install directional signs, which must be located on the PROPERTY, and not on a dedicated right-of-way, directing lanes of travel, location of each specific use, safety areas, parking areas, scales, and office use as long as said signs do not exceed 32' square feet on each side.

Buffering and Landscaping

- b. Buffering and landscaping shall be installed as required by the VILLAGE zoning ordinance with the exception that the setback for the highwall may be in all cases 150 feet from the property lines as described in Exhibit A (and may remain in place should OWNER/DEVELOPER dedicate additional land to the County of Kendall or the VILLAGE of Lisbon for right of way or roadway purposes).
 - i. OWNER/DEVELOPER shall install landscaping on the roadway side of any berm pursuant to the Landscape Plan attached hereto and incorporated herein as Exhibit "C," which landscaping shall be consistent with the VILLAGE zoning ordinance and within one year of the construction of the berm or portion thereof..
 - ii. OWNER/DEVELOPER shall be responsible to secure and protect their property from any and all unauthorized entry, it being understood that fencing is not required for the Property by the duly adopted codes of the VILLAGE in existence as of the date of execution of this Agreement.

Joliet Road Dedication.

- c. OWNER/DEVELOPER agrees to dedicate right-of-way along Joliet Road to provide for the future improvement and widening of Joliet Road as may be required by Kendall County. Upon a formal written request from the VILLAGE, OWNER/DEVELOPER shall cause the portion of the PROPERTY adjacent to Joliet Road, up to a maximum of sixty (60) feet in width measured from the center line of Joliet Road to be conveyed to Kendall County for such purposes. The VILLAGE approves and supports OWNER/DEVELOPER'S proposed Joliet Road access points as depicted in Exhibit "C" attached hereto.

8. Annexation, Development Fees, Donations and Contributions.

This paragraph 8 contains a complete list of all annexation, development, and other fees, donations, dedications, contributions and charges of any nature and kind (collectively "FEES") that will be paid or made in connection with the development of the PROPERTY. Such FEES shall be collected in the future pursuant to any ordinance, resolution, or this AGREEMENT of similar uses of any other property annexed to the VILLAGE after adoption of this AGREEMENT by the VILLAGE. No other annexation, impact, or similar exaction or fee will become due or payable in connection with the development of

the PROPERTY from OWNER/DEVELOPER. The FEES payable by OWNER/DEVELOPER are as follows:

- a. The Applicant will make a one time, one hundred thousand (\$100,000.00) dollar application/annexation fee payment to the VILLAGE.
- b. Upon commencing the sales of aggregate mined from the Property, the OWNER/DEVELOPER shall be obligated to pay a development impact fee to the VILLAGE in the amount of \$2,000,000.00 (as adjusted in accordance with the terms hereafter) ("Development Fee") to be paid over 20 annual installments, commencing after the last to occur of the following: the execution of this AGREEMENT, the ordinances executing this AGREEMENT have been adopted, and the OWNER/DEVELOPER commences the sale of aggregate products mined from the Property. The annual installment is payable in a lump sum no later than the end of the calendar quarter immediately following the quarter in which a sale for that year is first made. Said payments shall continue until all twenty installment payments are made. Every five years, as measured from the date of execution of the ordinances approving this Agreement, the balance remaining on the Development Fee shall be adjusted either up or down based on the Chicago Metropolitan Consumer Price Index based on cost of living increase or decrease from the previous five (5) year period. In determining this adjustment, the PARTIES shall take the most recent month of the Chicago Metropolitan Consumer Price Index data available and calculate the percentage increase from the comparable data of 60 months earlier. However, the rate of change in any 12 month period shall not exceed 7.5%. The annual installment shall then be determined by the dividing the adjusted Development Fee by the remaining number of installments to be paid. See sample calculations attached as Exhibit G.
- c. Concurrent with its payment of each annual installment of the Development Fee to the Village, the OWNER/DEVELOPER will pay the Lisbon School District \$10,000, thereby obligating the OWNER/DEVELOPER to pay the Lisbon School District an aggregate total of \$200,000 over 20 installments. Concurrent with its payment of each annual installment of the Development Fee to the Village, the OWNER/DEVELOPER will pay the Lisbon Seward Fire Protection District \$10,000, thereby obligating the OWNER/DEVELOPER to pay the Lisbon Seward Fire Protection District an aggregate total of \$200,000 over 20 installments. The annual installments shall be adjusted and paid in the same manner as set forth above for the Development Fee installments.
- d. If in the event OWNER/DEVELOPER chooses not to conduct any business operation on the premises for an entire calendar year, the OWNER/DEVELOPER shall give the VILLAGE notice on or before April 1st of the indication not to conduct business (and it is specifically

understood and agreed that the removal of any stockpile on the premises does constitute mining operations), then in the event that mining operations are not conducted for the entire calendar year, no annual Development Fee installment or installment to the school district or fire protection district will be due for that particular calendar year.

- e. In the event OWNER/DEVELOPER undertakes operation of the Special Use permits for either a ready-mix plant or an asphalt plant, and if the ready mix and asphalt plant are producing product in any calendar year the OWNER/DEVELOPER agrees that the additional sum of twenty thousand (\$20,000.00) dollars per year per Special Use permit shall be paid for that year throughout the same time as the Development Fee is being paid to the VILLAGE. The amount of this fee shall be adjusted every five years in accordance with the Chicago Metropolitan Consumer Price Index based on cost of living increase or decrease from the previous five (5) year period. The period of time in which OWNER/DEVELOPER agrees to pay the Special Use fees shall be for a period of twenty (20) years from the year of commencement of any Special Use, even if said number of years exceeds the length of this AGREEMENT in consideration of the fact that the Special Uses that are requested under this AGREEMENT may not commence in the initial years of this AGREEMENT.
- f. The obligations of this Paragraph 8 shall extend beyond the 20 year term of this AGREEMENT. In the event that the PROPERTY is not annexed to the VILLAGE on or before 15 years from the execution of this AGREEMENT and if the parties have not by then otherwise executed a Development Agreement or taken other steps to assure that the obligations of this Paragraph 8 extend beyond the 20 year terms of this agreement, then the parties shall execute a Development Agreement, substantially similar to draft of such document attached as Exhibit F, or otherwise execute restrictive covenants or other document(s) designed to legally extend as required the terms of this agreement which will take more than 20 years to complete; and,
- g. OWNER/DEVELOPER agrees that for sales tax purposes all quarrying or mineral extraction, asphalt plant sales, or ready-mix cement plant sales from PROPERTY in the VILLAGE shall be reported to the State for sales tax purposes within the VILLAGE and from no other point of sale outside of the VILLAGE. OWNER/DEVELOPER shall give proof of notification to VILLAGE for verification.
- h. The OWNER/DEVELOPER shall donate that 9.1 acre parcel of land to the VILLAGE as shown on Exhibit D ("Donation Parcel"). The VILLAGE agrees that if it locates any facility on any site under the jurisdiction of the VILLAGE, the VILLAGE will not seek to enforce or inhibit any modification of the setbacks indicated on Exhibit D or other

permitted mining activity of OWNER/DEVELOPER as a result of the proximity of said VILLAGE site near the mining operation. The VILLAGE also acknowledges that the Donation Parcel is full and complete satisfaction of the donation requirements of this Annexation Agreement and the Annexation Agreement previously entered into by the VILLAGE with AGC, LLC (d/b/a Valley Run Stone).

The parties further agree that the VILLAGE shall have an option, for the length of this Agreement or until such time as OWNER/DEVELOPER shall give 60 days notice to the VILLAGE that a decision on the option is required for reasons related to OWNER/DEVELOPER's business purposes, to exchange the Donation Parcel set forth in Exhibit D for that alternate 13.7 acre parcel generally depicted on Exhibit E together with a dedicated 66' wide (not 60' identified on Exhibit E) right-of-way easement located within the mining set-back (hereafter the "Alternate Donation Parcel"). Should the VILLAGE select the alternate 13.7 option. The VILLAGE will not seek to enforce or inhibit any modification of the setbacks indicated on Exhibit E or other permitted mining activity of OWNER/DEVELOPER as a result of the proximity of said VILLAGE site near the mining operation.

- i. This AGREEMENT may not be severed so as to allow separate quarrying entrances for more than one quarrying operator anywhere on the PROPERTY.

9. Variations

- a. A variance is granted to the OWNER/DEVELOPER concerning hours of operation and OWNER/DEVELOPER shall be permitted to operate its mining and crushing operations on-site from 5:00 a.m. to 9:00 p.m. from April 1st through November 15th of each calendar year, with maintenance personnel allowed to perform maintenance on the equipment at additional times. From November 16 through March 31 of the following calendar year, hours shall be as per the Village Zoning Ordinance. To the extent that MSHA approves, OWNER/DEVELOPER shall substitute back-up substitute warning systems for back-up horns on equipment owned by OWNER/DEVELOPER.
- b. OWNER/DEVELOPER shall be permitted to locate the highwall to within 150 feet of the property lines depicted in the Plat of Survey made a part of Exhibit A. The OWNER/DEVELOPER shall be permitted to locate the toe of the berms to within 35 feet of any property line as set forth in Exhibit A or any dedicated right of way lines (as they exist on the date of this Annexation Agreement or as they are specified to be herein) but in all cases no closer than to within 35 feet of any property line depicted in Exhibit A.

- c. The commercial corners depicted on Exhibit B may be developed as if they were a planned unit development consistent with the VILLAGE Zoning Ordinance for proposed commercial uses. The VILLAGE acknowledges that the commercial opportunities on the commercial corners will probably require relief on parking, storm water, and set back requirements for such uses on the Commercial Pocket and the VILLAGE agrees to consider reasonable variances and other relief in recognition of the adjoining mining use.

10. Access.

Nothing contained herein shall prohibit construction of separate driveway cuts on Joliet Road if a permit is granted by the Kendall County Highway Department (hereinafter "Highway Department"), for operation of an asphalt plant and/or ready-mix cement plant. All roadway improvements shall be approved by the Kendall County Highway Department and turn lanes required by said Agency shall be OWNER/DEVELOPER'S expense. OWNER/DEVELOPER shall complete an application with the Highway Department for an entrance on Joliet Road and permit must be received from the Highway Department prior to construction of any entrances.

Further, OWNER/DEVELOPER will assume and pay to the applicable agency a proportionate share of the cost of the reasonable improvements to the intersection of Route 47 and Joliet Road, including traffic signals, if such improvements are constructed during the term of this Agreement and other like Material Extraction operations accessing Joliet Road or the Route 47 intersection similarly participate in the cost of such improvements. However, in no case will the OWNER/DEVELOPER participation costs exceed 25% of the Private Portion of the cost of said reasonable improvements. For purposes of this paragraph, the "Private Portion" shall be that amount of the cost of the reasonable improvements that is net of all grants and other tax dollars committed to the improvements.

11. Continuation of Current Uses.

The PROPERTY is presently being used for row crop farming. The VILLAGE has given due consideration to the continuation of such current use. Accordingly, and notwithstanding any provision of VILLAGE ordinances or regulation now in effect or adopted during the term of this AGREEMENT, and notwithstanding the VILLAGE'S zoning of the PROPERTY pursuant to the terms hereof, row crop farming shall continue to be permitted on the PROPERTY.

12 Mutual Assurances.

- a. The PARTIES shall do all things necessary or appropriate to carry out the terms and provisions of this AGREEMENT and to aid, assist and

cooperate with each other in carrying out the terms and objectives of this AGREEMENT and the intentions of the PARTIES in annexing and developing the PROPERTY, including, without limitation, the giving of notices, the holding of public hearings, the enactment by the VILLAGE of resolutions and ordinances and the taking of other actions.

- b. The PARTIES shall cooperate fully with each other in seeking from any or all appropriate governmental bodies (whether Federal, State, County or local) financial or other aid and assistance required or useful for the construction or improvement of PROPERTY and facilities in and on the PROPERTY, including, without limitation, grants and assistance for public transportation, roads and highways, water and sanitary sewage facilities and storm water disposal facilities. The OWNER/DEVELOPER shall be required to dedicate ½ of the Right-of-Way to the applicable government agency having jurisdiction on Joliet Road. Notwithstanding the above, the VILLAGE shall not be required to initiate any Tax Increment Financing for any use or operation of the Property.

13. Remedies.

- a. Upon a breach of this AGREEMENT, any of the PARTIES, in any court of competent jurisdiction which is stipulated by the PARTIES to be limited to the Circuit Court of Kendall County, by an action or proceeding at law or in equity, may secure the specific performance of the covenants and agreements herein contained, may be awarded damages for failure of performance or both, or may obtain rescission and disconnection for material failure of performance. No action taken by any PARTY hereto pursuant to the provisions of this paragraph 13 or pursuant to the provisions of any other paragraph of this AGREEMENT shall be deemed to constitute an election of remedies, and all remedies set forth in this AGREEMENT shall be cumulative and non-exclusive of any other remedy either set forth herein or available to any PARTY at law or in equity.
- b. If any of the PARTIES shall fail to perform any of its obligations hereunder, and the PARTY affected by such default shall have given written notice of such default to the defaulting PARTY, and such defaulting PARTY shall have failed to cure such default within thirty (30) days of such default notice, in addition to any and all other remedies that may be available, either in law or equity, the PARTY affected by such default shall have the right, but not the obligation, to take such action as in its reasonable discretion and judgment shall be necessary to cure such default. In such event, the defaulting PARTY hereby agrees to pay and reimburse the PARTY affected by such default for all reasonable costs and expenses, including attorneys' fees and litigation expenses incurred by it in connection with action taken to cure such default.

- c. The failure of the PARTIES to insist upon the strict and prompt performance of the terms, covenants, agreements, and conditions herein contained, or any of them, upon any other PARTY imposed, shall not constitute or be constructed as a waiver or relinquishment of any PARTY'S right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.
- d. If the performance of any term or covenant to be performed hereunder by a PARTY is delayed as a result of circumstances which are beyond the reasonable control of such PARTY which circumstances may include acts of God including adverse weather, war, acts of civil disobedience, strikes or similar acts, the time for such performance shall be extended by the amount of time of such delay.
- e. OWNER/DEVELOPER and VILLAGE agree that OWNER/DEVELOPER shall establish a call-list allowing any interested party to sign-up on a list to be maintained by the OWNER/DEVELOPER, so any party on said list shall be called no less than 24 hours prior to blasting occurring.
- f. In the event the PARTIES disagree over the interpretation of any condition or covenant of this AGREEMENT relevant to mining operations; or in the event any third party claims to the VILLAGE of Lisbon that OWNER/DEVELOPER is in violation of any material term of this AGREEMENT, OWNER/DEVELOPER and VILLAGE agree that a person with mining experience or dispute resolution experience shall be appointed (hereafter "Arbitrator") to review said disagreement or claim so long as any claim is made in writing and alleges OWNER/DEVELOPER to be in violation of any material term or condition of this AGREEMENT. The cost of the Arbitrator shall be borne equally by the VILLAGE and the OWNER/DEVELOPER provided, however, that if the VILLAGE shall prevail in all respects on the dispute or claim, OWNER/DEVELOPER shall bear all expenses of the Arbitrator. Only written claims a copy of which is duly served by certified mail on OWNER/DEVELOPER and the VILLAGE of Lisbon will be referred to said Reviewing Officer.
- g. OWNER/DEVELOPER agrees to hold the VILLAGE harmless and defend at its cost for any claim, liability, or action commenced challenging approval, enforcement, or arising under the terms of this AGREEMENT. In order to secure said covenant of indemnification to the VILLAGE, OWNER/DEVELOPER agrees to carry public liability insurance with an appropriate insurance carrier with a limit of not less than \$2,000,000.00 per occurrence for bodily injury and property damage and to name the VILLAGE as an additional insured. Such insurance is to be specified as

primary and non-contributory with a certificate being provided to the VILLAGE at each policy renewal.

14. Term.

This Agreement shall be binding upon the PARTIES and their respective successors and assigns so long as the uses commence within twenty (20) years of the date of execution hereof by the VILLAGE. Once any portion of the PROPERTY is actively mined pursuant to this AGREEMENT, the permitted and special uses shall be permitted to continue beyond the expiration of this AGREEMENT and if, at the time of the expiration of this AGREEMENT, the PROPERTY is not yet contiguous to the VILLAGE, then the PARTIES shall execute a Development Agreement, substantially similar to draft of such document attached as Exhibit F, or otherwise execute restrictive covenants or other document(s) designed to legally extend as required the terms of this agreement which will take more than 20 years to complete; and,

15. Miscellaneous.

a. Notices. Any notice required or permitted by the provisions of this AGREEMENT shall be in writing and sent by certified mail, return receipt requested, or personally delivered (by overnight courier or otherwise), to the PARTIES at the following addresses, or at such other addresses as the PARTIES may, by notice, designate:

b. If to the VILLAGE: VILLAGE of Lisbon
 104 N. Canal Street
 Newark, IL 60541
 Attn: VILLAGE Clerk

with a copy to: Village Attorney Richard Burton
 227 W. Madison
 Ottawa, IL 61350

If to OWNER/DEVELOPER: Vulcan Materials Company
 ATTENTION: D. Lamar Forsyth
 747 East 22nd Street
 Lombard, IL 60148

with a copy to: Vulcan Materials Company
 ATTENTION: Lindsay Sinor
 200 Urban Center Drive
 Birmingham, AL 35242

And Derke J. Price

Ancel Glink
1111 E. Warrenville Road
Naperville, Illinois 60563

Notices shall be deemed given on the third (3rd) business day following deposit in the U.S. Mail, if given by certified mail as aforesaid, and upon receipt, if personally delivered.

- c. Severability. If any provision, covenant, agreement or portion of this AGREEMENT or its application to any person, entity or property is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants or portions of this AGREEMENT, and to that end, all provisions, covenants, agreements and portions of this AGREEMENT are declared to be severable. If for any reason the annexation or rezoning of the PROPERTY is ruled invalid, in whole or in part, the VILLAGE and other corporate authorities, as soon as possible, shall take such actions (including the holding of such public hearings and the adoption of such ordinances and resolutions) as may be necessary to give effect to the spirit and intent of this AGREEMENT and the objectives of the PARTIES, as disclosed by this AGREEMENT.
- d. Survival. The provisions contained herein shall survive the annexation of the PROPERTY and shall not be merged or expunged by the annexation of the PROPERTY to the VILLAGE.
- e. Successors and Assigns. OWNER/DEVELOPER maintain the right to sell or convey all or any portion of the PROPERTY whether improved or unimproved except nothing contained herein shall permit OWNER/DEVELOPER to open a second access or sell a portion of its quarrying operation that would allow for a separating crushing plant or an alteration of OWNER/DEVELOPER phasing schedule without VILLAGE approval. This AGREEMENT shall inure to the benefit of, and be binding upon, successors of the OWNER/DEVELOPER and their successors, grantees, lessees, and assigns, and upon successor corporate authorities of the VILLAGE and successor municipalities, and shall constitute a covenant running with the land. This AGREEMENT may be assigned without VILLAGE approval. If a portion of the PROPERTY is sold, the seller shall be deemed to have assigned to the purchaser any and all rights and obligations it may have under this AGREEMENT which affect the portion of the OWNER/DEVELOPER sold or conveyed and thereafter the OWNER/DEVELOPER shall have no further obligations under this AGREEMENT.
- f. Time of Essence. Time is of the essence of this AGREEMENT and of each and every provision hereof.

- g. Amendment. This AGREEMENT, and exhibits attached hereto, may be amended only by the mutual written consent of the PARTIES, including adoption of an ordinance by the VILLAGE approving such amendment by the PARTIES or their successors in interest.
- h. Consent: Approval. Wherever any approval or consent of a PARTY (or in the case of the VILLAGE, one of its departments, officials or employees) is called for under this AGREEMENT, the same shall not be unreasonably withheld or, delayed.
- i. Entire Agreement. This AGREEMENT sets forth all agreements, understandings and covenants between and among the PARTIES. This AGREEMENT supersedes all prior agreements, negotiations and understandings, written and oral, and is a full integration of the entire agreement of the PARTIES. In the event of conflict between the terms of the body of this AGREEMENT and the Exhibits attached hereto and incorporated herein, this AGREEMENT shall control.
- j. Corporate Authorities. (i) The parties acknowledge and agree that the individuals who are members of the group that constitute the corporate authority of the VILLAGE (and their successors, heirs, and assigns) are entering into this AGREEMENT on behalf of the VILLAGE in their corporate capacity as members of such group and shall have no personal liability for any judgment cause of action or action arising out of or alleged to have arisen out of a breach of this AGREEMENT.

IN WITNESS WHEREOF, the PARTIES have executed this AGREEMENT on the date first above written and, by so executing, each of the PARTIES warrants that it possesses full right and authority to enter into this AGREEMENT.

[EXECUTION PAGE FOLLOWS]

VILLAGE:

VILLAGE OF LISBON, an Illinois Municipal Corporation


By: *Joe Murku*
VILLAGE President

Attest: *Jessica Gynast*
VILLAGE Clerk

Dated: 7/30/08

OWNER/DEVELOPER:

VULCAN MATERIALS COMPANY, LLC
VULCAN LANDS, INC.

By: 
D. Lamar Forsyth

Dated: _____

Prepared by
Derke J. Price
Ancel Glink
1111 E. Warrenville Road
Naperville, Illinois 60563

EXHIBIT LIST

Exhibit A	Legal description for the I-2 Earth Materials Extraction, Processing and Site Reclamation, Special Use for a Ready-Mix Cement plant, and Special Use for a Asphalt Plant zoned area (with Survey).
Exhibit B	Concept Plan
Exhibit C	Landscape Plan
Exhibit D	Donation Parcel
Exhibit E	Alternate Donation Parcel
Exhibit F	Development Agreement
Exhibit G	Sample calculations

EXHIBIT A

LEGAL DESCRIPTION

Parcel One

THE NORTHWEST 1/4 OF SECTION 28, TOWNSHIP 35 NORTH, RANGE 7, EAST OF THE THIRD PRINCIPAL MERIDIAN, LISBON TOWNSHIP, (EXCEPT THE FOLLOWING: THE SOUTH 26 RODS OF THE WEST 6 RODS THEREOF: THE EASTERLY 82.5 FEET THEREOF), SITUATED IN KENDALL COUNTY, ILLINOIS.

AND

Parcel Two

THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF SECTION 21, TOWNSHIP 35 NORTH, RANGE 7, EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THE EASTERLY 82.5 FEET AND EXCEPT THE NORTH 264 FEET OF THE WESTERLY 171 FEET OF THE EAST 253.5 FEET THEREOF; IN THE TOWNSHIP OF LISBON, KENDALL COUNTY, ILLINOIS.

(COLLECTIVELY THE "SUBJECT PROPERTY")

EXHIBIT B

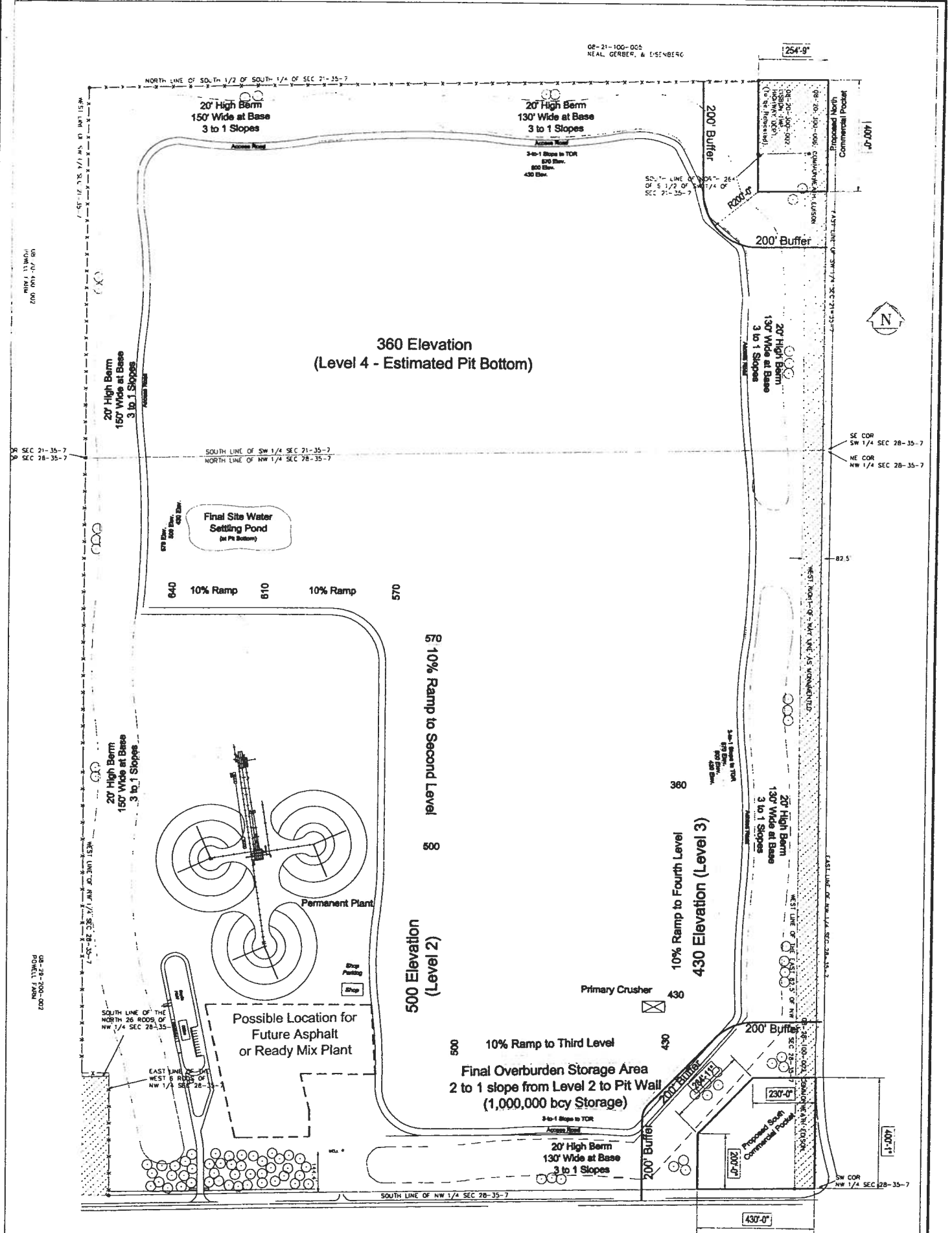


EXHIBIT C

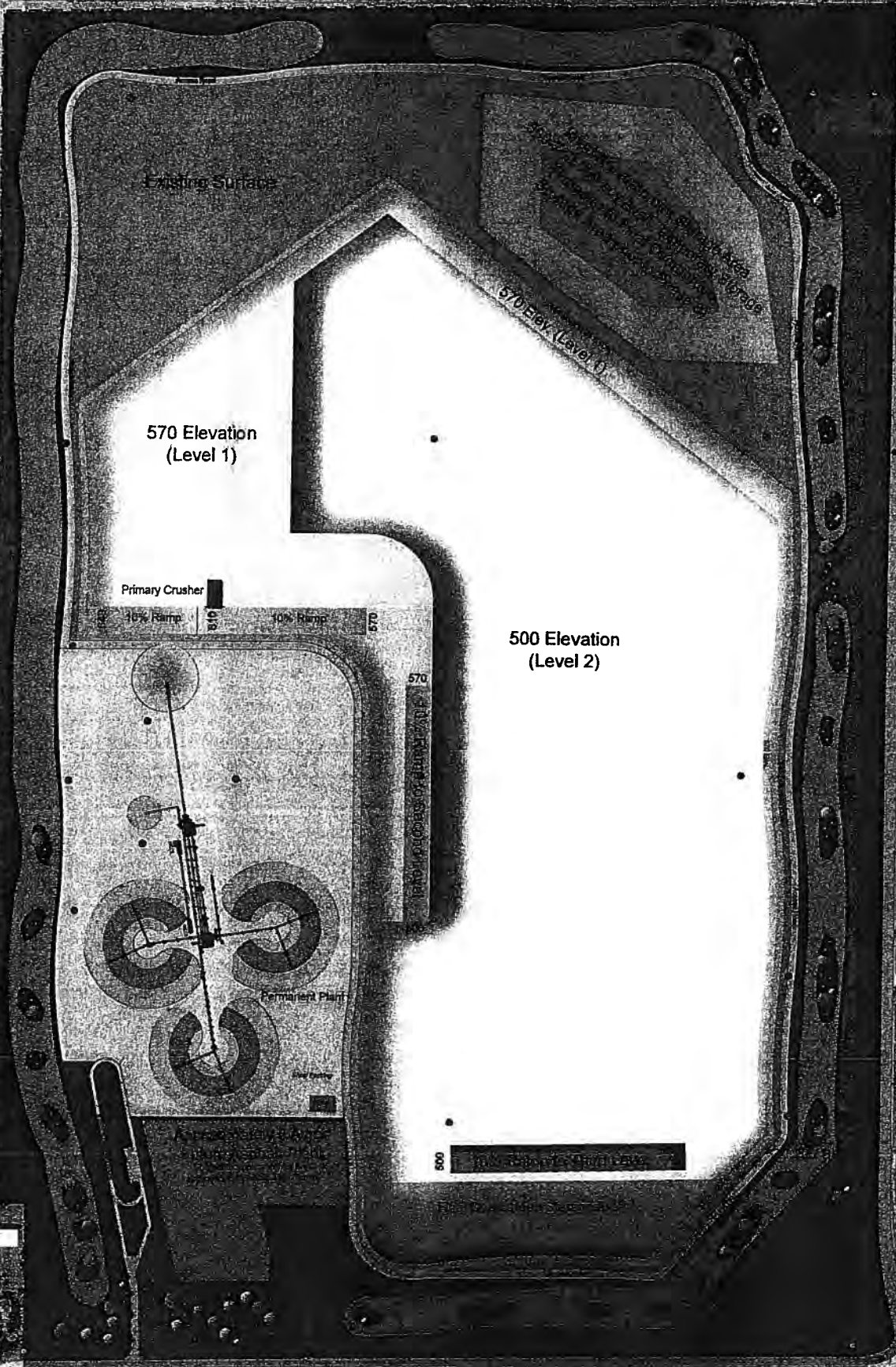
KENDALL COUNTY

Landscape Plan

20' High Berm
150' Wide at Base
3 to 1 Slopes

20' High Berm
150' Wide at Base
3 to 1 Slopes

20' High Berm
150' Wide at Base
3 to 1 Slopes

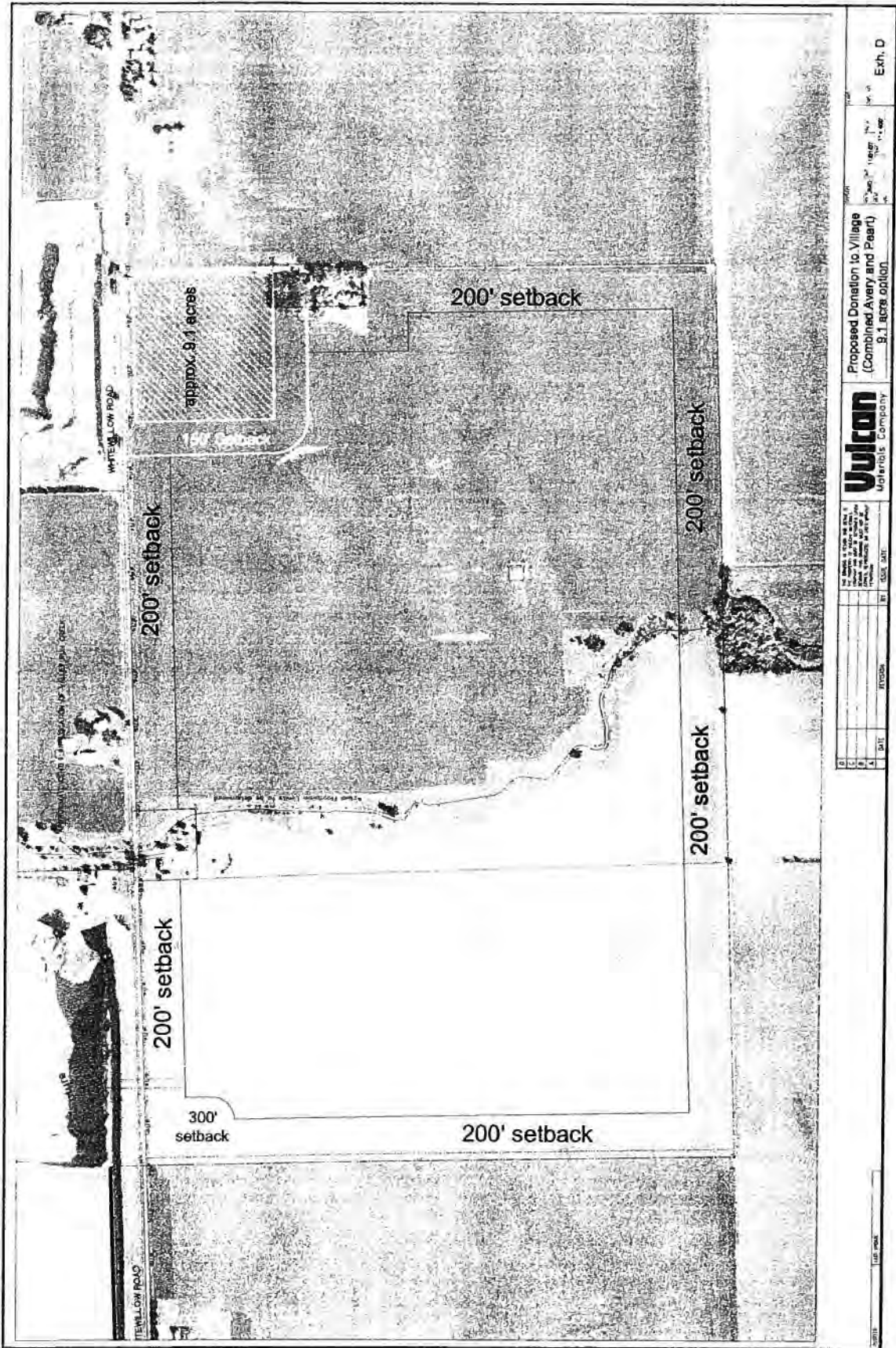


Symbol	Description
●	Red maple
●	Serviceberry
◊	American Hornbeam
●	Hackberry
●	Eastern Redbud
●	Hawthorn
●	Honeylocust
●	Eastern Redcedar
●	Eastern White Pine
●	White Oak
●	Pin Oak
●	Bur Oak
●	American Linden
●	Found Iron Rod
⊙	Power Pole
⊙	Road Sign
●	Brass Plug
■	R.O.W. Marker
●	Boring Location
■	Exception
■	Prairie Grasses
■	Swale Mix

IL ROUTE 47



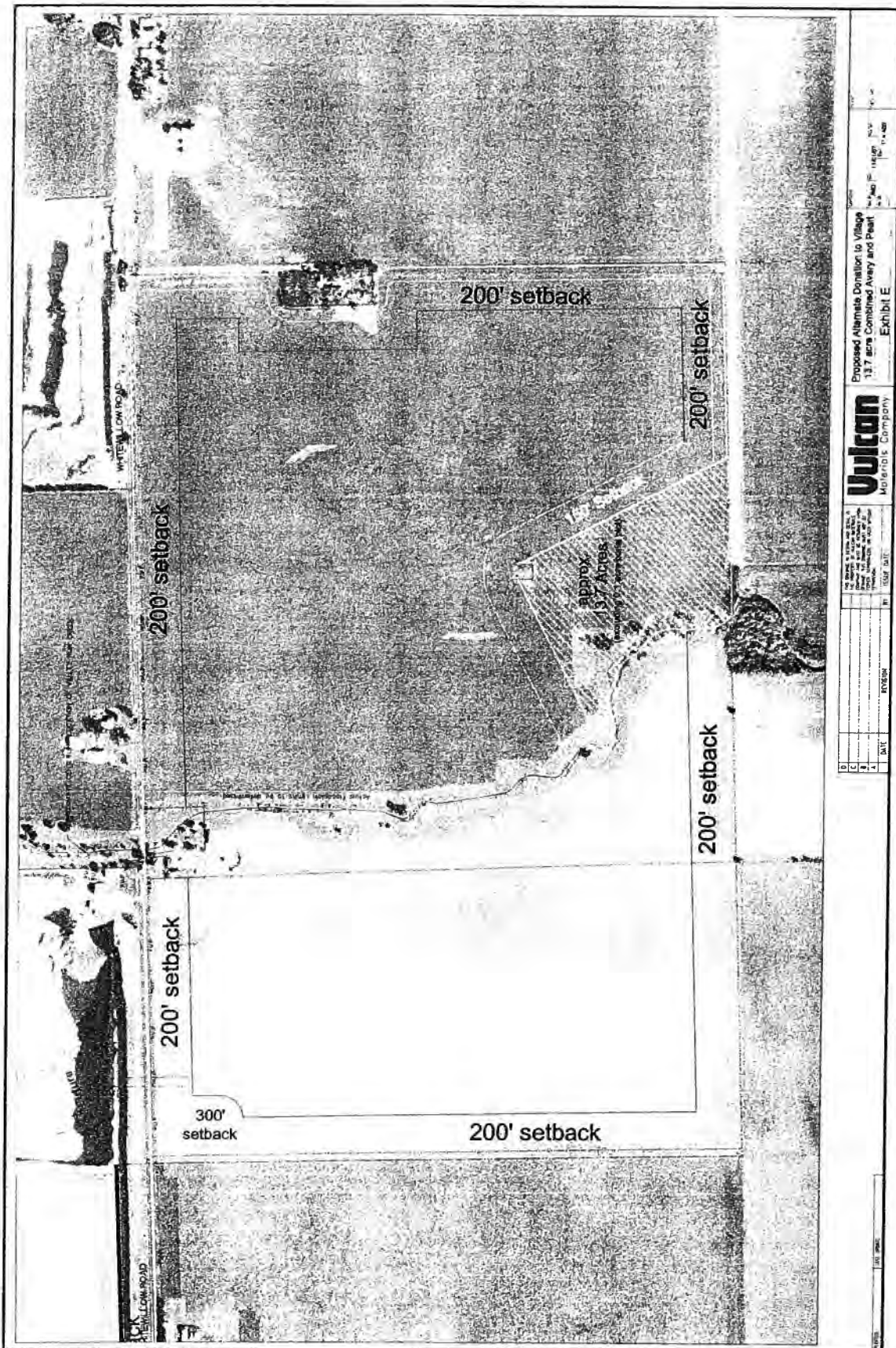
EXHIBIT D



Part of the Northwest Quarter of Section 33, Township 35 North, Range 7 East, of the Third Principal Meridian, Lisbon Township, Kendall County, Illinois, being bounded as follows:

Commencing at the Northwest Corner of Section 33; thence North 88 degrees 21 minutes 12 seconds East along the North Line of said Section 33 1312.84 feet to a point lying 20.00 feet west of the East line of the Northwest Quarter of the Northwest Quarter of said Section 33; thence South 01 degrees 01 minutes 44 seconds East 50.00 feet to the **POINT OF BEGINNING** of this description; thence continuing South along previously described course 620.04 feet; thence South 88 degrees 21 minutes 12 seconds West 646.16 feet; thence North 01 degrees 03 minutes 05 seconds West 620.03 feet; thence North 88 degrees 21 minutes 12 seconds East, along a line parallel to and 50.00 feet south of the north line of Section 33, 646.40 feet to the **POINT OF BEGINNING**, containing 9.2 acres of land, more or less.

EXHIBIT E



Vulcan Materials Company		Proposed Alternative Donation to Village 13.7 acre Contained, Aerial and Plat Exhibit E	
1. Date of Survey: _____ 2. Date of Plat: _____ 3. Date of Aerial: _____ 4. Date of Plat: _____	5. Date of Survey: _____ 6. Date of Plat: _____	7. Date of Survey: _____ 8. Date of Plat: _____	9. Date of Survey: _____ 10. Date of Plat: _____

Part of the Northeast Quarter of Section 32 and part of the Northwest Quarter of Section 33, Township 35 North, Range 7 East, of the Third Principal Meridian, Lisbon Township, Kendall County, Illinois, being bounded as follows:

Beginning at the Southeast Corner of the Northeast Quarter of Section 32; thence South 88 degrees 12 minutes 56 seconds West 227.56 feet along the South line of the Northeast Quarter to a point hereafter referred to as Intermediate Traverse Point "A", thence continuing west along the previously described course 10 feet, more or less, to the Thalweg of Valley Run Creek; thence continuing North and West along the Thalweg of Valley Run Creek approximately 997 feet; thence North 62 degrees 55 minutes 16 seconds East 10 feet, more or less, to a point that bears the following three (3) courses from aforementioned Intermediate Traverse Point "A": North 09 degrees 19 minutes 37 seconds West 348.67 feet, North 47 degrees 20 minutes 24 seconds West 319.09 feet, and North 86 degrees 10 minutes 01 seconds West 305.73 feet; thence continuing North 62 degrees 55 minutes 16 seconds East 830.88 feet to the Northwest Corner of a parcel of land known as the Munger Burial Lot (Excepted by Warranty Deed, Vol. W, P. 471); thence South 01 degrees 04 minutes 25 seconds East 66.00 feet along the West line of said Munger Burial Lot; thence North 88 degrees 55 minutes 35 seconds East 66.00 feet along the South line of said Munger Burial Lot to a point which falls on the East line of said Munger Burial Lot and the East line of said Northeast Quarter; thence North 01 degrees 04 minutes 25 seconds West 66.00 feet along the East line of said Northeast Quarter; thence South 27 degrees 17 minutes 48 seconds East 1055.32 feet; thence South 88 degrees 07 minutes 10 seconds West 466.36 feet along the South line of the Northwest Quarter of said Section 33 to the **POINT OF BEGINNING**, containing 13.8 acres of land, more or less.

EXHIBIT F

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement"), is made and entered into as of the _____ day of _____ by and between the **Village of Lisbon**, an Illinois municipal corporation located in Kendall County, Illinois (the "Village"), and **Vulcan Lands, Inc.** ("Owner/Developer"). (The Village and Owner/Developer are sometimes individually referred to as a "Party" and collectively as the "Parties").

RECITALS:

WHEREAS, the Village has determined that it is essential to the economic and social welfare of the Village to control the development of the property east of the village and in the proximity of Route 47 in order to create and maintain vital industrial and/or commercial uses for that area through orderly and planned development and

WHEREAS, the Village has the authority, pursuant to the laws of the State of Illinois, to promote the health, safety and welfare of the Village and its inhabitants, to encourage private development in order to enhance the local tax base, to increase employment and to enter into contractual agreements with third parties for the purpose of achieving the aforesaid purposes; and

WHEREAS, the Village Board, after giving all notices required by law, and after conducting all public hearings required by law, enacted Ordinance No. _____ on _____, 20____ approving an annexation agreement with Vulcan Lands, Inc. ("Owner/Developer") for certain property in proximity to Route 47, said property being more fully and legally described in Exhibit A to the Annexation Agreement (the "Property"), Exhibit A being a made a part hereof; and

WHEREAS, the terms of the annexation agreement with Owner/Developer call for the parties to enter into this Development Agreement to promote the orderly development of the Property over the several decades that such development is reasonably anticipated to take place; and

WHEREAS, the annexation agreement includes a Concept Plan calling for a “commercial pocket” in the southeast corner of the Property and said Concept Plan is attached to the Annexation Agreement as Exhibit B and is made a part hereof; and

WHEREAS, this Agreement has been submitted to the Corporate Authorities of the Village for consideration and review, the Corporate Authorities have taken all actions required to be taken prior to the execution of this Agreement in order to make the same binding upon the Village according to the terms hereof, and any and all actions of the Corporate Authorities of the Village precedent to the execution of this Agreement have been undertaken and performed in the manner required by law; and

WHEREAS, the Village Board, after giving all notices required by law, on _____, 2008, authorized the Village President and the Village Clerk to execute and deliver this Agreement, with such modifications as may be necessary; and

WHEREAS, pursuant to the authority contained in Art. VII, Section 10 of the State of Illinois Constitution, the Village may contract and otherwise associate with individuals, associations, and corporations in any manner not prohibited by law; and

NOW, THEREFORE, the Village and Owner/Developer, in consideration of the foregoing and of the mutual agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, do hereby agree as follows:

ARTICLE 1

RECITALS PART OF AGREEMENT

The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Article 1.

ARTICLE 2

ZONING AND DEVELOPMENT OF THE PROPERTY

1. At all times that this Development Agreement is in effect, the Property shall be zoned and classified as follows:

- I-2 Aggregate Material Extraction, Processing and Site Reclamation permitting mining, quarrying, and the sale of limestone, and related commodities.
- I-2 Aggregate Material Extraction with a Special Use for a Ready-Mix Cement Plant.
- I-2 Aggregate Material Extraction with a Special Use for an Asphalt Plant.

2. At all times that this Development Agreement is in effect, the “Commercial Pocket” shall also be zoned and classified with a special use for a Planned Unit Development. At such time as Owner/Developer seeks to develop the “Commercial Pocket”, the proposed use shall be treated as a major change to the PUD and Owner/Developer shall submit an application for such in compliance with the Village Zoning Ordinance in effect at that time.

3. OWNER/DEVELOPER shall, at such time as the precise location is determined, file a Preliminary / Plan / Plat containing the location of any proposed asphalt plant and ready-mix cement plant for approval by the VILLAGE, consistent with

the VILLAGE zoning ordinance. Approval of said Preliminary / Plan / Plat shall not be unreasonably withheld by the VILLAGE.

4. The zoning classifications and permitted exceptions and variations described in this AGREEMENT including the Concept Plan which is incorporated herein shall remain in effect and shall not be changed throughout the entire term of this Agreement, unless changed by the VILLAGE at the written request of OWNER/DEVELOPER in writing and by approval of the VILLAGE. However, if during the term of this AGREEMENT any changes or interpretations of the VILLAGE'S zoning ordinance are made which make such Ordinances less restrictive in their application to other like property, then OWNER/DEVELOPER, at its option, may choose to have said less restrictive ordinance applicable to the development of its PROPERTY.

5. The portion of the PROPERTY considered herein for a Special Use Permit to operate a ready-mix cement plant as approved as described in Exhibit "B" shall not be developed with said use until OWNER/DEVELOPER has submitted a site development plan and building permit application which shall be reviewed and approved by the VILLAGE consistent with VILLAGE zoning ordinances and other applicable ordinances prior to construction of any ready-mix cement plant thereon which shall be subject to the normal building permit approval process and preliminary and final plat approval if required.

6. The portion of the PROPERTY considered herein for a Special Use Permit to operate an asphalt plant as described in Exhibit "B" shall not be developed with said use until OWNER/DEVELOPER has submitted a site development plan which shall be reviewed and approved by the VILLAGE consistent with the VILLAGE zoning

ordinance other applicable Ordinances prior to construction of any asphalt plant thereon which shall be subject to the normal building permit approval process and preliminary and final plat approval if required.

7. The following specific provisions shall also apply to the Property:

1. Codes and Ordinances.

- a. Throughout the term of this Agreement, the VILLAGE'S zoning ordinance, subdivision control ordinance, and the international building code as adopted and amended from time to time by Kendall County, unless the VILLAGE adopts its own building code in place of the county building code, or other applicable ordinances in effect on the date of this AGREEMENT (i) shall remain in effect and not be changed except as set forth herein., (ii) which shall govern the development of the PROPERTY and (iii) shall all be deemed hereby varied as necessary to permit development of the PROPERTY in accordance with this AGREEMENT (including the Concept Plan incorporated herein as Exhibit "B"). Whenever the terms zoning ordinance, subdivision control ordinance, or building code are used in this AGREEMENT, it shall refer to the ordinance or code in effect on the date of this AGREEMENT, unless the text specifically states otherwise or as pertains to amendments from time to time made as to said ordinances. No other VILLAGE ordinances, codes or regulations shall apply to the development of the PROPERTY except the inclusion and adoption by ordinance approved by the VILLAGE as Section 9.05a of the VILLAGE'S zoning ordinance and any modifications thereof adopted by the VILLAGE, simultaneously with the approval of this AGREEMENT as it relates to mining, licensing of mining, and the permitting of Asphalt and Redi-Mix Cement Plants as permitted or Special Uses regulated by the VILLAGE, except other applicable VILLAGE ordinances as are time to time in effect throughout the VILLAGE and applied in a uniform manner as to all like uses within the VILLAGE.
- b. Notwithstanding paragraph 7.1.a, above:
- i. Except as provided herein, fees contained in the VILLAGE'S zoning ordinance, subdivision control ordinance and building code may be changed by the VILLAGE, provided such change applies to all like uses within the VILLAGE on a uniform basis; and
- ii. The VILLAGE'S zoning ordinance, subdivision control ordinance, and building code may be amended on a general basis as to be applicable to all property within the VILLAGE the purpose of directly furthering the public health and safety, provided such

amendments do not conflict with the terms of this AGREEMENT. However, if during the term of this AGREEMENT, those Ordinances are hereafter amended or interpreted so as to be less restrictive upon OWNER/DEVELOPER with respect to the operation of the subject business by OWNER/DEVELOPER or Stormwater Management of the PROERTY than is the case under existing law, then, at the option of OWNER/DEVELOPER, such less restrictive amendment or interpretation shall control.

- c. To the extent of any conflict or inconsistency between the terms or standards of this AGREEMENT and the terms or standards of the zoning ordinance, Building Code or any other presently existing or hereafter adopted VILLAGE code, ordinance, rule or regulation, the terms and standards of this AGREEMENT shall control over said ordinance, resolutions, or regulations of the VILLAGE of Lisbon.

2. Drainage.

- a. The OWNER/DEVELOPER shall provide all necessary water detention systems, settling ponds and compensatory storage in compliance with State Law and under VILLAGE ordinances currently in effect pursuant to the terms of this AGREEMENT.
- b. OWNER/DEVELOPER further acknowledges and agrees that it must obtain a valid NPDES discharge permit for all drainage, which it shall keep in full force and effect under all applicable Illinois Department of Natural Resources Regulations and shall continue to comply with all reporting requirements thereunder.
- c. OWNER/DEVELOPER has furnished with its Application a current storm water and groundwater studies and agrees that once operations commence it will provide the VILLAGE with copies of its discharge reports filed with the State of Illinois to demonstrate that its release rate is not exceeding its NPDES permit; and OWNER/DEVELOPER further agrees that it will comply with all applicable water quality standards of the Illinois Department of Natural Resources or other agencies having jurisdiction.
- d. OWNER/DEVELOPER has provided data, calculations, reports and studies, and reviews of reports and studies, demonstrating that its storm water management complies with the Kendall County Storm Water Ordinance and any other agencies currently having jurisdiction.

3. Excavation, Grading and Preparation of the Property for Development.

- a. OWNER/DEVELOPER shall have the right to undertake excavation, preliminary grading and soil stripping work, berm building, and soil stockpiling on the PROPERTY in preparation for the development of the PROPERTY, with the condition that all work is in compliance with the Illinois Surface-Mined Land Conservation and Reclamation Act. No letter of credit or other security shall be required by the VILLAGE from OWNER/DEVELOPER as a condition precedent to the commencement of such work so long as OWNER/DEVELOPER provides a suitable Reclamation Plan and Bond under the terms of the adopted zoning ordinance of the VILLAGE, to the Illinois Department of Mines and Minerals, as necessary under requirements in the Illinois Surface Mined Land Conservation and Reclamation Act.
- b. OWNER/DEVELOPER shall, other than where approved landscape elements or drainage ways are substituted, construct berms that are at least twelve (12) foot high along all property lines consistent with the concept plan (Exhibit B) that are no steeper than a 3 to 1 rise to run ration and no closer than 35 feet to the adjacent right of ways existing as of the date of this Agreement..
- c. The VILLAGE shall not require OWNER/DEVELOPER to construct any berming prior to commencement of mining activities. The OWNER/DEVELOPER shall phase berm construction to coincide with the excavation, preliminary grading, soil stripping, and stockpiling on the PROPERTY in preparation of mining activities. OWNER/DEVELOPER shall construct the berm or wall to be located along Joliet Road as the first phase of berm construction. OWNER/DEVELOPER shall then construct the remainder of the required berming commencing at the Southern most points of the East and West property lines as permitted in Section 10(b) of this AGREEMENT and progressing North, in conjunction with mining activities.
- d. Consistent with the Landscape Plan attached to the Annexation Agreement as Exhibit C, OWNER/DEVELOPER may construct concrete and/or masonry walls in accordance with the approved landscape plan.

4. Signage, Buffering/Landscaping, Road Dedication.

Signage

- a. The following signage will be approved by the VILLAGE upon submittal and approval of written sign permit applications and conformance to

VILLAGE ordinances, provided all signage must be located on the PROPERTY and not on any dedicated right-of-way.

- i. One eight foot by ten foot (8'x10') double-sided informational sign may be installed for each of the following: quarry, asphalt operation, concrete operation, adjacent to the Joliet Road Right-of-Way disclosing the location of each of said businesses. Each such sign may be erected two (2) months prior to the anticipated time which OWNER/DEVELOPER will begin selling any product. Prior to installation of said sign, OWNER/DEVELOPER shall submit a sign application to the VILLAGE including landscaping for the sign to be approved by the VILLAGE. Should the VILLAGE approve a commercial PUD for a commercial lot at the corner of Joliet Road and Route 47, then additional signage shall be provided as part of the PUD.
- ii. OWNER/DEVELOPER may install directional signs, which must be located on the PROPERTY, and not on a dedicated right-of-way, directing lanes of travel, location of each specific use, safety areas, parking areas, scales, and office use as long as said signs do not exceed 32' square feet on each side.

Buffering and Landscaping

- b. Buffering and landscaping shall be installed as required by the VILLAGE zoning ordinance with the exception that the setback for the highwall may be in all cases 150 feet from the property lines as described in Exhibit A (and may remain in place should OWNER/DEVELOPER dedicate additional land to the County of Kendall or the VILLAGE of Lisbon for right of way or roadway purposes).
 - i. OWNER/DEVELOPER shall install landscaping on the roadway side of any berm pursuant to the Landscape Plan attached to the Annexation Agreement as Exhibit "C," which landscaping shall be consistent with the VILLAGE zoning ordinance and within one year of the construction of the berm or portion thereof..
 - ii. Fencing shall be optional at the discretion of OWNER/DEVELOPER.

Joliet Road Dedication.

- c. OWNER/DEVELOPER agrees to dedicate right-of-way along Joliet Road to provide for the future improvement and widening of Joliet Road as may

be required by Kendall County. Upon a formal written request from the VILLAGE, OWNER/DEVELOPER shall cause the portion of the PROPERTY adjacent to Joliet Road, up to a maximum of sixty (60) feet in width measured from the center line of Joliet Road to be conveyed to Kendall County for such purposes. The VILLAGE approves and supports OWNER/DEVELOPER'S proposed Joliet Road access points as depicted in Exhibit "C" attached to the Annexation Agreement.

5. Annexation, Development Fees, Donations and Contributions.

This paragraph contains a complete list of all annexation, development, and other fees, donations, dedications, contributions and charges of any nature and kind (collectively "FEES") that will be paid or made in connection with the development of the PROPERTY. Such FEES shall be collected in the future pursuant to any ordinance, resolution, or this AGREEMENT of similar uses of any other property annexed to the VILLAGE after adoption of this AGREEMENT by the VILLAGE. No other annexation, impact, or similar exaction or fee will become due or payable in connection with the development of the PROPERTY from OWNER/DEVELOPER. The FEES payable by OWNER/DEVELOPER are as follows:

- a. The Applicant will make a one time, one hundred thousand (\$100,000.00) dollar application/annexation fee payment to the VILLAGE.
- b. Upon commencing the sales of aggregate mined from the Property, the OWNER/DEVELOPER shall be obligated to pay a development impact fee to the VILLAGE in the amount of \$2,000,000.00 (as adjusted in accordance with the terms hereafter) ("Development Fee") to be paid over 20 annual installments, commencing after the OWNER/DEVELOPER commences the sale of aggregate products mined from the Property. The annual installment is payable in a lump sum no later than the end of the calendar quarter immediately following the quarter in which a sale for that year is first made. Said payments shall continue until all twenty installment payments are made. Every five years, as measured from the date of execution of the ordinances approving this Agreement, the balance remaining on the Development Fee shall be adjusted either up or down based on the Chicago Metropolitan Consumer Price Index based on cost of living increase or decrease from the previous five (5) year period. In determining this adjustment, the PARTIES shall take the most recent month of the Chicago Metropolitan Consumer Price Index data available and calculate the percentage increase from the comparable data of 60 months earlier. However, the rate of change in any 12 month period shall not exceed 7.5%. The annual installment shall then be determined by the dividing the adjusted Development Fee by the remaining number of installments to be paid.

- c. Concurrent with its payment of each annual installment of the Development Fee to the Village, the OWNER/DEVELOPER will pay the Lisbon School District \$10,000, thereby obligating the OWNER/DEVELOPER to pay the Lisbon School District an aggregate total of \$200,000 over 20 installments. Concurrent with its payment of each annual installment of the Development Fee to the Village, the OWNER/DEVELOPER will pay the Lisbon Seward Fire Protection District \$10,000, thereby obligating the OWNER/DEVELOPER to pay the Lisbon Seward Fire Protection District an aggregate total of \$200,000 over 20 installments. The annual installments shall be adjusted and paid in the same manner as set forth above for the Development Fee installments.
- d. If in the event OWNER/DEVELOPER chooses not to conduct any business operation on the premises for an entire calendar year, the OWNER/DEVELOPER shall give the VILLAGE notice on or before April 1st of the indication not to conduct business (and it is specifically understood and agreed that the removal of any stockpile on the premises does constitute mining operations), then in the event that mining operations are not conducted for the entire calendar year, no annual Development Fee installment or installment to the school district or fire protection district will be due for that particular calendar year.
- e. In the event OWNER/DEVELOPER undertakes operation of the Special Use permits for either a ready-mix plant or an asphalt plant, and if the ready mix and asphalt plant are producing product in any calendar year the OWNER/DEVELOPER agrees that the additional sum of twenty thousand (\$20,000.00) dollars per year per Special Use permit shall be paid for that year throughout the same time as the Development Fee is being paid to the VILLAGE. The amount of this fee shall be adjusted every five years in accordance with the Chicago Metropolitan Consumer Price Index based on cost of living increase or decrease from the previous five (5) year period. The period of time in which OWNER/DEVELOPER agrees to pay the Special Use fees shall be for a period of twenty (20) years from the year of commencement of any Special Use.
- f. The obligations of this Paragraph shall survive the expiration of the Annexation Agreement between the parties and shall constitute a lien upon the property until the 20 installments have been paid.
- g. OWNER/DEVELOPER agrees that for sales tax purposes all quarrying or mineral extraction, asphalt plant sales, or ready-mix cement plant sales from PROPERTY in the VILLAGE shall be reported to the State for sales tax purposes within the VILLAGE and from no other point of sale outside of the VILLAGE. OWNER/DEVELOPER shall give proof of notification to VILLAGE for verification.

- h. The OWNER/DEVELOPER shall donate that 9.1 acre parcel of land to the VILLAGE as shown on Exhibit D to the Annexation Agreement (“Donation Parcel”). The VILLAGE agrees that if it locates any facility on any site under the jurisdiction of the VILLAGE, the VILLAGE will not seek to enforce or inhibit any modification of setbacks or other permitted mining activity of OWNER/DEVELOPER as a result of the proximity of said VILLAGE site near the mining operation. The VILLAGE also acknowledges that the Donation Parcel is full and complete satisfaction of the donation requirements of this Annexation Agreement and the Annexation Agreement previously entered into by the VILLAGE with AGC, LLC (d//b/a Valley Run Stone).

The parties further agree that the VILLAGE shall have an option, for the length of this Agreement or until such time as OWNER/DEVELOPER shall give 60 days notice to the VILLAGE that a decision on the option is required for reasons related to OWNER/DEVELOPER’s business purposes, to exchange the Donation Parcel set forth in Exhibit D for that alternate 13.7 acre parcel and dedicated 66’ wide right-of-way easement within the set-back depicted on Exhibit E to the Annexation Agreement (hereafter the “Alternate Donation Parcel”). Should the VILLAGE select the alternate 13.7 option, the VILLAGE will not seek to enforce or inhibit any modification of the setbacks indicated on Exhibit E or other permitted mining activity of OWNER/DEVELOPER as a result of the proximity of said VILLAGE site near the mining operation.

- i. This AGREEMENT may not be severed so as to allow separate quarrying entrances for more than one quarrying operator anywhere on the PROPERTY.

6. Variations

- a. A variance is granted to the OWNER/DEVELOPER concerning hours of operation and OWNER/DEVELOPER shall be permitted to operate its mining and crushing operations on-site from 5:00 a.m. to 9:00 p.m. from April 1st through November 15th of each calendar year, with maintenance personnel allowed to perform maintenance on the equipment at additional times. From November 16 through March 31 of the following calendar year, hours shall be as per the Village Zoning Ordinance. To the extent that MSHA approves, OWNER/DEVELOPER shall substitute back-up substitute warning systems for back-up horns on equipment owned by OWNER/DEVELOPER.
- b. OWNER/DEVELOPER shall be permitted to locate the highwall to within 150 feet of the property lines as described in Exhibit A to the Annexation Agreement. The OWNER/DEVELOPER shall be permitted to locate the toe of the berms to within 35 feet of any property line as set forth in

Exhibit A or any dedicated right of way lines (as they exist on the date of this Annexation Agreement or as they are specified to be herein) but in all cases no closer than to within 35 feet of any property line described in Exhibit A.

- c. The commercial corners depicted on Exhibit B may be developed as if they were a planned unit development consistent with the VILLAGE Zoning Ordinance for proposed commercial uses. The VILLAGE acknowledges that the commercial opportunities on the commercial corners will probably require relief on parking, storm water, and set back requirements for such uses on the Commercial Pocket and the VILLAGE agrees to consider reasonable variances and other relief in recognition of the adjoining mining use.

7. Access.

Nothing contained herein shall prohibit construction of separate driveway cuts on Joliet Road if a permit is granted by the Kendall County Highway Department (hereinafter "Highway Department"), for operation of an asphalt plant and/or ready-mix cement plant. All roadway improvements shall be approved by the Kendall County Highway Department and turn lanes required by said Agency shall be OWNER/DEVELOPER'S expense. OWNER/DEVELOPER shall complete an application with the Highway Department for an entrance on Joliet Road and permit must be received from the Highway Department prior to construction of any entrances.

Further, OWNER/DEVELOPER will assume and pay to the applicable agency a proportionate share of the cost of the reasonable improvements to the intersection of Route 47 and Joliet Road, including traffic signals, if such improvements are constructed during the term of this Agreement and other like Material Extraction operations accessing Joliet Road or the Route 47 intersection similarly participate in the cost of such improvements. However, in no case will the OWNER/DEVELOPER participation costs exceed 25% of the Private Portion of the cost of said reasonable improvements. For purposes of this paragraph, the "Private Portion" shall be that amount of the cost of the reasonable improvements that is net of all grants and other tax dollars committed to the improvements.

8. Continuation of Current Uses.

The PROPERTY is presently being used for row crop farming. The VILLAGE has given due consideration to the continuation of such current use. Accordingly, and notwithstanding any provision of VILLAGE ordinances or regulation now in effect or adopted during the term of this AGREEMENT, and notwithstanding the VILLAGE'S zoning of the PROPERTY pursuant to the terms hereof, row crop farming shall continue to be permitted on the PROPERTY.

ARTICLE 3

MUTUAL ASSISTANCE

The Parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications, adoption of such ordinances and resolutions, and issuance of bonds, as may be necessary or appropriate, from time to time, to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out such terms, provisions and intent.

ARTICLE 4

AUTHORITY

4.1 Actions. Each Party represents and warrants to the other Party that it has taken or will take all such actions as may be required and necessary to insure the development of the Project in accordance with this Agreement and to enable itself to execute this Agreement and to carry out fully and perform the terms, covenants, agreements, duties and obligations on its part to be kept and performed as provided by the terms and provisions hereof.

4.2 Powers.

(a) Owner/Developer hereby represents and warrants to the Village that Owner/Developer has full lawful right, power and authority, under currently applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and all of the foregoing have been or will be duly and validly authorized and approved by all necessary Owner/Developer actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of Owner/Developer, is enforceable in accordance with its terms and provisions.

(b) The Village hereby represents and warrants to Owner/Developer that the Village has full constitutional and lawful right, power and authority, under currently applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and all of the foregoing have been or will be duly and validly authorized-and approved by all necessary Village proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the Village, is enforceable in accordance with its terms and provisions and does not require the consent of any other governmental authority.

4.3 Authorized Parties. Whenever under the provisions of this Agreement and other related documents and instruments or any supplemental agreements, any request, demand, approval, notice or consent, or agreement of the Village or Owner/Developer is required to agree to or to take some action at the request of any other party to this Agreement, such request, demand, approval, notice or consent, or agreement shall be given for the Village, unless otherwise provided herein, by the Village Comptroller or his or her designee, and for Owner/Developer by any authorized officer (in any event, the officer(s) executing this Agreement are so authorized) and such authorized persons shall be authorized to act on any such request, demand, approval, notice or consent or agreement.

ARTICLE 5

GENERAL PROVISIONS

5.1 Time of Essence. Time is of the essence of this Agreement. The Parties will make every reasonable effort to expedite the subject matters hereof and

acknowledge that the successful performance of this Agreement requires their continued cooperation.

5.2 Default and Remedies. Except as otherwise provided in this Agreement and subject to the Village's right of termination as set forth in Article 5.2 hereof, in the event of any default in or breach of any term or condition of this Agreement by either party, or any successor, the defaulting or breaching party (or successor) shall, upon written notice from the other party specifying such default or breach, proceed immediately to cure or remedy such default or breach, and shall, in any event, within thirty (30) days after receipt of notice, commence to cure or remedy such default or breach. In the event that the defaulting or breaching party (or successor) diligently and in good faith commences to cure or remedy such default or breach but is unable to cure or remedy such default or breach within thirty (30) days after receipt of notice, the defaulting or breaching party (or successor) shall, prior to the end of such thirty (30) days, provide notice to the other party that it has in good faith commenced to cure or remedy such default or breach, whereupon the defaulting or breaching party (or successor) shall have an additional thirty (30) days to cure or remedy such default or breach.

5.3 Amendment. This Agreement and any Exhibits attached hereto may be amended only by the mutual consent of the Parties evidenced by a written amendment, by the adoption of an ordinance or resolution of the Village approving such amendment, as provided by law, and by the execution of such amendment by the Parties or their successors in interest or assigns, except that without approval of the Village Board, the President may, but need not, agree to (i) extend time periods for Owner/Developer's

performance; and (ii) make corrections to this Agreement which are consistent with the mutual understanding of the parties.

5.4 Severability. If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property, is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements or portions of this Agreement and, to that end, all provisions, covenants, agreements or portions of this Agreement are declared to be severable.

5.5 Illinois Law. This Agreement shall be construed in accordance with the laws of the State of Illinois.

5.6 Notice. Any notice to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be (i) delivered personally, with a receipt requested therefore; or (ii) sent by facsimile; or (iii) sent by a recognized overnight courier service; or (iv) delivered by United States registered or certified mail, return receipt requested, postage prepaid. All notices shall be addressed to the Parties at their respective addresses set forth below, and shall be effective (a) upon receipt or refusal if delivered personally; (b) one (1) business day after depositing such with an overnight courier service; or (c) two (2) business days after deposit in the United States mail, if mailed. A Party may change its address for receipt of notices by service of a notice of such change in accordance herewith. All notices by facsimile shall be subsequently confirmed by U.S. certified or registered mail or recognized overnight courier.

If to the VILLAGE:	VILLAGE of Lisbon 104 N. Canal Street Newark, IL 60541
--------------------	--

Attn: VILLAGE Clerk

with a copy to:

Attorney Richard Burton
227 W. Madison
Ottawa, IL 61350

If to OWNER/DEVELOPER: Vulcan Materials Company
ATTENTION: D. Lamar Forsyth
1000 E. Warrenville Road, Ste 100
Naperville, IL 60148

with a copy to:

Vulcan Materials Company
ATTENTION: Lindsay Sinor
200 Urban Center Drive
Birmingham, AL 35242

And

Derke J. Price
Ancel Glink
1111 E. Warrenville Road
Naperville, Illinois 60563

5.7 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

5.8 Recordation. The Parties agree that a mutually acceptable memorandum of this Agreement may be recorded in the Office of the Kendall County Recorder of Deeds.

5.9 Consent or Approval. Except as otherwise provided in this Agreement, whenever consent or approval of any Party to this Agreement is required, such consent or approval shall not be unreasonably withheld, delayed or conditioned.

5.10 Third Parties. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any other persons other than the Village, the Owner/Developer, and their successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation

or liability of any third persons to either the Village, the Owner/Developer, or their successor or assigns, nor shall any provision give any third parties any rights of subrogation or action over or against either the Village, the Owner/Developer, or their successors and assigns. This Agreement is not intended to and does not create any third party beneficiary rights whatsoever.

5.11 Binding Effect Successors and Assigns. This Agreement shall be binding on and shall inure to the benefit of the parties names herein and their respective heirs, administrators, executors, personal representatives, successors and assigns.

ARTICLE 9

TERM

The Term of this Agreement shall commence on the Effective Date and shall terminate on the later of:

- a) The development of the commercial pocket; or
- b) Village approval of an application by the Owner/Developer to rezone the property to a zoning district other than I-2;
- c) The fulfillment of an approved Reclamation Plan.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement pursuant to all requisite authorizations.

Date: _____, 2008.

VILLAGE OF LISBON
an Illinois municipal corporation

ATTEST:

Mayor

Village Clerk

VULCAN LANDS, INC.

By: _____

Title: _____

ATTEST:

By: _____

EXHIBIT G

EXHIBIT G

Sample Calculation

Year:	Sales?	Installment	CPI	Balance
1 (execution)	N			2,000,000
2	N			2,000,000
3	Y	#1 for 100,000		1,900,000
4	Y	#2 for 100,000		1,800,000
5	Y	#3 for 100,000		1,700,000

4%

Adjust Balance: 1,700,000 x 1.04 = 1,768,000.00. / 17 remaining installments =

\$104,000.00

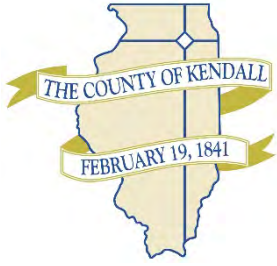
6	Y	#4 for 104,000		1,664,000
7	Y	#5 for 104,000		1,560,000
8	N	n/a		1,560,000
9	Y	#6 for 104,000		1,456,000
10	Y	#7 for 104,000		1,352,000

2%

Adjust Balance: 1,352,000 x 1.02 = 1,379,040. / 13 remaining installments =

\$106,080.00

11	Y	#8 for 106,080		1,245,920
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Kendall County Agenda Briefing

Committee:

Meeting Date:

Amount:

Budget:

Issue:

Background and Discussion:

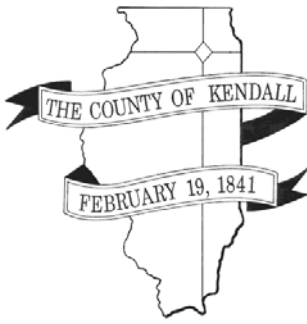
Committee Action:

Staff Recommendation:

Prepared by:

Department:

Date:



DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 203

Yorkville, IL • 60560

(630) 553-4141

Fax (630) 553-4179

Petition 19-12

**Robert Bright on Behalf of the Madison Trust and Castle Bank
N A and JoAnn Bright-Theis
A-1 Special Use – Banquet Facility**

INTRODUCTION

JoAnn Bright-Theis would like to establish the BrighterDaze Farm and Events banquet facility at the subject property which is currently owned in a trust represented by her father, Robert Bright.

ACTION SUMMARY

FOX TOWNSHIP

Fox Township was emailed information on March 27, 2019. Fox Township submitted comments on April 16, 2019. In particular, Fox Township reiterated that the Township was a dry township; the Township disagreed with the functional classification of Crimmin Road contained in the Land Resource Management Plan; the Township requested a traffic study regarding the impact of the proposed venue on Crimmin Road, including the possibility of improvements to Crimmin Road necessitated by the proposed special use permit. On May 9, 2019, the Petitioner, Fox Township, and the Kendall County Planning, Building and Zoning Department held a conference call on the proposal. The Petitioner agreed to the dry regulations of the Township. The Township stated that they would not fight the functional classification of Crimmin Road in the Land Resource Management Plan. The Township stated that they (Fox Township) would request a traffic study from the Kendall County Highway Department. This study could result in a change of the speed limit on Crimmin Road to a speed less than the current fifty-five miles per hour (55 MPH), a requirement the Petitioners post additional one-way directional signage within their property, and the possibility that Fox Township adopt an ordinance forbidding parking along Crimmin Road. "Venue Ahead" signage along Crimmin Road was discussed. Also, the possible dedication of right-of-way was discussed.

On June 14, 2019, Fox Township submitted updated comments. In particular, Fox Township requested:

1. No parking on Crimmin Road.
2. A right-of-way dedication of forty-five feet (45') as measured from the centerline of Crimmin Road for the entire length of the subject property.
3. No sound greater than sixty-five (65) dBa as measured from the property line of the complaint.
4. The special use permit should be contingent on a completed traffic study with the Petitioner paying for any necessary construction caused by increased traffic on Crimmin Road.
5. A maximum of thirty (30) events per year with an operating season between April 1st and November 1st.
6. Saturday only events with a conclusion of no later than 10:00 p.m.
7. The Township believes inadequate parking is planned for the proposal.
8. No selling or serving of alcohol per Fox Township's dry regulations.

The Township also requested that the advisory bodies consider public safety when making their

recommendations.

NEWARK FIRE PROTECTION DISTRICT

Newark Fire Protection District was emailed information on March 27, 2019. To date, no comments have been received.

VILLAGE OF NEWARK

The Village of Newark was emailed information on March 27, 2019. To date, no comments have been received.

ZPAC

ZPAC reviewed this proposal at their meeting on April 2, 2019. The Health Department provided information about well monitoring. A site survey will be completed defining the location of the existing septic system. The equestrian business will continue at the property as a separate business. Discussion occurred regarding the planned realignment of Crimmin Road. ZPAC recommended approval with all but (1) member voting yes. One (1) member voted present.

KCRPC

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on May 22, 2019. At this meeting, the Petitioners agreed to layover until the June meeting to allow Fox Township to complete their research on this request. The Kendall County Regional Planning Commission reviewed the concerns expressed by Fox Township at their meeting on June 26, 2019. Commissioners felt that having the special use permit contingent on a traffic study and requiring the Petitioners to pay for improvements to Crimmin Road was unnecessary. Commissioners also agreed to allow events to be held on weekends instead of limiting events to Saturdays only. Discussion occurred regarding Fox Township's dry regulations and the consensus of the Commission was that Fox Township's dry regulations were not a zoning matter. Commissioners recommended approval of the special use permit with the removal of the requirement of the contingency of the traffic study and allowing events to occur on other days of the weekend including Saturdays, but only one (1) event could occur each weekend. The vote was five (5) in favor and four (4) absent.

ZBA

The Kendall County Zoning Board of Appeals held a public hearing on this proposal on July 1, 2019. John Vogt express concerns about noise and safety on Crimmin Road. Kurt Buhle expressed concerns about security, enforcement of the regulations, property values, noise, traffic safety, and the potential that this proposal could open the door to other non-agricultural uses in the area. Jeff Spang, Fox Township Supervisor, expressed concerns about alcohol regulations, the use of the property for non-banquet related events, and traffic safety. By a vote of four (4) in favor and one (1) opposed, the Board issued a positive recommendation for the proposal subject to the conditions proposed by Staff with the following changes:

1. The last sentence of Condition 9 was changed to read, "For events with music, all barn doors shall close by 7:00 p.m."
2. The Condition regarding the traffic study should be deleted.
3. Condition 15 was changed to read, "The operator(s) of the banquet facility allowed by this special use permit shall follow all applicable Federal, State, and Local laws including, but not limited to, Fox Township's laws, related to the operation of this type of business."

PBZ

The Kendall County Planning, Building and Zoning Committee reviewed this proposal at their meeting on July 8, 2019. The Committee approved the following changes to the conditions of the special use permit:

1. The duplicative restriction regarding complying with all laws was removed.
2. Setup for events could start at 9:00 a.m. on the day prior to the event and 9:00 a.m. on the day of the event.

3. The condition that barn doors must be closed by 7:00 p.m. if an event has music was removed.
4. The requirement that the parcel maintain five (5) acres was changed to read that the parcel must follow the site plan configuration except for the right-of-way dedication.
5. The Petitioners can have one (1) additional event per weekend with a maximum of fifty (50) guests. (The vote was three (3) in favor and two (2) in opposition).
6. Discussion occurred regarding allowing events on Wednesdays if the Wednesday was the eve of a Federal or State holiday. However, this motion was not seconded and no vote occurred.

The Committee recommended approval by vote of four (4) in favor and one (1) in opposition.

FINDINGS OF FACT

§ 13.08.J of the Zoning Ordinance outlines findings that the Zoning Board of Appeals must make in order recommend in favor of the applicant on special use permit applications. They are listed below in *italics*. Staff has provided findings in **bold** below based on the recommendation:

*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 establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, or general welfare, provided that the site is developed in accordance with an approved site plan, landscaping plan, and lighting plan. Proper buffering and noise controls will be necessary to prevent noise from negatively impacting neighboring properties. The Kendall County Sheriff's Department has not submitted comments expressing concerns for public health and safety, based on the information provided by the Petitioners.*** Member Clementi disagreed with this finding.

*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 proposed use could be injurious to the enjoyment of other property in the immediate vicinity due to noise, light created from the proposed use, and increased traffic. Some of the negative impacts of the proposed use on properties in the immediate vicinity could be mitigated by restrictions related to hours and days of operation, and buffering within the ordinance granting the special use permit.*** Chairman Mohr and Member Clementi disagreed with this finding.

*That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. **True, the Petitioner's site plan addresses utilities, drainage, and points of ingress and egress.***

*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 site conforms to the regulations of the A-1 Agricultural Zoning District.***

*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 3-6 of the Kendall County Land Resource Management Plan which states as an objective "Encourage Agriculture and Agribusiness."***

RECOMMENDATION

Staff recommends approval of the requested special use permit subject to the following conditions and restrictions:

1. The site shall be developed substantially in accordance with the submitted Site Plan, Landscaping Plan, and Parking Illumination Plan.
2. Permanent restroom facilities shall be installed by 2021. When the permanent restroom facilities are installed, the portable bathrooms shown on the attached site plan shall be removed.
3. A maximum of two hundred eighty (280) guests in attendance at a banquet center related event may be on the subject property at a given time.
4. The subject parcel must follow the site plan configuration with the exception of the right-of-way dedication listed in Condition 12.
5. Off-street parking, lighting and landscaping shall be provided in accordance with the provisions of Section 11 of the Zoning Ordinance.
6. All signage shall comply with the provisions of Section 12 of the Kendall County Zoning Ordinance. The signage shall be developed in accordance to the attached site plan. Any signage provided will not be illuminated. The owners of the business allowed by this special use permit may install additional non-illuminated traffic directional signs not shown on the approved site plan within their property.
7. Retail sales are permitted as long as the retail sales will be ancillary to the main operation.
8. 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.

9. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings.
10. Events shall be held on weekends only and shall conclude by 10:00 p.m. Only one (1) event per weekend may occur. One (1) additional event may be held per weekend with a maximum of fifty (50) guests. For the purposes of this special use permit, weekends shall be Fridays, Saturdays, Sundays, Mondays, and any Federal or State Holiday falling on a Thursday or Tuesday. Tours of the facility for prospective customers shall be by appointment and could occur outside the listed hours of operation. Setup for events would start at 9:00 a.m. on the day prior to the event and 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. The facility would close on November 1st and reopen April 1st. The number of events per year shall be capped at thirty (30).
11. A new certificate of occupancy must be issued for the barn.
12. Within ninety (90) days of the approval of this special use permit ordinance, the owners of the

subject property shall dedicate a strip of land along the entire western boundary of the property at a depth of forty-five feet (45') as measured from the centerline of Crimmin Road to Fox Township to be used as Crimmin Road right-of-way.

13. No patron or other entity associated with the business allowed by this special use permit shall be allowed to park on Crimmin Road.
14. The operator(s) of the banquet facility acknowledge and agree to follow Kendall County's Right to Farm Clause.
15. The operator(s) of the banquet facility allowed by this special use permit shall follow all applicable Federal, State, and Local laws including, but not limited to Fox Township's laws, related to the operation of this type of business.
16. 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.
17. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

The proposed ordinance is attached.

SITE INFORMATION

PETITIONER Robert Bright on Behalf of the Madison Trust and Castle Bank NA and JoAnn Bright This

ADDRESS 10978 Crimmin Road, Newark

LOCATION Approximately 0.54 Miles South of the Intersection of Fox River Drive and Crimmin Road on the East Side of Crimmin Road



TOWNSHIP Fox

PARCEL #s 04-29-300-010, 04-29-300-012, 04-30-400-007, 04-30-400-012, 04-30-400-013, 04-30-400-018, 04-30-400-019, 04-31-200-013, 04-32-100-006, and 04-32-100-008

LOT SIZE 38.34 +/- Acres

EXISTING LAND USE Agricultural/Farmstead

ZONING A-1 Agricultural District

LRMP	Future Land Use	Agricultural
	Roads	Crimmin Road is a Major Collector Road and is also classified as a Scenic Route.
	Trails	None
	Floodplain/Wetlands	A riverine wetland is located along the southwest edge of the subject property.

REQUESTED ACTION A-1 Special Use to Operate a Banquet Facility

APPLICABLE REGULATIONS §7.01 D.10 – A-1 Special Uses – Permits Banquet Facilities to be Located in the A-1 District with Approval of a Special Use Provided that the Facility Meets Certain Criteria

§ 13.08 – Special Use Procedures

SURROUNDING LAND USE

Location	Adjacent Land Use	Adjacent Zoning	Land Resource Management Plan	Zoning within ½ Mile
North	Agricultural/Wooded/ Millington Forest Preserve	A-1	Rural Residential (Max 0.60 DU/Acre) and Forest Preserve	A-1
South	Agricultural/Religious	A-1	Agricultural	A-1
East	Millington Forest Preserve	A-1	Forest Preserve	A-1
West	Agricultural/Farmstead	A-1	Rural Residential (Max 0.60 DU/Acre)	A-1, A-1 SU, R-2, and R-3

The special use permit is for the operation of a fur-bearing animal farm.

Based on the aerial of the site, there are six (6) homes within a half mile of the subject property.

PHYSICAL DATA

ENDANGERED SPECIES REPORT

The Illinois Natural Heritage Database shows the following protected resources may be in the vicinity of the project location:

- Millington Fen INAI Site
- Fox River INAI Site
- Millington Railroad Fen Natural Landmark
- Tucker-Millington Fen Natural Preserve
- River Redhorse (*Moxostoma carinatum*)

Negative impacts to the above are considered unlikely and consultation was terminated.

NATURAL RESOURCES INVENTORY

The LESA Score was 181 indicating a low level of protection.

GENERAL

The Petitioners intend to establish the BrighterDaze Farm and Events banquet facility run by JoAnn Bright-Theis at the subject property. A special use permit is required to operate a banquet facility at the subject property.

This type of use is permitted as a special use on an A-1 property with certain conditions. Those conditions include:

- a. The facility shall have direct access to a road designated as an arterial roadway or major collector road as identified in the Land Resource Management Plan.
- b. The subject parcel must be a minimum of 5 acres.
- c. The use of this property shall be in compliance with all applicable ordinances. The banquet facility shall conform to the regulations of the Kendall County Health Department and the Kendall County Liquor Control Ordinance. (Ord. 99-34)
- d. Off-street parking, lighting and landscaping shall be provided in accordance with the provisions of Section 11 of the zoning ordinance.
- e. All signage shall comply with the provisions of Section 12 of the Kendall County Zoning Ordinance.
- f. Retail sales are permitted as long as the retail sales will be ancillary to the main operation.
- g. 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.

The subject property and proposed business meets the above requirements.

BUSINESS OPERATION

The business plan for the proposed operations was submitted. The site plan was submitted. The building elevations were submitted. The landscaping plan was submitted. The parking illumination plan was submitted. The interior plan was submitted.

According to the information provided to the County, the proposed banquet facility will utilize the existing approximately eight thousand (8,000) square foot barn for weddings and similar events. The maximum capacity will be approximately two hundred eighty (280) people, with one (1) additional employee. While banquets will occur inside the existing barn, prospective clients could use the exterior grounds for pictures and outdoor ceremonies. The interior of the barn is a converted arena with a concrete floor. The barn is approximately twenty-six feet (26') tall at its peak and ten feet (10') tall at the ends.

An existing pond is located east of the horse barn.

The original proposed hours of operation were Sunday through Thursday from 9:00 a.m. until 10:00 p.m. and Friday and Saturday from 9:00 a.m. until Midnight. The Petitioners agreed to change the hours of operation to Fridays, Saturdays, Sundays, Mondays, and Federal and State Holidays occurring on Thursdays and Tuesdays. Tours of the facility for prospective customers by appointment and could occur outside the listed hours of operation. Setup for events would start at 9:00 a.m. on the day prior to an event and 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. The facility would close on November 1st and reopen April 1st. The number of events would be capped at one (1) per weekend and thirty (30) for the operating season. The Petitioners could have one (1) additional event per weekend with a maximum of fifty (50) guests.

The proposed business would use local sub-contractors for uses on the site, including linens, decorations, food services, beverage services, bathroom services, and cleanup services. Because Fox Township is a dry township, no cash bars are allowed.

The proposed business would use luxury trailer bathrooms for events with the intention to have permanent restroom facilities by 2021. Restroom facilities will be located north of the barn by the parking area.

The dumpster shall be located next to the parking lot by the barn.

If approved, the Petitioners hope to start operations as quickly as possible.

Ancillary items, such as Brighter Daze shirts and glasses, may be sold on the premises.

BUILDING CODES

An updated Occupancy Permit will be required reflecting the change of use from a horse barn to a banquet facility.

ENVIRONMENTAL HEALTH

Portable bathrooms will be used for events. The Petitioners will be conducting a soil study to determine the appropriate location for a septic field.

ROAD ACCESS

The property fronts Crimmin Road. Fox Township expressed concerns regarding Crimmin Road which could be addressed through appropriate restrictions.

PARKING AND INTERNAL TRAFFIC CIRCULATION

According to the site plan, patrons will enter the property through the driveway north of the existing house. Traffic will drive southeast along the one (1) way driveway to the existing barn, a distance of approximately seven hundred feet (700'). There are thirty-four (34) parking spaces and four (4) additional handicapped accessible parking spaces by the barn. An additional seventy-five (75) parking spaces will be located east of the barn and will be accessible via a gravel driveway; these parking spaces will be served by shuttle. Traffic will exit the property through a one (1) way driveway leading to the north end of the property.

LIGHTING

Two (2) new lights are proposed for site. According to the parking illumination plan, no light will leave the property. All lights will be turned off within one (1) hour of the conclusion of events.

SIGNAGE

One entrance and one exit sign will be installed on the property. The signs will be approximately four hundred thirty-two (432) square inches. Neither sign will be illuminated.

LANDSCAPING

As shown on the proposed site plan, the site contains approximately one hundred sixty-six (166) trees of varying heights encircling the venue.

NOISE CONTROL

All music and noise shall originate inside the venue except for processions and recessions at weddings. The facility shall follow the noise regulations for banquet facilities. Speakers will face east.

With the combination of distance and plantings, the Petitioners believe noise will not be an issue.

PREVIOUS EVENTS

According to information provided to the County, the Petitioners did not charge for events held previously on the property prior to June 1, 2019. On June 3, 2019, the Petitioners contacted the County and stated that they had an event on June 1, 2019, and charged a rental fee for this event. The Petitioners believed that the special use permit would be approved prior to the June 1st date and did not want to cancel the event.

ATTACHMENT

1. Proposed Ordinance

ORDINANCE NUMBER 2019-_____

GRANTING A SPECIAL USE PERMIT ON PROPERTY ZONED A-1 AGRICULTURAL FOR A BANQUET FACILITY ON A 38.34 ACRE +/- PARCEL LOCATED AT 10978 CRIMMIN ROAD ON THE PROPERTY IDENTIFIED BY PARCEL IDENTIFICATION NUMBERS 04-29-300-010, 04-29-300-012, 04-30-400-007, 04-30-400-012, 04-30-400-013, 04-30-400-018, 04-30-400-019, 04-31-200-013, 04-32-100-006, AND 04-32-100-008 IN FOX TOWNSHIP

WHEREAS, Section 13.08 of the Kendall County Zoning Ordinance permits the Kendall County Board to issue 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.10 of the Kendall County Zoning Ordinance permits the operation of banquet facilities 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 Zoning District and consists of approximately 38.34 acres located at 10978 Crimmin Road (PINs: 04-29-300-010, 04-29-300-012, 04-30-400-007, 04-30-400-012, 04-30-400-013, 04-30-400-018, 04-30-400-019, 04-31-200-013, 04-32-100-006, and 04-32-100-008) in Fox Township. The legal description for the subject property is set forth in Exhibit A attached hereto and incorporated by reference, and this property shall hereinafter be referred to as “the subject property.”; and

WHEREAS, the subject property is currently owned by Madison Trust and Castle Bank N A as represented by Robert Bright and JoAnn Bright-Theis has permission to operate a banquet facility on the subject property and shall hereinafter be referred to as “Petitioner”; and

WHEREAS, on or about March 19, 2019, Petitioner filed a petition for a special use permit allowing the operation of a banquet facility at the subject property; and

WHEREAS, following due and proper notice by publication in the Kendall County Record on June 6, 2019, the Kendall County Zoning Board of Appeals conducted a public hearing on July 1, 2019, at 7:00 p.m., in the County Office Building at 111 W. Fox Street in Yorkville, at which the Petitioner and their representative presented evidence, testimony, and exhibits in support of the requested special use permit and zero members of the public testified in favor, one member of the public testified in opposition, and two members of the public expressed concerns regarding the petition; 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 July 1, 2019, 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 with conditions; 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

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 banquet facility on the subject property subject to the following conditions:
 - A. The site shall be developed substantially in accordance with the Site Plan attached hereto as Exhibit C, Landscaping Plan attached hereto as Exhibit D, and Parking Illumination Plan attached hereto as Exhibit E.
 - B. Permanent restroom facilities shall be installed by 2021. When the permanent restroom facilities are installed, the portable bathrooms shown on the attached site plan shall be removed.
 - C. A maximum of two hundred eighty (280) guests in attendance at a banquet center related event may be on the subject property at a given time.
 - D. The subject parcel must follow the site plan configuration with the exception of the right-of-way dedication listed in condition L.
 - E. Off-street parking, lighting and landscaping shall be provided in accordance with the provisions of Section 11 of the Zoning Ordinance.
 - F. All signage shall comply with the provisions of Section 12 of the Kendall County Zoning Ordinance. The signage shall be developed in accordance to the attached site plan. Any signage provided will not be illuminated. The owners of the business allowed by this special use permit may install additional non-illuminated traffic directional signs not shown on the approved site plan within their property.
 - G. Retail sales are permitted as long as the retail sales will be ancillary to the main operation.
 - H. 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.

- I. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings.
 - J. Events shall be held on weekends only and shall conclude by 10:00 p.m. Only one (1) event per weekend may occur. One (1) additional event may be held per weekend with a maximum of fifty (50) guests. For the purposes of this special use permit, weekends shall be Fridays, Saturdays, Sundays, Mondays, and any Federal or State Holiday falling on a Thursday or Tuesday. Tours of the facility for prospective customers shall be by appointment and could occur outside the listed hours of operation. Setup for events would start at 9:00 a.m. on the day prior to the event and 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. The facility would close on November 1st and reopen April 1st. The number of events per year shall be capped at thirty (30).
 - K. A new certificate of occupancy must be issued for the barn.
 - L. Within ninety (90) days of the approval of this special use permit ordinance, the owners of the subject property shall dedicate a strip of land along the entire western boundary of the property at a depth of forty-five feet (45') as measured from the centerline of Crimmin Road to Fox Township to be used as Crimmin Road right-of-way.
 - M. No patron or other entity associated with the business allowed by this special use permit shall be allowed to park on Crimmin Road.
 - N. The operator(s) of the banquet facility acknowledge and agree to follow Kendall County's Right to Farm Clause.
 - O. The operator(s) of the banquet facility allowed by this special use permit shall follow all applicable Federal, State, and Local laws including, but not limited to Fox Township's laws, related to the operation of this type of business.
 - 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.
3. The Zoning Administrator and other appropriate County Officials are hereby authorized and directed to amend the Official Zoning Map of Kendall County to reflect this special use permit.

IN WITNESS OF, this ordinance has been enacted by a majority vote of the Kendall County Board and is effective this 16th day of July, 2019.

Attest:

Kendall County Clerk
Debbie Gillette

Kendall County Board Chairman
Scott R. Gryder

Exhibit A

LEGAL DESCRIPTION OF ROBERT BRIGHT TRACT (38.3391 Acres):

That part of the Southwest Quarter of Section 29, that part of the Southeast Quarter of Section 30, that part of the Northeast Quarter of Section 31 and that part of the Northwest Quarter of Section 32, Township 36 North, Range 6 East of the Third Principal Meridian described as follows: Commencing at the Northeast Corner of said Northeast Quarter of Section 31; thence Southerly, along the East Line of said Northeast Quarter, 412.50 feet for a point of beginning; thence West, along a line which is parallel with the North Line of said Northeast Quarter and which forms an angle of $88^{\circ}55'20''$ with the last described course, measured counter-clockwise therefrom, 628.98 feet; thence Northwesterly, along a line which forms an angle of $136^{\circ}30'40''$ with the last described course, measured counter-clockwise therefrom, 506.73 feet to the centerline of Crimmins Road; thence Northeasterly, along said centerline which forms an angle of $105^{\circ}18'51''$ with the last described course, measured counter-clockwise therefrom, 50.50 feet; thence Northeasterly, along said centerline being a tangential curve to the right with a radius of 2300.0 feet, an arc distance of 1058.74 feet; thence Northeasterly, along said centerline which is tangent to the last described curve at the last described point, 299.42 feet; thence Northeasterly, along said centerline being a curve to the left with a radius of 730.0 feet, an arc distance of 8.76 feet to the West Line of said Southwest Quarter of Section 29; thence Southerly, along said West Line, 22.82 feet; thence Southeasterly, along a line which forms an angle of $136^{\circ}53'45''$ with the last described course, measured clockwise therefrom, 1066.40 feet; thence Southeasterly, along a line which forms an angle of $148^{\circ}16'44''$ with the last described course, measured counter-clockwise therefrom, 889.54 feet to a point on a Southerly Line of a Tract conveyed to Robert A. Bright as Trustee of the Robert A. Bright Declaration of Trust by Trustee's Deed recorded as Document 9801248 on February 4, 1998; thence Southwesterly along said Southerly Line which forms an angle of $89^{\circ}59'40''$ with the last described course, measured counter-clockwise therefrom, 197.0 feet to a Southerly Corner of said Bright Tract; thence Northwesterly, along a line which forms an angle of $95^{\circ}37'45''$ with the last described course, measured counter-clockwise therefrom, 359.61 feet to a point on a line drawn Easterly, parallel with the North Line of said Northwest Quarter of Section 32, from the point of beginning and which is 607.20 feet from the point of beginning; thence Westerly, along said parallel line which forms an angle of $107^{\circ}48'12''$ with the last described course, measured clockwise therefrom, 607.20 feet to the point of beginning in Fox Township, Kendall County, Illinois and containing 38.3391 acres.

Exhibit B

FINDINGS OF FACT

*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 establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, or general welfare, provided that the site is developed in accordance with an approved site plan, landscaping plan, and lighting plan. Proper buffering and noise controls will be necessary to prevent noise from negatively impacting neighboring properties. The Kendall County Sheriff's Department has not submitted comments expressing concerns for public health and safety, based on the information provided by the Petitioners.***

Member Clementi dissented with the above Finding and stated that the proposed special use permit would be detrimental and will endanger the public health.

*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 proposed use could be injurious to the enjoyment of other property in the immediate vicinity due to noise, light created from the proposed use, and increased traffic. Some of the negative impacts of the proposed use on properties in the immediate vicinity could be mitigated by restrictions related to hours and days of operation, and buffering within the ordinance granting the special use permit.***

Chairman Mohr and Member Clementi dissented with the above Finding.

*That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. **True, the Petitioner's site plan addresses utilities, drainage, and points of ingress and egress.***

*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 site conforms to the regulations of the A-1 Agricultural Zoning District.***

*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 3-6 of the Kendall County Land Resource Management Plan which states as an objective "Encourage Agriculture and Agribusiness."***

Recommendation

The Kendall County Zoning Board of Appeals recommends approval of the requested special use permit with the conditions:

- A. The site shall be developed substantially in accordance with the attached Site Plan, Landscaping Plan, and Parking Illumination Plan.
- B. Permanent restroom facilities shall be installed by 2021. When the permanent restroom facilities are installed, the portable bathrooms shown on the attached site plan shall be removed.

- C. A maximum of two hundred eighty (280) guests in attendance at a banquet center related event may be on the subject property at a given time.
- D. The subject parcel must maintain a minimum of five (5) acres.
- E. The use of this property shall be in compliance with all applicable ordinances. The banquet facility shall conform to the regulations of the Kendall County Health Department and the Kendall County Liquor Control Ordinance. (Ord. 99-34)
- F. Off-street parking, lighting and landscaping shall be provided in accordance with the provisions of Section 11 of the Zoning Ordinance.
- G. All signage shall comply with the provisions of Section 12 of the Kendall County Zoning Ordinance. The signage shall be developed in accordance to the attached site plan. Any signage provided will not be illuminated. The owners of the business allowed by this special use permit may install additional non-illuminated traffic directional signs not shown on the approved site plan within their property.
- H. Retail sales are permitted as long as the retail sales will be ancillary to the main operation.
- I. 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.
- J. No music shall originate outside of any building. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. All speakers shall be pointed towards the inside of buildings. For events with music, barn doors shall close by 7:00 p.m.
- K. Events shall be held on weekends only and shall conclude by 10:00 p.m. Only one (1) event per weekend may occur. For the purposes of this special use permit, weekends shall be Fridays, Saturdays, Sundays, Mondays, and any Federal or State Holiday falling on a Thursday or Tuesday. Tours of the facility for prospective customers shall be by appointment and could occur outside the listed hours of operation. Setup for events would start at 9:00 a.m. on the day of the event and customers would have one (1) hour to vacate the premises after the conclusion of the event. The facility would close on November 1st and reopen April 1st. The number of events per year shall be capped at thirty (30).
- L. A new certificate of occupancy must be issued for the barn.
- M. Within ninety (90) days of the approval of this special use permit ordinance, the owners of the subject property shall dedicate a strip of land along the entire western boundary of the property at a depth of forty-five feet (45') as measured from the centerline of Crimmin Road to Fox Township to be used as Crimmin Road right-of-way.
- N. No patron or other entity associated with the business allowed by this special use permit shall

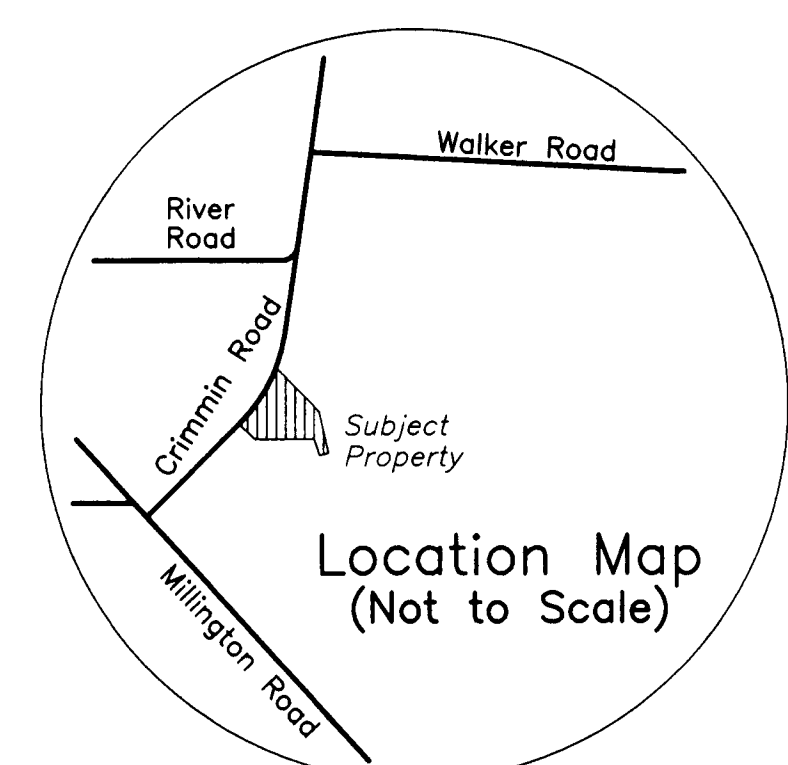
be allowed to park on Crimmin Road.

- O. The operator(s) of the banquet facility acknowledge and agree to follow Kendall County's Right to Farm Clause.
- P. The operator(s) of the banquet facility allowed by this special use permit shall follow all applicable Federal, State, and Local laws including, but not limited to Fox Township's laws, related to the operation of this type of business.
- Q. 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.
- R. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

The Kendall County Zoning Board of Appeals issues this recommendation by a vote of five (4) in favor, one (1) opposed, and two (2) absent.

July 1, 2019

ZONING PLAT OF
 PART OF THE SOUTHWEST QUARTER OF SECTION 29,
 PART OF THE SOUTHEAST QUARTER OF SECTION 30,
 PART OF THE NORTHEAST QUARTER OF SECTION 31, and
 PART OF THE NORTHEAST QUARTER OF SECTION 31, T36N-R6E, 3rd PM
 FOX TOWNSHIP KENDALL COUNTY ILLINOIS



DEVELOPER:
 BrighterDaze Farm
 c/o Adam Theis
 10978 Crimmin Road
 Newark, Illinois 60541

PROPERTY LOCATION:
 PINs: 04-29-300-010, -012
 PINs: 04-30-400-007, -012, -013, -018, -019
 PIN: 04-31-200-013
 PINs: 04-32-100-006, -008
 10978 Crimmin Road
 Newark, Illinois 60541

AREA TO BE REZONED:
 38.3391 Acres

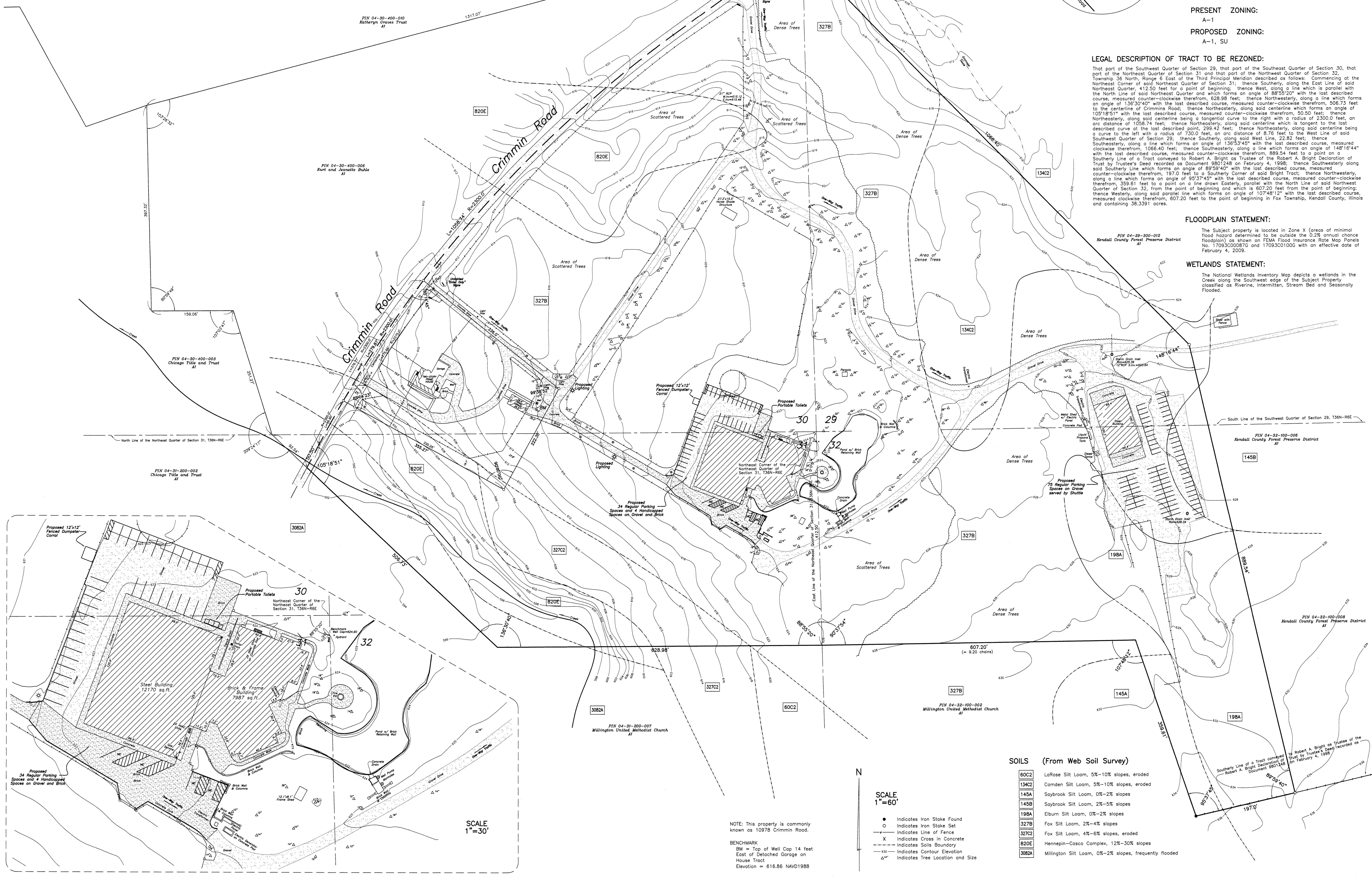
PRESENT ZONING:
 A-1

PROPOSED ZONING:
 A-1, SU

LEGAL DESCRIPTION OF TRACT TO BE REZONED:
 That part of the Southwest Quarter of Section 29, that part of the Southeast Quarter of Section 30, that part of the Northeast Quarter of Section 31 and the part of the Northwest Quarter of Section 32, Township 36 North, Range 6 East of the Third Principal Meridian described as follows: Commencing at the Northeast Corner of said Northeast Quarter of Section 31; thence Southerly, along the East Line of said Northeast Quarter, 412.50 feet for a point of beginning; thence West, along a line which is parallel with the North Line of said Northeast Quarter and which forms an angle of 88°55'20" with the last described course, measured counter-clockwise therefrom, 628.98 feet; thence Northwesterly, along a line which forms an angle of 136°30'40" with the last described course, measured counter-clockwise therefrom, 506.73 feet to the centerline of Crimmin Road; thence Northwesterly, along said centerline which is tangent to the last described curve to the left with a radius of 730.0 feet, an arc distance of 8.76 feet to the West Line of said Southwest Quarter of Section 29; thence Southerly, along said West Line, 22.82 feet; thence Southerly, along a line which forms an angle of 136°53'45" with the last described course, measured clockwise therefrom, 1066.43 feet; thence Southerly, along a line which forms an angle of 148°16'44" with the last described course, measured counter-clockwise therefrom, 889.54 feet to a point on a Southerly Line of a Tract conveyed to Robert A. Bright as Trustee of the Robert A. Bright Declaration of Trust by Trustee's Deed recorded as Document 9801248 on February 4, 1998; thence Southwesterly along said Southerly Line which forms an angle of 89°59'40" with the last described course, measured counter-clockwise therefrom, 197.0 feet to a Southerly Corner of said Bright Tract; thence Northwesterly, along a line which forms an angle of 85°37'45" with the last described course, measured counter-clockwise therefrom, 359.81 feet to a point on a line drawn Easterly, parallel with the North Line of said Northwest Quarter of Section 32, from the point of beginning and which is 607.20 feet from the point of beginning; thence Westerly, along said parallel line which forms an angle of 107°48'12" with the last described course, measured clockwise therefrom, 607.20 feet to the point of beginning in Fox Township, Kendall County, Illinois and containing 38.3391 acres.

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 Panels No. 17093C00087G and 17093C0100G with an effective date of February 4, 2009.

WETLANDS STATEMENT:
 The National Wetlands Inventory Map depicts a wetlands in the Creek along the Southwest edge of the Subject Property classified as Rivine, Intermittent, Stream Bed and Seasonally Flooded.



SOILS (From Web Soil Survey)

60C2	LaRoe Silt Loam, 5%-10% slopes, eroded
134C2	Camden Silt Loam, 5%-10% slopes, eroded
145A	Saybrook Silt Loam, 0%-2% slopes
145B	Saybrook Silt Loam, 2%-5% slopes
198A	Elburn Silt Loam, 0%-2% slopes
327B	Fox Silt Loam, 2%-4% slopes
327C2	Fox Silt Loam, 4%-6% slopes, eroded
820E	Hennepin-Casco Complex, 12%-30% slopes
3082A	Millington Silt Loam, 0%-2% slopes, frequently flooded

SCALE
 1"=60'

- Indicates Iron Stake Found
- Indicates Iron Stake Set
- Indicates Line of Fence
- X Indicates Cross in Concrete
- - - Indicates Soils Boundary
- ~ Indicates Contour Elevation
- △ Indicates Tree Location and Size

NOTE: This property is commonly known as 10978 Crimmin Road.

BENCHMARK
 BM = Top of Well Cap 14 feet East of Detached Garage on House Tract
 Elevation = 616.86 NAVD1988

SCALE
 1"=30'

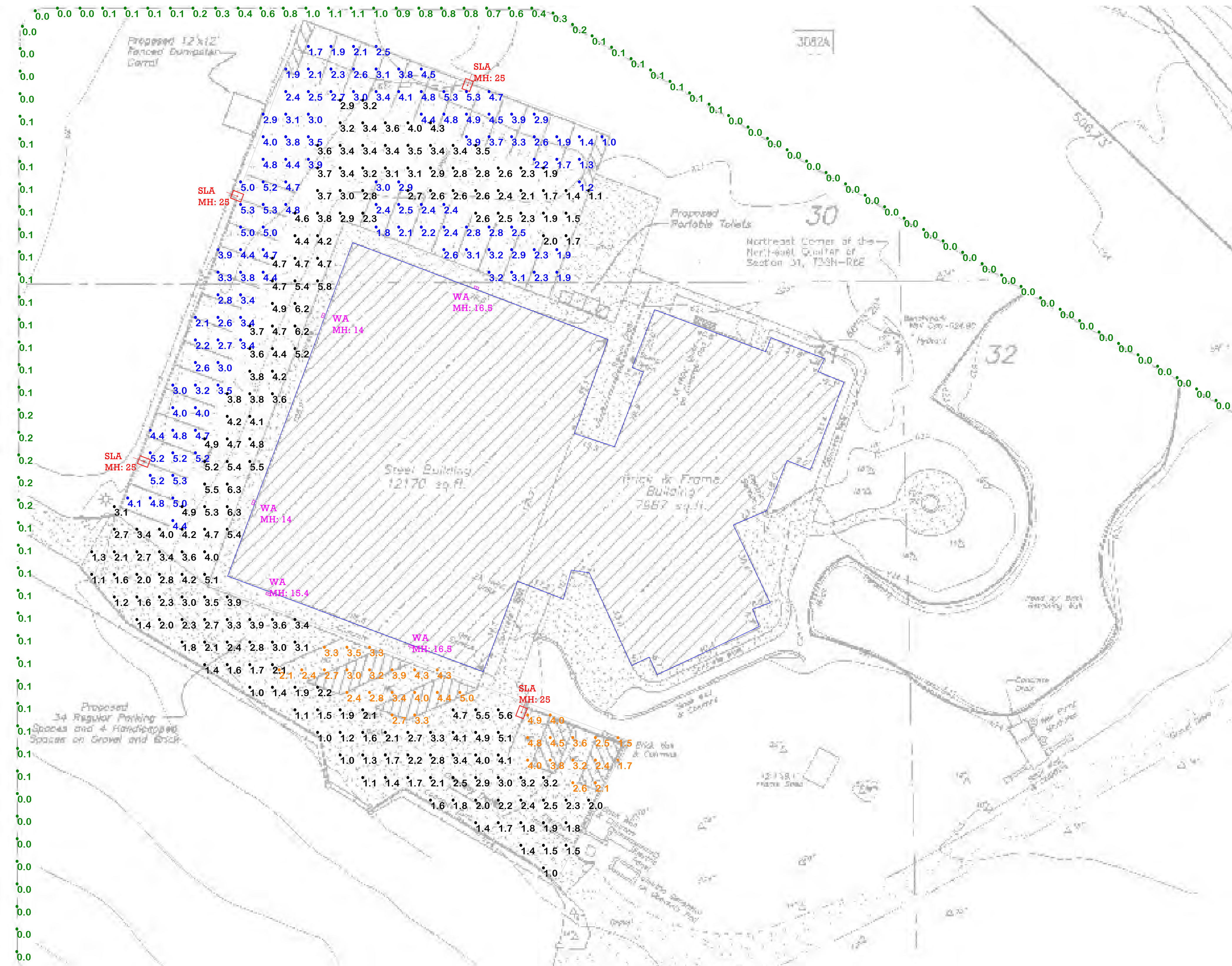
11078 South Bridge Street
 Yorkville, Illinois 60560
 Telephone (630)553-1560

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

Plot revised 12/07/18 per Client comments dated 12/06/18 regarding parking spaces, building area, and portable toilet and dumpster curtilage locations.

JOB NO.	18197
JOB NAME	BRIGHTERDAZE FARM
DWG FILE	18197
REVISION	DATE

December 7, 2018



Luminaire Data						
Label	Qty	Symbol	Manufacture	Description	Lum. Lumens	Lum. Watts
SLA	4	☐	PHILIPS GARDCO	ECF-S-64L-1A-NW-G2-3	23936	0.850 205.9
WA	5	☐	PHILIPS STONCO	LPW32-7	6910	0.850 70.5

- NOTES:
1. The calculated results of this lighting simulation represent a prediction of system performance and are not guaranteed.
 2. Actual measured results may vary from the anticipated performance and are subject to means and conditions which are beyond the control of DB Lighting Consultation.
 3. Illuminance values shown (in foot-candles) are horizontal at grade level based on Mounting Height marked MH=??
 4. Calculation points are on an 8' x 8' spacing

Calculation Values							
Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min
Handicap Spaces (Orange)	Illuminance	Fc	3.32	5.0	1.5	2.21	3.33
Parking Spaces (Blue)	Illuminance	Fc	3.40	5.3	1.0	3.40	5.30
Property Line (Green)	Illuminance	Fc	0.17	1.1	0.0	N.A.	N.A.
Traffic Lanes (Black)	Illuminance	Fc	3.07	6.3	1.0	3.07	6.30
All Hardscape	Illuminance	Fc	3.24	6	1	3.24	6.00

Scale: 1 inch= 20 Ft.
 DB Lighting Consultation (DBLC) assumes no responsibility for any errors in the IES files, background images, or other information provided to DBLC to be used in these calculations. Actual or measured results may vary due to manufacturer tolerances, component malfunctions, obstructions, varying surface reflectance's and other field conditions. The owner assumes all responsibility for compliance with federal, state and/or local codes and regulations.

Prepared For:
 Brittany Willer
 Prepared by:
 DB Lighting Consultation
 407-924-4113



Chicago Lightworks
 505 Warrenville Rd.
 Suite 101
 Lisle, IL 60532

Rev	Date	Comments

Project Name:
BrighterDaze Farms Parking
 Project ID Number: 2019-151
 Date: 03/14/2019

1 (o) Labeling, including warning labels, may be modified by
2 rule by the Department of Agriculture.

3 Section 55-25. Local ordinances. Unless otherwise provided
4 under this Act or otherwise in accordance with State law:

5 (1) A unit of local government, including a home rule
6 unit or any non-home rule county within the unincorporated
7 territory of the county, may enact reasonable zoning
8 ordinances or resolutions, not in conflict with this Act or
9 rules adopted pursuant to this Act, regulating cannabis
10 business establishments. No unit of local government,
11 including a home rule unit or any non-home rule county
12 within the unincorporated territory of the county, may
13 prohibit home cultivation or unreasonably prohibit use of
14 cannabis authorized by this Act.

15 (2) A unit of local government, including a home rule
16 unit or any non-home rule county within the unincorporated
17 territory of the county, may enact ordinances or rules not
18 in conflict with this Act or with rules adopted pursuant to
19 this Act governing the time, place, manner, and number of
20 cannabis business establishment operations, including
21 minimum distance limitations between cannabis business
22 establishments and locations it deems sensitive, including
23 colleges and universities, through the use of conditional
24 use permits. A unit of local government, including a home
25 rule unit, may establish civil penalties for violation of

1 an ordinance or rules governing the time, place, and manner
2 of operation of a cannabis business establishment or a
3 conditional use permit in the jurisdiction of the unit of
4 local government. No unit of local government, including a
5 home rule unit or non-home rule county within an
6 unincorporated territory of the county, may unreasonably
7 restrict the time, place, manner, and number of cannabis
8 business establishment operations authorized by this Act.

9 (3) A unit of local government, including a home rule
10 unit, or any non-home rule county within the unincorporated
11 territory of the county may regulate the on-premises
12 consumption of cannabis at or in a cannabis business
13 establishment within its jurisdiction in a manner
14 consistent with this Act. A cannabis business
15 establishment or other entity authorized or permitted by a
16 unit of local government to allow on-site consumption shall
17 not be deemed a public place within the meaning of the
18 Smoke Free Illinois Act.

19 (4) A unit of local government, including a home rule
20 unit or any non-home rule county within the unincorporated
21 territory of the county, may not regulate the activities
22 described in paragraph (1), (2), or (3) in a manner more
23 restrictive than the regulation of those activities by the
24 State under this Act. This Section is a limitation under
25 subsection (i) of Section 6 of Article VII of the Illinois
26 Constitution on the concurrent exercise by home rule units

1 of powers and functions exercised by the State.

2 (5) A unit of local government, including a home rule
3 unit or any non-home rule county within the unincorporated
4 territory of the county, may enact ordinances to prohibit
5 or significantly limit a cannabis business establishment's
6 location.

7 Section 55-28. Restricted cannabis zones.

8 (a) As used in this Section:

9 "Legal voter" means a person:

10 (1) who is duly registered to vote in a municipality
11 with a population of over 500,000;

12 (2) whose name appears on a poll list compiled by the
13 city board of election commissioners since the last
14 preceding election, regardless of whether the election was
15 a primary, general, or special election;

16 (3) who, at the relevant time, is a resident of the
17 address at which he or she is registered to vote; and

18 (4) whose address, at the relevant time, is located in
19 the precinct where such person seeks to circulate or sign a
20 petition under this Section.

21 As used in the definition of "legal voter", "relevant time"
22 means any time that:

23 (i) a notice of intent is filed, pursuant to subsection
24 (c) of this Section, to initiate the petition process under
25 this Section;

1 board of a business or non-profit organization that pled
2 guilty, was convicted, fined, or had a registration or
3 license suspended or revoked;

4 (6) proposed operating bylaws that include procedures
5 for the oversight of the cultivation center, including the
6 development and implementation of a plant monitoring
7 system, accurate recordkeeping, staffing plan, and
8 security plan approved by the Department of State Police
9 that are in accordance with the rules issued by the
10 Department of Agriculture under this Act. A physical
11 inventory shall be performed of all plants and cannabis on
12 a weekly basis by the cultivation center;

13 (7) verification from the Department of State Police
14 that all background checks of the prospective principal
15 officers, board members, and agents of the cannabis
16 business establishment have been conducted;

17 (8) a copy of the current local zoning ordinance or
18 permit and verification that the proposed cultivation
19 center is in compliance with the local zoning rules and
20 distance limitations established by the local
21 jurisdiction;

22 (9) proposed employment practices, in which the
23 applicant must demonstrate a plan of action to inform,
24 hire, and educate minorities, women, veterans, and persons
25 with disabilities, engage in fair labor practices, and
26 provide worker protections;

1 site as prescribed in subsection (b) of this Section shall
2 submit an application on forms provided by the Department. The
3 application must meet or include the following qualifications:

4 (1) a payment of a nonrefundable application fee of
5 \$30,000;

6 (2) proof of registration as a medical cannabis
7 dispensing organization that is in good standing;

8 (3) submission of the application by the same person or
9 entity that holds the medical cannabis dispensing
10 organization registration;

11 (4) the legal name of the medical cannabis dispensing
12 organization;

13 (5) the physical address of the medical cannabis
14 dispensing organization and the proposed physical address
15 of the secondary site;

16 (6) a copy of the current **local zoning ordinance**
17 Sections relevant to **dispensary operations** and
18 documentation of the approval, the conditional approval or
19 the status of a request for zoning approval from the local
20 zoning office that the proposed dispensary location is in
21 compliance with the local zoning rules;

22 (7) a plot plan of the dispensary drawn to scale. The
23 applicant shall submit general specifications of the
24 building exterior and interior layout;

25 (8) a statement that the dispensing organization
26 agrees to respond to the Department's supplemental

1 suspended or revoked or (ii) managed or served on the board
2 of a business or non-profit organization that pled guilty,
3 was convicted, fined, or had a registration or license
4 suspended or revoked;

5 (6) proposed operating bylaws that include procedures
6 for the oversight of the craft grower, including the
7 development and implementation of a plant monitoring
8 system, accurate recordkeeping, staffing plan, and
9 security plan approved by the Department of State Police
10 that are in accordance with the rules issued by the
11 Department of Agriculture under this Act; a physical
12 inventory shall be performed of all plants and on a weekly
13 basis by the craft grower;

14 (7) verification from the Department of State Police
15 that all background checks of the prospective principal
16 officers, board members, and agents of the cannabis
17 business establishment have been conducted;

18 (8) a copy of the current **local zoning ordinance** or
19 permit and verification that the **proposed craft grower** is
20 in compliance with the local zoning rules and distance
21 limitations established by the local jurisdiction;

22 (9) proposed employment practices, in which the
23 applicant must demonstrate a plan of action to inform,
24 hire, and educate minorities, women, veterans, and persons
25 with disabilities, engage in fair labor practices, and
26 provide worker protections;

1 and implementation of a plant monitoring system, accurate
2 recordkeeping, staffing plan, and security plan approved
3 by the Department of State Police that are in accordance
4 with the rules issued by the Department of Agriculture
5 under this Act; a physical inventory of all cannabis shall
6 be performed on a weekly basis by the infuser;

7 (7) verification from the Department of State Police
8 that all background checks of the prospective principal
9 officers, board members, and agents of the infuser
10 organization have been conducted;

11 (8) a copy of the current local zoning ordinance and
12 verification that the proposed infuser is in compliance
13 with the local zoning rules and distance limitations
14 established by the local jurisdiction;

15 (9) proposed employment practices, in which the
16 applicant must demonstrate a plan of action to inform,
17 hire, and educate minorities, women, veterans, and persons
18 with disabilities, engage in fair labor practices, and
19 provide worker protections;

20 (10) whether an applicant can demonstrate experience
21 in or business practices that promote economic empowerment
22 in Disproportionately Impacted Areas;

23 (11) experience with infusing products with cannabis
24 concentrate;

25 (12) a description of the enclosed, locked facility
26 where cannabis will be infused, packaged, or otherwise

1 plan approved by the Department of State Police that are in
2 accordance with the rules issued by the Department of
3 Agriculture under this Act; a physical inventory shall be
4 performed of all cannabis on a weekly basis by the
5 transporting organization;

6 (7) verification from the Department of State Police
7 that all background checks of the prospective principal
8 officers, board members, and agents of the transporting
9 organization have been conducted;

10 (8) a copy of the current local zoning ordinance or
11 permit and verification that the proposed transporting
12 organization is in compliance with the local zoning rules
13 and distance limitations established by the local
14 jurisdiction, if the transporting organization has a
15 business address;

16 (9) proposed employment practices, in which the
17 applicant must demonstrate a plan of action to inform,
18 hire, and educate minorities, women, veterans, and persons
19 with disabilities, engage in fair labor practices, and
20 provide worker protections;

21 (10) whether an applicant can demonstrate experience
22 in or business practices that promote economic empowerment
23 in Disproportionately Impacted Areas;

24 (11) the number and type of equipment the transporting
25 organization will use to transport cannabis and
26 cannabis-infused products;

1 and employer workplace policies shall be interpreted broadly to
2 protect employee safety.

3 Section 1-10. Definitions. In this Act:

4 "Adult Use Cultivation Center License" means a license
5 issued by the Department of Agriculture that permits a person
6 to act as a cultivation center under this Act and any
7 administrative rule made in furtherance of this Act.

8 "Adult Use Dispensing Organization License" means a
9 license issued by the Department of Financial and Professional
10 Regulation that permits a person to act as a dispensing
11 organization under this Act and any administrative rule made in
12 furtherance of this Act.

13 "Advertise" means to engage in promotional activities
14 including, but not limited to: newspaper, radio, Internet and
15 electronic media, and television advertising; the distribution
16 of fliers and circulars; and the display of window and interior
17 signs.

18 "BLS Region" means a region in Illinois used by the United
19 States Bureau of Labor Statistics to gather and categorize
20 certain employment and wage data. The 17 such regions in
21 Illinois are: Bloomington, Cape Girardeau, Carbondale-Marion,
22 Champaign-Urbana, Chicago-Naperville-Elgin, Danville,
23 Davenport-Moline-Rock Island, Decatur, Kankakee, Peoria,
24 Rockford, St. Louis, Springfield, Northwest Illinois
25 nonmetropolitan area, West Central Illinois nonmetropolitan

1 area, East Central Illinois nonmetropolitan area, and South
2 Illinois nonmetropolitan area.

3 "Cannabis" means marijuana, hashish, and other substances
4 that are identified as including any parts of the plant
5 Cannabis sativa and including derivatives or subspecies, such
6 as indica, of all strains of cannabis, whether growing or not;
7 the seeds thereof, the resin extracted from any part of the
8 plant; and any compound, manufacture, salt, derivative,
9 mixture, or preparation of the plant, its seeds, or resin,
10 including tetrahydrocannabinol (THC) and all other naturally
11 produced cannabinol derivatives, whether produced directly or
12 indirectly by extraction; however, "cannabis" does not include
13 the mature stalks of the plant, fiber produced from the stalks,
14 oil or cake made from the seeds of the plant, any other
15 compound, manufacture, salt, derivative, mixture, or
16 preparation of the mature stalks (except the resin extracted
17 from it), fiber, oil or cake, or the sterilized seed of the
18 plant that is incapable of germination. "Cannabis" does not
19 include industrial hemp as defined and authorized under the
20 Industrial Hemp Act. "Cannabis" also means concentrate and
21 cannabis-infused products.

22 "Cannabis business establishment" means a cultivation
23 center, craft grower, processing organization, dispensing
24 organization, or transporting organization.

25 "Cannabis concentrate" means a product derived from
26 cannabis that is produced by extracting cannabinoids from the

1 plant through the use of propylene glycol, glycerin, butter,
2 olive oil or other typical cooking fats; water, ice, or dry
3 ice; or butane, propane, CO₂, ethanol, or isopropanol. The use
4 of any other solvent is expressly prohibited unless and until
5 it is approved by the Department of Agriculture.

6 "Cannabis container" means a sealed, traceable, container,
7 or package used for the purpose of containment of cannabis or
8 cannabis-infused product during transportation.

9 "Cannabis flower" means marijuana, hashish, and other
10 substances that are identified as including any parts of the
11 plant Cannabis sativa and including derivatives or subspecies,
12 such as indica, of all strains of cannabis; including raw kief,
13 leaves, and buds, but not resin that has been extracted from
14 any part of such plant; nor any compound, manufacture, salt,
15 derivative, mixture, or preparation of such plant, its seeds,
16 or resin.

17 "Cannabis-infused product" means a beverage, food, oil,
18 ointment, tincture, topical formulation, or another product
19 containing cannabis that is not intended to be smoked.

20 "Cannabis plant monitoring system" or "plant monitoring
21 system" means a system that includes, but is not limited to,
22 testing and data collection established and maintained by the
23 cultivation center, craft grower, or processing organization
24 and that is available to the Department of Revenue, the
25 Department of Agriculture, the Department of Financial and
26 Professional Regulation, and the Department of State Police for

1 the purposes of documenting each cannabis plant and monitoring
2 plant development throughout the life cycle of a cannabis plant
3 cultivated for the intended use by a customer from seed
4 planting to final packaging.

5 "Cannabis testing facility" means an entity registered by
6 the Department of Agriculture to test cannabis for potency and
7 contaminants.

8 "Clone" means a plant section from a female cannabis plant
9 not yet rootbound, growing in a water solution or other
10 propagation matrix, that is capable of developing into a new
11 plant.

12 "Community College Cannabis Vocational Training Pilot
13 Program faculty participant" means a person who is 21 years of
14 age or older, licensed by the Department of Agriculture, and is
15 employed or contracted by an Illinois community college to
16 provide student instruction using cannabis plants at an
17 Illinois Community College.

18 "Community College Cannabis Vocational Training Pilot
19 Program faculty participant Agent Identification Card" means a
20 document issued by the Department of Agriculture that
21 identifies a person as Community College Cannabis Vocational
22 Training Pilot Program faculty participant.

23 "Conditional Adult Use Dispensing Organization License"
24 means a license awarded to top-scoring applicants for an Adult
25 Use Dispensing Organization License that reserves the right to
26 an adult use dispensing organization license if the applicant

1 meets certain conditions described in this Act, but does not
2 entitle the recipient to begin purchasing or selling cannabis
3 or cannabis-infused products.

4 "Conditional Adult Use Cultivation Center License" means a
5 license awarded to top-scoring applicants for an Adult Use
6 Cultivation Center License that reserves the right to an Adult
7 Use Cultivation Center License if the applicant meets certain
8 conditions as determined by the Department of Agriculture by
9 rule, but does not entitle the recipient to begin growing,
10 processing, or selling cannabis or cannabis-infused products.

11 "Craft grower" means a facility operated by an organization
12 or business that is licensed by the Department of Agriculture
13 to cultivate, dry, cure, and package cannabis and perform other
14 necessary activities to make cannabis available for sale at a
15 dispensing organization or use at a processing organization. A
16 craft grower may contain up to 5,000 square feet of canopy
17 space on its premises for plants in the flowering state. The
18 Department of Agriculture may authorize an increase or decrease
19 of flowering stage cultivation space in increments of 3,000
20 square feet by rule based on market need, craft grower
21 capacity, and the licensee's history of compliance or
22 noncompliance, with a maximum space of 14,000 square feet for
23 cultivating plants in the flowering stage, which must be
24 cultivated in all stages of growth in an enclosed and secure
25 area. A craft grower may share premises with a processing
26 organization or a dispensing organization, or both, provided

1 each licensee stores currency and cannabis or cannabis-infused
2 products in a separate secured vault to which the other
3 licensee does not have access or all licensees sharing a vault
4 share more than 50% of the same ownership.

5 "Craft grower agent" means a principal officer, board
6 member, employee, or other agent of a craft grower who is 21
7 years of age or older.

8 "Craft Grower Agent Identification Card" means a document
9 issued by the Department of Agriculture that identifies a
10 person as a craft grower agent.

11 "Cultivation center" means a facility operated by an
12 organization or business that is licensed by the Department of
13 Agriculture to cultivate, process, transport (unless otherwise
14 limited by this Act), and perform other necessary activities to
15 provide cannabis and cannabis-infused products to cannabis
16 business establishments.

17 "Cultivation center agent" means a principal officer,
18 board member, employee, or other agent of a cultivation center
19 who is 21 years of age or older.

20 "Cultivation Center Agent Identification Card" means a
21 document issued by the Department of Agriculture that
22 identifies a person as a cultivation center agent.

23 "Currency" means currency and coin of the United States.

24 "Dispensary" means a facility operated by a dispensing
25 organization at which activities licensed by this Act may
26 occur.

1 "Dispensing organization" means a facility operated by an
2 organization or business that is licensed by the Department of
3 Financial and Professional Regulation to acquire cannabis from
4 a cultivation center, craft grower, processing organization,
5 or another dispensary for the purpose of selling or dispensing
6 cannabis, cannabis-infused products, cannabis seeds,
7 paraphernalia, or related supplies under this Act to purchasers
8 or to qualified registered medical cannabis patients and
9 caregivers. As used in this Act, dispensary organization shall
10 include a registered medical cannabis organization as defined
11 in the Compassionate Use of Medical Cannabis Pilot Program Act
12 or its successor Act that has obtained an Early Approval Adult
13 Use Dispensing Organization License.

14 "Dispensing organization agent" means a principal officer,
15 employee, or agent of a dispensing organization who is 21 years
16 of age or older.

17 "Dispensing organization agent identification card" means
18 a document issued by the Department of Financial and
19 Professional Regulation that identifies a person as a
20 dispensing organization agent.

21 "Disproportionately Impacted Area" means a census tract or
22 comparable geographic area that satisfies the following
23 criteria as determined by the Department of Commerce and
24 Economic Opportunity, that:

25 (1) meets at least one of the following criteria:

26 (A) the area has a poverty rate of at least 20%

1 according to the latest federal decennial census; or

2 (B) 75% or more of the children in the area
3 participate in the federal free lunch program
4 according to reported statistics from the State Board
5 of Education; or

6 (C) at least 20% of the households in the area
7 receive assistance under the Supplemental Nutrition
8 Assistance Program; or

9 (D) the area has an average unemployment rate, as
10 determined by the Illinois Department of Employment
11 Security, that is more than 120% of the national
12 unemployment average, as determined by the United
13 States Department of Labor, for a period of at least 2
14 consecutive calendar years preceding the date of the
15 application; and

16 (2) has high rates of arrest, conviction, and
17 incarceration related to the sale, possession, use,
18 cultivation, manufacture, or transport of cannabis.

19 "Early Approval Adult Use Cultivation Center License"
20 means a license that permits a medical cannabis cultivation
21 center licensed under the Compassionate Use of Medical Cannabis
22 Pilot Program Act as of the effective date of this Act to begin
23 cultivating, infusing, packaging, transporting (unless
24 otherwise provided in this Act), and selling cannabis to
25 cannabis business establishments for resale to purchasers as
26 permitted by this Act as of January 1, 2020.

1 "Early Approval Adult Use Dispensing Organization License"
2 means a license that permits a medical cannabis dispensing
3 organization licensed under the Compassionate Use of Medical
4 Cannabis Pilot Program Act as of the effective date of this Act
5 to begin selling cannabis to purchasers as permitted by this
6 Act as of January 1, 2020.

7 "Early Approval Adult Use Dispensing Organization at a
8 secondary site" means a license that permits a medical cannabis
9 dispensing organization licensed under the Compassionate Use
10 of Medical Cannabis Pilot Program Act as of the effective date
11 of this Act to begin selling cannabis to purchasers as
12 permitted by this Act on January 1, 2020 at a different
13 dispensary location from its existing registered medical
14 dispensary location.

15 "Enclosed, locked facility" means a room, greenhouse,
16 building, or other enclosed area equipped with locks or other
17 security devices that permit access only by cannabis business
18 establishment agents working for the licensed cannabis
19 business establishment or acting pursuant to this Act to
20 cultivate, process, store, or distribute cannabis.

21 "Enclosed, locked space" means a closet, room, greenhouse,
22 building or other enclosed area equipped with locks or other
23 security devices that permit access only by authorized
24 individuals under this Act. "Enclosed, locked space" may
25 include:

26 (1) a space within a residential building that (i) is

1 the primary residence of the individual cultivating 5 or
2 fewer cannabis plants that are more than 5 inches tall and
3 (ii) includes sleeping quarters and indoor plumbing. The
4 space must only be accessible by a key or code that is
5 different from any key or code that can be used to access
6 the residential building from the exterior; or

7 (2) a structure, such as a shed or greenhouse, that
8 lies on the same plot of land as a residential building
9 that (i) includes sleeping quarters and indoor plumbing and
10 (ii) is used as a primary residence by the person
11 cultivating 5 or fewer cannabis plants that are more than 5
12 inches tall, such as a shed or greenhouse. The structure
13 must remain locked when it is unoccupied by people.

14 "Financial institution" has the same meaning as "financial
15 organization" as defined in Section 1501 of the Illinois Income
16 Tax Act, and also includes the holding companies, subsidiaries,
17 and affiliates of such financial organizations.

18 "Flowering stage" means the stage of cultivation where and
19 when a cannabis plant is cultivated to produce plant material
20 for cannabis products. This includes mature plants as follows:

21 (1) if greater than 2 stigmas are visible at each
22 internode of the plant; or

23 (2) if the cannabis plant is in an area that has been
24 intentionally deprived of light for a period of time
25 intended to produce flower buds and induce maturation, from
26 the moment the light deprivation began through the

1 remainder of the marijuana plant growth cycle.

2 "Individual" means a natural person.

3 "Infuser organization" or "infuser" means a facility
4 operated by an organization or business that is licensed by the
5 Department of Agriculture to directly incorporate cannabis or
6 cannabis concentrate into a product formulation to produce a
7 cannabis-infused product.

8 "Kief" means the resinous crystal-like trichomes that are
9 found on cannabis and that are accumulated, resulting in a
10 higher concentration of cannabinoids, untreated by heat or
11 pressure, or extracted using a solvent.

12 "Labor peace agreement" means an agreement between a
13 cannabis business establishment and any labor organization
14 recognized under the National Labor Relations Act, referred to
15 in this Act as a bona fide labor organization, that prohibits
16 labor organizations and members from engaging in picketing,
17 work stoppages, boycotts, and any other economic interference
18 with the cannabis business establishment. This agreement means
19 that the cannabis business establishment has agreed not to
20 disrupt efforts by the bona fide labor organization to
21 communicate with, and attempt to organize and represent, the
22 cannabis business establishment's employees. The agreement
23 shall provide a bona fide labor organization access at
24 reasonable times to areas in which the cannabis business
25 establishment's employees work, for the purpose of meeting with
26 employees to discuss their right to representation, employment

1 rights under State law, and terms and conditions of employment.
2 This type of agreement shall not mandate a particular method of
3 election or certification of the bona fide labor organization.

4 "Limited access area" means a building, room, or other area
5 under the control of a cannabis dispensing organization
6 licensed under this Act and upon the licensed premises with
7 access limited to purchasers, dispensing organization owners
8 and other dispensing organization agents, or service
9 professionals conducting business with the dispensing
10 organization.

11 "Member of an impacted family" means an individual who has
12 a parent, legal guardian, child, spouse, or dependent, or was a
13 dependent of an individual who, prior to the effective date of
14 this Act, was arrested for, convicted of, or adjudicated
15 delinquent for any offense that is eligible for expungement
16 under this Act.

17 "Mother plant" means a cannabis plant that is cultivated or
18 maintained for the purpose of generating clones, and that will
19 not be used to produce plant material for sale to an infuser or
20 dispensing organization.

21 "Ordinary public view" means within the sight line with
22 normal visual range of a person, unassisted by visual aids,
23 from a public street or sidewalk adjacent to real property, or
24 from within an adjacent property.

25 "Ownership and control" means ownership of at least 51% of
26 the business, including corporate stock if a corporation, and

1 control over the management and day-to-day operations of the
2 business and an interest in the capital, assets, and profits
3 and losses of the business proportionate to percentage of
4 ownership.

5 "Person" means a natural individual, firm, partnership,
6 association, joint stock company, joint venture, public or
7 private corporation, limited liability company, or a receiver,
8 executor, trustee, guardian, or other representative appointed
9 by order of any court.

10 "Possession limit" means the amount of cannabis under
11 Section 10-10 that may be possessed at any one time by a person
12 21 years of age or older or who is a registered qualifying
13 medical cannabis patient or caregiver under the Compassionate
14 Use of Medical Cannabis Pilot Program Act.

15 "Principal officer" includes a cannabis business
16 establishment applicant or licensed cannabis business
17 establishment's board member, owner with more than 1% interest
18 of the total cannabis business establishment or more than 5%
19 interest of the total cannabis business establishment of a
20 publicly traded company, president, vice president, secretary,
21 treasurer, partner, officer, member, manager member, or person
22 with a profit sharing, financial interest, or revenue sharing
23 arrangement. The definition includes a person with authority to
24 control the cannabis business establishment, a person who
25 assumes responsibility for the debts of the cannabis business
26 establishment and who is further defined in this Act.

1 "Primary residence" means a dwelling where a person usually
2 stays or stays more often than other locations. It may be
3 determined by, without limitation, presence, tax filings;
4 address on an Illinois driver's license, an Illinois
5 Identification Card, or an Illinois Person with a Disability
6 Identification Card; or voter registration. No person may have
7 more than one primary residence.

8 "Processing organization" or "processor" means a facility
9 operated by an organization or business that is licensed by the
10 Department of Agriculture to either extract constituent
11 chemicals or compounds to produce cannabis concentrate or
12 incorporate cannabis or cannabis concentrate into a product
13 formulation to produce a cannabis product.

14 "Processing organization agent" means a principal officer,
15 board member, employee, or agent of a processing organization.

16 "Processing organization agent identification card" means
17 a document issued by the Department of Agriculture that
18 identifies a person as a processing organization agent.

19 "Purchaser" means a person 21 years of age or older who
20 acquires cannabis for a valuable consideration. "Purchaser"
21 does not include a cardholder under the Compassionate Use of
22 Medical Cannabis Pilot Program Act.

23 "Qualified Social Equity Applicant" means a Social Equity
24 Applicant who has been awarded a conditional license under this
25 Act to operate a cannabis business establishment.

26 "Resided" means an individual's primary residence was

1 located within the relevant geographic area as established by 2
2 of the following:

3 (1) a signed lease agreement that includes the
4 applicant's name;

5 (2) a property deed that includes the applicant's name;

6 (3) school records;

7 (4) a voter registration card;

8 (5) an Illinois driver's license, an Illinois
9 Identification Card, or an Illinois Person with a
10 Disability Identification Card;

11 (6) a paycheck stub;

12 (7) a utility bill; or

13 (8) any other proof of residency or other information
14 necessary to establish residence as provided by rule.

15 "Smoking" means the inhalation of smoke caused by the
16 combustion of cannabis.

17 "Social Equity Applicant" means an applicant that is an
18 Illinois resident that meets one of the following criteria:

19 (1) an applicant with at least 51% ownership and
20 control by one or more individuals who have resided for at
21 least 5 of the preceding 10 years in a Disproportionately
22 Impacted Area;

23 (2) an applicant with at least 51% ownership and
24 control by one or more individuals who:

25 (i) have been arrested for, convicted of, or
26 adjudicated delinquent for any offense that is

1 eligible for expungement under this Act; or

2 (ii) is a member of an impacted family;

3 (3) for applicants with a minimum of 10 full-time
4 employees, an applicant with at least 51% of current
5 employees who:

6 (i) currently reside in a Disproportionately
7 Impacted Area; or

8 (ii) have been arrested for, convicted of, or
9 adjudicated delinquent for any offense that is
10 eligible for expungement under this Act or member of an
11 impacted family.

12 Nothing in this Act shall be construed to preempt or limit
13 the duties of any employer under the Job Opportunities for
14 Qualified Applicants Act. Nothing in this Act shall permit an
15 employer to require an employee to disclose sealed or expunged
16 offenses, unless otherwise required by law.

17 "Tincture" means a cannabis-infused solution, typically
18 comprised of alcohol, glycerin, or vegetable oils, derived
19 either directly from the cannabis plant or from a processed
20 cannabis extract. A tincture is not an alcoholic liquor as
21 defined in the Liquor Control Act of 1934. A tincture shall
22 include a calibrated dropper or other similar device capable of
23 accurately measuring servings.

24 "Transporting organization" or "transporter" means an
25 organization or business that is licensed by the Department of
26 Agriculture to transport cannabis on behalf of a cannabis

1 business establishment or a community college licensed under
2 the Community College Cannabis Vocational Training Pilot
3 Program.

4 "Transporting organization agent" means a principal
5 officer, board member, employee, or agent of a transporting
6 organization.

7 "Transporting organization agent identification card"
8 means a document issued by the Department of Agriculture that
9 identifies a person as a transporting organization agent.

10 "Unit of local government" means any county, city, village,
11 or incorporated town.

12 "Vegetative stage" means the stage of cultivation in which
13 a cannabis plant is propagated to produce additional cannabis
14 plants or reach a sufficient size for production. This includes
15 seedlings, clones, mothers, and other immature cannabis plants
16 as follows:

17 (1) if the cannabis plant is in an area that has not
18 been intentionally deprived of light for a period of time
19 intended to produce flower buds and induce maturation, it
20 has no more than 2 stigmas visible at each internode of the
21 cannabis plant; or

22 (2) any cannabis plant that is cultivated solely for
23 the purpose of propagating clones and is never used to
24 produce cannabis.

25

ARTICLE 5.

Amended by Ordinance 2017-28

State of Illinois
County of Kendall

Petition #14-17

ORDINANCE # 2014-28

AMENDMENT TO SECTIONS 3.02 AND 10.01.C OF THE KENDALL COUNTY ZONING ORDINANCE TO TEMPORARILY ALLOW MEDICAL CANNABIS CULTIVATION CENTERS- TEMPORARY

WHEREAS, the Illinois General Assembly enacted the Compassionate Use of Medical Cannabis Pilot Program Act, P.A. 98-122 (eff. Jan. 1, 2014), 410 ILCS 130/1 et seq. ("Act"), which allows for and regulates the cultivation, sale, distribution, and use of cannabis for medicinal purposes, and is repealed on January 1, 2018; and

WHEREAS, section 140 of the Act grants a unit of local government the authority to enact reasonable zoning ordinances or resolutions regulating registered medical cannabis cultivation centers; and,

WHEREAS, pursuant to the authority provided in 410 ILCS 130/140, Kendall County, a unit of local government, wishes to amend Sections 3.02 and 10.01.C of the Kendall County Zoning Ordinance ("Zoning Ordinance") to regulate medical cannabis cultivation centers in the unincorporated areas of Kendall County, to protect the health, safety, and welfare of the community; ; and

WHEREAS, the Kendall County Board automatically repeals this amendment to Zoning Ordinance concurrent with the repeal of the Act, on January 1, 2018; and

WHEREAS, all administrative procedures required prior to passing amendments to the Kendall County Zoning Ordinance have been followed, including holding a public hearing, before the Kendall County Zoning Board of Appeals, which occurred on July 28, 2014; and

NOW, THEREFORE, BE IT ORDAINED, the Kendall County Board hereby amends Sections 3.02- "Definitions" & 10.01.C "M-1 & M-2 Manufacturing District- Special Uses" of the Kendall County Zoning Ordinance as provided:

I. **RECITALS.** The recitals set forth above are incorporated as is fully set forth herein.

II. THE FOLLOWING TERMS ARE ADDED TO SECTION 3.02 "DEFINITIONS" OF ZONING ORDINANCE:

MEDICAL CANNABIS CULTIVATION CENTER or CULTIVATION CENTER. A facility operated by an organization or business that is registered by the Illinois Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis. This definition is intended to remain

consistent with the definition provided in 410 ILCS 130/10, as amended. In the event of a conflict between this definition and the statute, the statutory definition shall govern.

ENCLOSED, LOCKED FACILITY. A room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access only by a Cultivation Center's agents or a Dispensing Organization's agent working for the registered Cultivation Center or the registered Dispensing Organization to cultivate, store, and distribute cannabis for registered qualifying patients. This definition is intended to remain consistent with the definition provided in 410 ILCS 130/10, as amended. In the event of a conflict between this definition and the statute, the statutory definition shall govern.

MEDICAL CANNABIS DISPENSING ORGANIZATION or DISPENSING ORGANIZATION or DISPENSARY. A facility operated by an organization or business that is registered by the Illinois Department of Financial and Professional Regulation to acquire medical cannabis from a registered Cultivation Center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients. This definition is intended to remain consistent with the definition provided in 410 ILCS 130/10, as amended. In the event of a conflict between this definition and the statute, the statutory definition shall govern.

MEDICAL CANNABIS INFUSED PRODUCT. Food, oils, ointments, or other products containing usable cannabis that are not smoked. This definition is intended to remain consistent with the definition provided in 410 ILCS 130/10, as amended. In the event of a conflict between this definition and the statute, the statutory definition shall govern.

III. THE FOLLOWING LANGUAGE IS ADDED TO SECTION 10.01.C "MANUFACTURING DISTRICT- SPECIAL USE (M-1 & M-2)" OF ZONING ORDINANCE:

10.01.C Medical Cannabis Cultivation Centers- Temporary (will be automatically repealed on January 1, 2018)

- a. **Definitions:** All terms not defined in section 3.02 of this Zoning Ordinance shall carry the meaning set forth in the Compassionate Use of Medical Cannabis Pilot Program Act ("Act") (410 ILCS 130/1 et seq.), as amended
- b. **Preliminary Requirements.** All Medical Cannabis Cultivation Center special use permit applicants shall comply with the following requirements before applying for a special use permit and shall maintain compliance at all times thereafter.
 1. *State laws.* Applicants must comply with the Compassionate Use of Medical Cannabis Pilot Program Act ("Act") (410 ILCS 130/1 et seq.) and all rules and regulations adopted in accordance thereto including the following sections of the Illinois Administrative Code: 8 Ill. Admin. Code 1000, 68 Ill. Admin. Code 1290, 77 Ill. Admin. Code 946 and 86 Ill. Admin. Code 130, and as amended.

2. *Registration.* Applicants must be registered with the Illinois Department of Agriculture
 3. *Location.* A Cultivation Center must be located more than 2,500 feet from the property line of any pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility, or an area zoned for residential use, as required pursuant to 410 ILCS 130/105.
 4. *Security Measures.* Applicants must establish and maintain all required security measures, in accordance with the Act and all applicable regulations, to deter and prevent the theft of cannabis and unauthorized entrance into areas containing cannabis.
 5. *Code Compliance.* Cultivation Centers must meet all federal, State and local building, zoning and fire codes and all local ordinance requirements.
 6. *Other Requirements:* Applicants, their agents and employees must comply with all other requirements identified in 410 ILCS 130/105, as amended.
- c. **Required Permit Information.** Upon applying for a Cultivation Center special use permit, the applicant must provide the following information:
1. A Security Plan that has been reviewed and approved by the Illinois State Police and is compliant with 410 ILCS 130/105, as amended, in addition to the rules set forth by the Illinois Department of Agriculture at 8 Ill. Admin. Code 1000 et seq.
 2. Evidence demonstrating the location of the enclosed, secure area or loading/unloading dock is or will be out of public sight for the loading/unloading of medical cannabis in the transport motor vehicle.
 3. A scale drawing of the front, rear, or side of the building or structure showing dimensions and architectural details (Building Elevations); and
 4. A location map demonstrating the property meets location conditions identified in 410 ILCS 130/105, as amended, and
 5. Proof that applicant is registered with the Illinois Department of Agriculture.
- d. **Operational and Facility Requirements:**
1. *Enclosed, Locked Facility.* All cultivation of cannabis for distribution to a registered Dispensing Organization shall take place in an Enclosed, Locked Facility.
 2. *Storage.* No outdoor storage of any kind will be permitted at Cultivation Centers.
 3. *Edibles.* Any area within the Cultivation Center where cannabis will be manufactured into an edible form shall comply with the Illinois Food, Drug and Cosmetic Act, 410 ILCS 620 et. seq., the Illinois Sanitary Food Preparation Act, 410 ILCS 650 et. seq., the Illinois Food Handling Regulation Enforcement Act, 410 ILCS 650 et. seq., and section 80 of the Act, 410 ILCS 130/80.
 4. *Waste.* Cannabis waste shall be stored, secured, locked and managed in accordance with State regulations for the disposal of medical cannabis with

- the requirements set forth in 410 ILCS 130/180 and 8 Ill. Admin. Code. 1000.460, as amended respectively.
5. *Signs.* All signage shall comply with Section 12 of the Kendall County Zoning Ordinance. Signs shall not contain cannabis imagery such as cannabis leaves, plants, smoke, paraphernalia, or cartoonish imagery oriented towards youth or language referencing cannabis. Electronic message boards and temporary signs are not permitted in connection with a Cultivation Center.
 6. *Other Products.* It shall be prohibited to cultivate, manufacture, process or package any product, other than medical cannabis and cannabis infused products at a Cultivation Center.
 7. *Fence.* All Cultivation Centers must be surrounded by a fence a minimum of eight (8) feet tall with barbed wire on top.
 8. *Registration.* The owner or operator of a Cultivation Center must submit annual documentation of registration with the Illinois Department of Agriculture within thirty days of becoming registered or renewing its registration.

e. Legal Protections.

1. *Limitation of Liability.* Kendall County Shall not be liable to the permitted Cultivation Center, the Cultivation Center's owners, employees, board members, producer backers, vendors, visitors, heirs, assigns, agents, family members or guests for any damage, injury, accident, loss, compensation or claim, based on, arising out of, or resulting from the permitted, Cultivation Center's participation in the Compassionate Use of Medical Cannabis Pilot Program, including, but not limited to, the following: arrest, seizure of persons or property, prosecution pursuant to State or federal laws by State or federal prosecutors, any fire, robbery, theft, mysterious disappearance or any other casualty; or the action of any other permittees, registrants, or persons. This Limitation of Liability provision shall survive expiration or the early termination of the permit.
2. *Indemnification.* The permitted Cultivation Center, its owners, employees, board members, producer backers, vendors, visitors, heirs, assigns, agents, family members or guests shall hold harmless and indemnify Kendall County, its officials, officers and employees, including past, present, and future board members, elected officials and agents against any civil action or criminal penalty commenced against Kendall County and/or its officials, officers and employees, including past, present, and future board members, elected officials and agents, through counsel of their own choosing, based upon illness or death as a result of the possession, cultivation, transportation or other use of medical cannabis ingested in any way authorized under the provision of the Act. Pursuant to Illinois law 55 ILCS 5/3-9005, any attorney representing Kendall County, shall be approved by the Kendall County State's Attorney and shall be appointed a Special Assistant State's Attorney.
3. *Violations of the Law.* The Act and any mandated zoning does not authorize any permittee to violate federal or state laws.

- f. **Revocation:** Any special use permit granted under this Zoning Ordinance may be revoked for failure to comply with the terms of this Zoning Ordinance. The decision to revoke a special use permit is subject to the review procedure identified in section 13 of the Zoning Ordinance.

IV. **REPEAL.** This amendment to the Zoning Ordinance is automatically repealed, in its entirety, on January 1, 2018.

IN WITNESS OF, this amendment to the Zoning Ordinance has been enacted by a majority vote of the Kendall County Board this 16th day of September, 2014 and is automatically repealed on January 1, 2018.

Attest:


Kendall County Clerk
Debbie Gillette


Kendall County Board Chairman
John Shaw

Amended by Ordinance 2017-28

State of Illinois
County of Kendall

Petition #14-25

ORDINANCE # 2014- 31

AMENDMENT TO SECTION 10.01.C OF THE KENDALL COUNTY ZONING ORDINANCE TO TEMPORARILY ALLOW MEDICAL CANNABIS DISPENSING ORGANIZATIONS - TEMPORARY

WHEREAS, the Illinois General Assembly enacted the Compassionate Use of Medical Cannabis Pilot Program Act, P.A. 98-122 (eff. Jan. 1, 2014), 410 ILCS 130/1 et seq. ("Act"), which allows for and regulates the cultivation, sale, distribution, and use of cannabis for medicinal purposes, and is repealed on January 1, 2018; and

WHEREAS, section 140 of the Act grants a unit of local government the authority to enact reasonable zoning ordinances or resolutions regulating registered medical cannabis dispensing organizations; and,

WHEREAS, pursuant to the authority provided in 410 ILCS 130/140, Kendall County, a unit of local government, wishes to amend Section 10.01.C of the Kendall County Zoning Ordinance ("Zoning Ordinance") to regulate medical cannabis dispensing organizations in the unincorporated areas of Kendall County, to protect the health, safety, and welfare of the community; and

WHEREAS, the Kendall County Board automatically repeals this amendment to Zoning Ordinance concurrent with the repeal of the Act, on January 1, 2018; and

WHEREAS, all administrative procedures required prior to passing amendments to the Kendall County Zoning Ordinance have been followed, including holding a public hearing, before the Kendall County Zoning Board of Appeals, which occurred on September 3, 2014; and

NOW, THEREFORE, BE IT ORDAINED, the Kendall County Board hereby amends Section 10.01.C "M-1 & M-2 Manufacturing District- Special Uses" of the Kendall County Zoning Ordinance as provided:

- I. **RECITALS.** The recitals set forth above are incorporated as if fully set forth herein.
- II. **THE FOLLOWING LANGUAGE IS ADDED TO SECTION 10.01.C "MANUFACTURING DISTRICT- SPECIAL USE (M-1 & M-2)" OF ZONING ORDINANCE:**

10.01(C) (11) Medical Cannabis Dispensing Organization- Temporary (will be automatically repealed on January 1, 2018)

- a. **Definitions:** All terms not defined in section 3.02 of this Ordinance shall carry the meaning set forth in the Compassionate Use of Medical Cannabis Pilot Program Act (“Act”) (410 ILCS 130/1 et seq.), as amended
- b. **Preliminary Requirements.** All Medical Cannabis Dispensing Organization special use permit applicants shall comply with the following requirements before applying for a special use permit and shall maintain compliance at all times thereafter.
 - i. *State laws.* Applicants must comply with the Compassionate Use of Medical Cannabis Pilot Program Act (“Act”) (410 ILCS 130/1 et seq.) and all rules and regulations adopted in accordance thereto including the following sections of the Illinois Administrative Code: 8 Ill. Admin. Code 1000, 68 Ill. Admin. Code 1290, 77 Ill. Admin. Code 946 and 86 Ill. Admin. Code 130, and as amended.
 - ii. *Location.* A Dispensing Organization may not be located within 1,000 feet of the property line of any pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility. A registered dispensing organization may not be located in a house, apartment, condominium, or an area zoned for residential use, as required pursuant to 410 ILCS 130/130 and Section 1290.50 of the Department of Financial and Professional Regulation rules.
 - iii. *Images.* No dispensary shall be maintained or operated in a manner that causes, creates or allows the public viewing of medical cannabis, medical cannabis infused products or cannabis paraphernalia or similar products from any sidewalk, public or private right-of-way or any property other than the lot on which the dispensary is located. No portion of the exterior of the dispensary shall utilize or contain any flashing lights, search lights or spot lights of any similar lighting system.
 - iv. *Security Measures.* Applicants must establish and maintain all required security measures, in accordance with the Act and all applicable regulations, to deter and prevent the theft of cannabis and unauthorized entrance into areas containing cannabis.
 - v. *Code Compliance.* Dispensing Organizations must meet all federal, State and local building, zoning and fire codes and all local ordinance requirements.
 - vi. *Other Requirements:* Applicants, their agents and employees must comply with all other requirements identified in 410 ILCS 130/130, as amended.
- c. **Required Permit Information.** Upon applying for a Dispensing Organization special use permit, the applicant must provide the following information:
 - i. A scale drawing of the front, rear, or side of the building or structure showing dimensions and architectural details (Building Elevations); and

- ii. A location map demonstrating the property meets location conditions identified in 410 ILCS 130/130 & Section 1290.50.19, as amended.
- d. **Operational and Facility Requirements:**
- i. *Enclosed, Loading/unloading bay.* All medical cannabis deliveries shall take place in an Enclosed, Locked Facility.
 - ii. *Storage.* No outdoor storage of any kind will be permitted at Dispensing Organizations.
 - iii. *Advertisement/Signs.*
 - 1. All signage shall comply with Section 12 of the Kendall County Zoning Ordinance.
 - 2. Signs shall not contain cannabis imagery such as cannabis leaves, plants, smoke, paraphernalia, or cartoonish imagery oriented towards youth or language referencing cannabis.
 - 3. Electronic message boards and temporary signs are not permitted in connection with a Dispensing Organization.
 - 4. Any additional merchandise packaging provided by a dispensary, such as bags, sacks, totes or boxes, shall be opaque and identify the name of the dispensing organization. .
 - 5. No Advertisements shall be placed or maintained within 1,000 feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park or library, or any game arcade admission to which is not restricted to persons age 21 or older.
 - 6. No advertisement shall be posted on publicly-owned or -operated property.
 - 7. If the dispensing organization sells edible cannabis infused products, it must display a placard that states the following: "Edible cannabis infused products were produced in a kitchen not subject to public health inspections that may also process common food allergens." The placard shall be no smaller than 24" tall by 36" wide, with typed letters no smaller than 2". The placard shall be clearly visible and readable by customers and shall be written in English.
 - iv. *Other Prohibitions.* A dispensing organization shall not:
 - 1. produce or manufacture cannabis;
 - 2. allow consumption of cannabis at the dispensary;
 - 3. sell cannabis unless it is pre-packaged and labeled in accordance with Part, 8 Ill. Adm. Code 1000 and 77 Ill. Adm. Code 946;
 - 4. sell cannabis or cannabis-infused products to consumer unless the consumer presents an active registered qualifying patient or designated caregiver card issued by DPH;
 - 5. enter into an exclusive agreement with any cultivation center;

6. operate drive through windows;
 7. transport cannabis to residences of registered qualifying patients or designated caregivers;
 8. operate if video surveillance equipment is inoperative;
 9. operate if the point of sale equipment is inoperative;
 10. operate if the State's medical cannabis electronic verification system is inoperative; or,
 11. have fewer than two people working at any time while the dispensary is open.
- v. *Landscaping.* All dispensing organizations shall ensure that trees, bushes and other foliage outside of the dispensary premises do not allow for a person or persons to conceal themselves from sight.
 - vi. *Lighting.* All dispensing organizations shall ensure the outside perimeter of the dispensary premises is sufficiently lit to facilitate surveillance.
 - vii. *Hours of operation:* A dispensary may operate between 6 a.m. and 8 p.m. local time.

e. Legal Protections.

- i. *Limitation of Liability.* Kendall County Shall not be liable to the permitted Dispensing Organization, the Dispensing Organization's owners, employees, board members, producer backers, vendors, visitors, heirs, assigns, agents, family members or guests for any damage, injury, accident, loss, compensation or claim, based on, arising out of, or resulting from the permitted, Dispensing Organization's participation in the Compassionate Use of Medical Cannabis Pilot Program, including, but not limited to, the following: arrest, seizure of persons or property, prosecution pursuant to State or federal laws by State or federal prosecutors, any fire, robbery, theft, mysterious disappearance or any other casualty; or the action of any other permittees, registrants, or persons. This Limitation of Liability provision shall survive expiration or the early termination of the permit.
- ii. *Indemnification.* The permitted Dispensing Organization, its owners, employees, board members, producer backers, vendors, visitors, heirs, assigns, agents, family members or guests shall hold harmless and indemnify Kendall County, its officials, officers and employees, including past, present, and future board members, elected officials and agents against any civil action or criminal penalty commenced against Kendall County and/or its officials, officers and employees, including past, present, and future board members, elected officials and agents, through counsel of the County's own choosing, due in whole or in part to the Dispensing Organization's acts or omissions and/or for any illness or death as a result of the possession, cultivation, transportation or other use of medical cannabis ingested in any way authorized under the provision of the Act. Pursuant to Illinois law 55 ILCS 5/3-9005, any attorney representing Kendall County, shall be approved by the Kendall

County State's Attorney and shall be appointed a Special Assistant State's Attorney.

- iii. *Violations of the Law.* The Act and any mandated zoning does not authorize any permittee to violate federal or state laws.

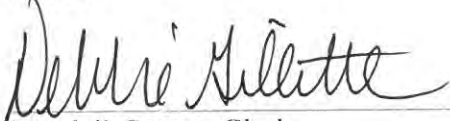
f. **Revocation:**

- i. Any special use permit granted under this ordinance may be revoked for failure to comply with the terms of this ordinance. The decision to revoke a special use permit is subject to the review procedure identified in section 13 of the Kendall County Zoning Ordinance.
- ii. Applicants must be registered with the Illinois Department of Financial and Professional Regulation prior to commencing operations and shall remain registered at all times of operation. The Dispensing Organization must notify Kendall County within ten (10) days of its registration being suspended or revoked. Failure to register or timely notify Kendall County of the suspension or revocation will result in immediate revocation of the special use.

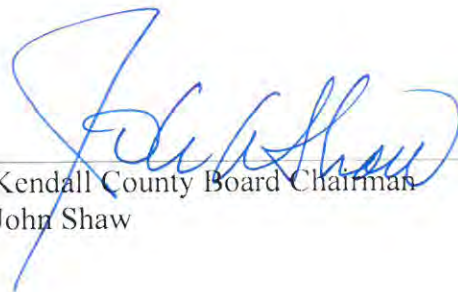
III. **REPEAL.** This amendment to the Zoning Ordinance is automatically repealed, in its entirety, on January 1, 2018.

IN WITNESS OF, this amendment to the Zoning Ordinance has been enacted by a majority vote of the Kendall County Board this 18th day of November, 2014 and is automatically repealed on January 1, 2018.

Attest:



Kendall County Clerk
Debbie Gillette



Kendall County Board Chairman
John Shaw

ORDINANCE # 2017- 28

**TEXT AMENDMENTS TO SECTIONS 3.02, 10.01.C.10 AND 10.01.C.11 OF THE
KENDALL COUNTY ZONING ORDINANCE TO EXTEND THE EXPIRATION
DEADLINE FROM JANUARY 1, 2018 TO JULY 1, 2020 FOR KENDALL
COUNTY'S MEDICAL CANNABIS DISPENSING ORGANIZATIONS AND
MEDICAL CANNABIS CULTIVATION CENTERS RELATED ZONING
REGULATIONS**

WHEREAS, the Illinois General Assembly enacted the Compassionate Use of Medical Cannabis Pilot Program Act, P.A. 98-122 (eff. January 1, 2014), 410 ILCS 130/1 et seq. ("Act"), which allows for and regulates the cultivation, sale, distribution, and use of cannabis for medicinal purposes, and contained a repeal date of January 1, 2018; and,

WHEREAS, the Illinois General Assembly amended the Act by changing the repeal date to July 1, 2020 through P.A. 99-519 (eff. June 30, 2016); and,

WHEREAS, Section 140 of the Act grants a unit of local government the authority to enact reasonable zoning ordinances or resolutions regulating registered medical cannabis cultivation centers and medical cannabis dispensing organizations; and,

WHEREAS, pursuant to the authority provided in 410 ILCS 130/140, Kendall County, a unit of local government, amended Sections 3.02 and 10.01.C of the Kendall County Zoning Ordinance ("Zoning Ordinance") to regulate medical cannabis cultivation centers through Ordinance 2014-28 (adopted September 16, 2014), in the unincorporated areas of Kendall County, to protect the health, safety, and welfare of the community; and

WHEREAS, pursuant to the authority provided in 410 ILCS 130/140, Kendall County, a unit of local government, amended Sections 3.02 and 10.01.C of the "Zoning Ordinance" to regulate medical cannabis dispensing organizations through Ordinance 2014-31 (adopted November 18, 2014), in the unincorporated areas of Kendall County, to protect the health, safety, and welfare of the community; and

WHEREAS, the Kendall County Board originally desired to automatically repeal Ordinance 2014-28 and Ordinance 2014-31 on January 1, 2018; and

WHEREAS, the Kendall County Board now desires to automatically repeal Ordinances 2014-28 and Ordinance 2014-31 concurrently with the repeal of the Act, on July 1, 2020; and

WHEREAS, all administrative procedures required prior to passing amendments to the

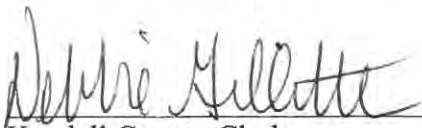
Kendall County Zoning Ordinance have been followed, including holding a public hearing, before the Kendall County Zoning Board of Appeals, which occurred on October 30, 2017; and

NOW, THEREFORE, BE IT ORDAINED, the Kendall County Board hereby amends Sections 3.02- “Definitions”, 10.01.C.10 & 10.01.C.11 “M-1 & M-2 Manufacturing District- Special Uses” of the Kendall County Zoning Ordinance as provided:

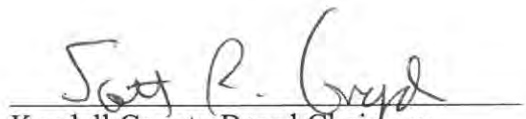
- I. Recitals: The recitals set forth above are incorporated as if fully set forth herein.
- II. Amended Text: All references to a repeal date of January 1, 2018 are deleted and replaced with a repeal date of July 1, 2020.
- III. All references to a repeal date of January 1, 2018 found within Ordinance 2014-28 are deleted and replaced with a repeal date of July 1, 2020.
- IV. All references to a repeal date of January 1, 2018 found within Ordinance 2014-31 are deleted and replaced with a repeal date of July 1, 2020.
- V. All of the provisions and regulations contained within Ordinances 2014-28 and Ordinance 2014-31 shall remain effective until July 1, 2020 at which time both Ordinances shall be automatically repealed.

IN WITNESS OF, this amendment to the Zoning Ordinance has been enacted by a majority vote of the Kendall County Board this 19th day of December, 2017.

Attest:



Kendall County Clerk
Debbie Gillette



Kendall County Board Chairman
Scott R. Gryder

ORDINANCE NUMBER 2019-_____

TEXT AMENDMENT TO SECTIONS 3.02 (DEFINITIONS), 7.01.D (SPECIAL USES IN THE A-1 ZONING DISTRICT), SECTION 9.04.C (SPECIAL USES IN THE B-3, M-1, AND M-2 ZONING DISTRICTS), AND APPENDIX 9-TABLE OF USES OF THE KENDALL COUNTY ZONING ORDINANCE BY ADDING ADULT-USE CANNABIS BUSINESS ESTABLISHMENTS, ADULT-USE CANNABIS CRAFT GROWER, ADULT-USE CANNABIS CULTIVATION CENTER, ADULT-USE CANNABIS DISPENSING ORGANIZATION, ADULT-USE CANNABIS INFUSER ORGANIZATION OR INFUSER, ADULT-USE CANNABIS PROCESSING ORGANIZATION OR PROCESSOR, AND ADULT-USE CANNABIS TRANSPORTING ORGANIZATION OR TRANSPORTER TO THE LIST OF DEFINITIONS AND LIST OF SPECIAL USES IN THE A-1 AGRICULTURAL, B-3 HIGHWAY BUSINESS, M-1 LIMITED MANUFACTURING, AND M-2 HEAVY INDUSTRIAL ZONING DISTRICTS AND RELATED CITATION CORRECTIONS

WHEREAS, the State of Illinois enacted the Cannabis Regulation and Tax Act, which pertains to the possession, use, cultivation, transportation, and dispensing of adult-use cannabis, which became effective June 25, 2019; and

WHEREAS, pursuant to the Cannabis Regulation and Tax Act, Kendall County may enact reasonable zoning ordinances or resolutions not in conflict with the Cannabis Regulation and Tax Act, regulating cannabis business establishments, including rules adopted governing time, place, manner, and number of cannabis business establishments, and minimum distance limitations between cannabis business establishments and locations in the unincorporated portions of Kendall County that Kendall County deems sensitive; and

WHEREAS, Section 13.07 of the Kendall County Zoning Ordinance permits the Kendall County Board to approve text amendments and provides the procedure through which text amendments are granted; and

WHEREAS, on **Month Day**, 2019, the Kendall County **Planning, Building and Zoning Committee** hereinafter be referred to as “Petitioner”, submitted a text amendment to the Kendall County Zoning Ordinance amending Sections 3.02, 7.01.D, 9.04.C, and Appendix 9-Table of Uses by adding adult-use cannabis business establishment, adult-use cannabis craft grower, adult-use cannabis cultivation center, adult-use cannabis dispensing organization, adult-use cannabis infuser organization or infuser, adult-use cannabis processing organization or processor, and adult-use cannabis transporting organization or transporter to list of definitions and list of **special uses in the A-1 Agricultural, B-3 Highway Business, M-1 Limited Manufacturing, and M-2 Heavy Industrial Zoning Districts**, update to Appendix 9-Table of Uses of the Kendall County Zoning Ordinance to reflect these addition, and citation corrections to reflect these additions; and

WHEREAS, following due and proper notice by publication in the **Kendall County Record** on **Month Day** 2019, the Kendall County Zoning Board of Appeals conducted a public hearing on **Month Day**, 2019, at 7:00 p.m., in the County Office Building at 111 W. Fox Street in Yorkville, at which the Petitioner and the Petitioner’s representative presented evidence, testimony, and exhibits in support of the requested text amendment and **XXXX** members of the public testified in favor of the request, **XXXX** members of the public testified in opposition to the request, and **XXXX** members of the public provided general comments on the request; and

WHEREAS, based on the evidence, testimony, and exhibits, the Kendall County Zoning Board of Appeals has recommended **approval/denial** of the text amendment on **Month Day**, 2019; and

WHEREAS, 55 ILCS 5/5-12014 (c) grants certain townships the right to file formal objections to proposed text amendments; and

WHEREAS, the Township of **XXXXXX** did file a formal objection in a manner permissible by State law; and

WHEREAS, 55 ILCS 5/5-12014 (c) requires the approval of at least three-fourths of a County Board to approve a text amendment over the formal objection of certain townships; 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 forwarded to the Kendall County Board a recommendation of **approval/denial/neutral** of the requested text amendment; and

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

NOW, THEREFORE, BE IT ORDAINED, BY THE COUNTY BOARD OF KENDALL COUNTY, ILLINOIS, that the Kendall County Zoning Ordinance be amended as follows:

- I. Recitals: The recitals set forth above are incorporated as if fully set forth herein.
- II. Amended Text: Section 3.02 is amended by adding the following definitions in the appropriate places alphabetically in the list of definitions:

“ADULT-USE CANNABIS BUSINESS ESTABLISHMENT. An adult-use cannabis cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

ADULT-USE CANNABIS CRAFT GROWER. A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS CULTIVATION CENTER. A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS DISPENSING ORGANIZATION. A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS INFUSER ORGANIZATION OR INFUSER. A facility operated by an

organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS PROCESSING ORGANIZATION OR PROCESSOR. A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS TRANSPORTING ORGANIZATION OR TRANSPORTER. An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.”

III. Amended Text: Sections 7.01.C and 9.04.C are amended by adding the following uses alphabetically in the list of special uses in the A-1 Agricultural, B-3 Highway Business, M-1 Limited Manufacturing, and M-2 Heavy Industrial Zoning Districts:

“Adult-Use Cannabis Craft Grower Subject to the Following Conditions:

1. Facility may not be located within **one thousand five hundred feet (1,500')** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
2. Facility may not be located within **one thousand five hundred feet (1,500')** of the property line of a pre-existing property zoned or used for residential purposes.
3. Adult-Use Cannabis Craft Growers may co-locate with Adult-Use Dispensing Organizations and Adult-Use Cannabis Infuser Organizations or both.
4. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Cannabis Regulation and Tax Act.
5. For purposes of determining required parking, Adult-Use Cannabis Craft Grower shall be classified as a “**XXXXX**”, however, that the County may require that additional parking be provided as a result of the analysis completed as part of the Special Use Permit.
6. At the time of application, the Petitioner shall submit the following information:
 - a. A statement regarding the impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.
 - b. Information on the proposed structure the facility will be located, including co-tenancy (if located in a multi-tenant building), total square footage, security installations/security plan and building code compliance.
 - c. Hours of operation.
 - d. Anticipated number of employees and customers.
 - e. Anticipated parking demand and available parking supply.
 - f. Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.
 - g. Site design, including access points and internal site circulation.

- h. Proposed signage plan.
 - i. Other criteria as may be necessary to determine Findings of Fact of the Special Use Permit application
7. The Petitioner shall file an affidavit with the County affirming compliance with the regulations contained in the Kendall County Zoning Ordinance.
 8. In the event that the Cannabis Regulation and Tax Act is amended, the more restrictive of the State or County Regulation shall apply.

Adult-Use Cannabis Cultivation Center Subject to the Following Conditions:

1. Facility may not be located within **one thousand five hundred feet (1,500')** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
2. Facility may not be located within **one thousand five hundred feet (1,500')** of the property line of a pre-existing property zoned or used for residential purposes.
3. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Cannabis Regulation and Tax Act.
4. For purposes of determining required parking, Adult-Use Cannabis Craft Grower shall be classified as a "**XXXXX**", however, that the County may require that additional parking be provided as a result of the analysis completed as part of the Special Use Permit.
5. At the time of application, the Petitioner shall submit the following information:
 - a. A statement regarding the impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.
 - b. Information on the proposed structure the facility will be located, including co-tenancy (if located in a multi-tenant building), total square footage, security installations/security plan and building code compliance.
 - c. Hours of operation.
 - d. Anticipated number of employees and customers.
 - e. Anticipated parking demand and available parking supply.
 - f. Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.
 - g. Site design, including access points and internal site circulation.
 - h. Proposed signage plan.
 - i. Other criteria as may be necessary to determine Findings of Fact of the Special Use Permit application.
6. The Petitioner shall file an affidavit with the County affirming compliance with the regulations contained in the Kendall County Zoning Ordinance.
7. In the event that the Cannabis Regulation and Tax Act is amended, the more restrictive of the State or County Regulation shall apply.

Adult-Use Cannabis Dispensing Organization Subject to the Following Conditions:

1. Facility may not be located within **one thousand five hundred feet (1,500')** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
2. Facility may not be located **in a dwelling unit or within two hundred fifty feet (250')** of the property line of a pre-existing property zoned or used for residential purposes.

3. At least seventy-five percent (75%) of the floor area of any tenant space occupied by a dispensing organization shall be devoted to the activities of the dispensing organization as authorized by the Cannabis Regulation and Tax Act and no dispensing organization shall also sell food for consumption on the premises other than as authorized below in the same tenant space.
4. Facility may be issued a permit to host on-site consumption of cannabis if located in a freestanding structure occupied solely by the dispensing organization and smoke from the facility does not migrate into an enclosed area where smoking is prohibited. The security plan for the facility shall also reflect adequate provisions to respond to disruptive conduct and over-consumption. **The on-site consumption permit shall be reviewed annually and may be suspended or revoked following notice and hearing.**
5. Adult-Use Cannabis Dispensing Organizations may co-locate with Adult-Use Craft Growers and Adult-Use Cannabis Infuser Organizations or both. In a co-location, the floor requirements listed above shall not apply, but the co-located establishments shall be the sole use of the tenant space.
6. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Cannabis Regulation and Tax Act.
7. For purposes of determining required parking, Adult-Use Cannabis Craft Grower shall be classified as a “**XXXXX**”, however, that the County may require that additional parking be provided as a result of the analysis completed as part of the Special Use Permit.
8. At the time of application, the Petitioner shall submit the following information:
 - a. A statement regarding the impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.
 - b. Information on the proposed structure the facility will be located, including co-tenancy (if located in a multi-tenant building), total square footage, security installations/security plan and building code compliance.
 - c. Hours of operation.
 - d. Anticipated number of employees and customers.
 - e. Anticipated parking demand and available parking supply.
 - f. Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.
 - g. Site design, including access points and internal site circulation.
 - h. Proposed signage plan.
 - i. Other criteria as may be necessary to determine Findings of Fact of the Special Use Permit application.
9. The Petitioner shall file an affidavit with the County affirming compliance with the regulations contained in the Kendall County Zoning Ordinance.
10. In the event that the Cannabis Regulation and Tax Act is amended, the more restrictive of the State or County Regulation shall apply.

Adult-Use Cannabis Infuser Organization Subject to the Following Conditions:

1. Facility may not be located within **one thousand five hundred feet (1,500')** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
2. Facility may not be located **in a dwelling unit or within two hundred fifty feet (250')** of the property line of a pre-existing property zoned or used for residential purposes.
3. At least seventy-five percent (75%) of the floor area of any tenant space occupied by an

- infusing organization shall be devoted to the activities of the infusing organization as authorized by the Cannabis Regulation and Tax Act.
4. Adult-Use Cannabis Infuser Organizations may co-locate with Adult-Use Dispensing Organizations and Adult-Use Cannabis Craft Growers or both. In a co-location, the floor requirements listed above shall not apply, but the co-located establishments shall be the sole use of the tenant space.
 5. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Cannabis Regulation and Tax Act.
 6. For purposes of determining required parking, Adult-Use Cannabis Craft Grower shall be classified as a “XXXXXX”, however, that the County may require that additional parking be provided as a result of the analysis completed as part of the Special Use Permit.
 7. At the time of application, the Petitioner shall submit the following information:
 - a. A statement regarding the impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.
 - b. Information on the proposed structure the facility will be located, including co-tenancy (if located in a multi-tenant building), total square footage, security installations/security plan and building code compliance.
 - c. Hours of operation.
 - d. Anticipated number of employees and customers.
 - e. Anticipated parking demand and available parking supply.
 - f. Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.
 - g. Site design, including access points and internal site circulation.
 - h. Proposed signage plan.
 - i. Other criteria as may be necessary to determine Findings of Fact of the Special Use Permit application.
 8. The Petitioner shall file an affidavit with the County affirming compliance with the regulations contained in the Kendall County Zoning Ordinance.
 9. In the event that the Cannabis Regulation and Tax Act is amended, the more restrictive of the State or County Regulation shall apply.

Adult-Use Cannabis Processing Organization Subject to the Following Conditions:

1. Facility may not be located within **one thousand five hundred feet (1,500')** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
2. Facility may not be located **in a dwelling unit or within two hundred fifty feet (250')** of the property line of a pre-existing property zoned or used for residential purposes.
3. At least seventy-five percent (75%) of the floor area of any tenant space occupied by a processing organization shall be devoted to the activities of the processing organization as authorized by the Cannabis Regulation and Tax Act.
4. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Cannabis Regulation and Tax Act.
5. For purposes of determining required parking, Adult-Use Cannabis Craft Grower shall be classified as a “XXXXXX”, however, that the County may require that additional parking be provided as a result of the analysis completed as part of the Special Use Permit.
6. At the time of application, the Petitioner shall submit the following information:
 - a. A statement regarding the impact of the proposed facility on existing or planned uses

- located within the vicinity of the subject property.
- b. Information on the proposed structure the facility will be located, including co-tenancy (if located in a multi-tenant building), total square footage, security installations/security plan and building code compliance.
 - c. Hours of operation.
 - d. Anticipated number of employees and customers.
 - e. Anticipated parking demand and available parking supply.
 - f. Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.
 - g. Site design, including access points and internal site circulation.
 - h. Proposed signage plan.
 - i. Other criteria as may be necessary to determine Findings of Fact of the Special Use Permit application.
7. The Petitioner shall file an affidavit with the County affirming compliance with the regulations contained in the Kendall County Zoning Ordinance.
 8. In the event that the Cannabis Regulation and Tax Act is amended, the more restrictive of the State or County Regulation shall apply. \

Adult-Use Cannabis Transporting Organization Subject to the Following Conditions:

1. Facility may not be located within **one thousand five hundred feet (1,500')** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
2. Facility may not be located **in a dwelling unit or within two hundred fifty feet (250')** of the property line of a pre-existing property zoned or used for residential purposes.
3. The transporting organization shall be the sole use of the tenant space in which it is located.
4. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Cannabis Regulation and Tax Act.
5. For purposes of determining required parking, Adult-Use Cannabis Craft Grower shall be classified as a "**XXXXX**", however, that the County may require that additional parking be provided as a result of the analysis completed as part of the Special Use Permit.
6. At the time of application, the Petitioner shall submit the following information:
 - a. A statement regarding the impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.
 - b. Information on the proposed structure the facility will be located, including co-tenancy (if located in a multi-tenant building), total square footage, security installations/security plan and building code compliance.
 - c. Hours of operation.
 - d. Anticipated number of employees and customers.
 - e. Anticipated parking demand and available parking supply.
 - f. Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.
 - g. Site design, including access points and internal site circulation.
 - h. Proposed signage plan.
 - i. Other criteria as may be necessary to determine Findings of Fact of the Special Use Permit application.
7. The Petitioner shall file an affidavit with the County affirming compliance with the regulations contained in the Kendall County Zoning Ordinance.

8. In the event that the Cannabis Regulation and Tax Act is amended, the more restrictive of the State or County Regulation shall apply.

IV. Appendix 9-The Table of Uses is hereby amended to reflect the addition of these uses in the proper zoning districts.

V. Any reference citation errors created by the addition of these definitions and uses to the Zoning Ordinance shall be corrected.

VI. If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

IN WITNESS OF, this ordinance has been enacted by a supermajority vote of the Kendall County Board and is effective this **XXst** day of **Month**, 2019.

Attest:

Kendall County Clerk
Debbie Gillette

Kendall County Board Chairman
Scott R. Gryder

Understanding the County Role in the Growing World of Legal Cannabis

Saturday, July 13, 1:45 PM – 3:00 PM | Bronze 2 & 3, Grand Salon | Bally's

Meeting Agenda

To date, ten states and the District of Columbia have legalized recreational usage of cannabis to some extent, with another 33 states having legalized medicinal usage in some form. Understanding what effect state legalization may have on your county and how best to prepare to navigate the fast-growing cannabis industry is vital. This session will provide county leaders with tangible examples of the successes, and pitfalls, of navigating cannabis legalization.

1:45 PM: Welcome, and Introductions

- **Hon. Rex Bohn**, Supervisor, Humboldt County, Calif.

1:50 PM: Panel Discussion

- **Chuck Callaway**, Police Director, Las Vegas Metropolitan Police Department
- **Jacqueline Holloway**, Director, Department of Business License, Clark County, Nev.
- **Eric Johnson**, Executive Director, Washington State Association of Counties
- **Jim Burack**, Director, Marijuana Enforcement Division, Colorado Department of Revenue

2:30 PM: Moderated Question and Answer

3:00 PM: Meeting Concludes

NACo staff contact: Brett Mattson, Legislative Assistant | bmattson@naco.org or 202.942.4234

Marijuana Licensing & Regulatory Framework

Collaboration Environment with all Relevant Agencies that Leverages Diverse Expertise from Regulators and the Industry

Involvement of the Industry, the Public, and the Green Ribbon Advisory Panel

Clearly Define the Role & Relationship of the Regulators

Goal is to be the GOLD STANDARD in the Marijuana Industry

Requirements to Submit Application
Special Use Permit from Comprehensive Planning
Registration Certificate from the Marijuana Enforcement Division
Secretary of State Business License
Certificate of Occupancy
Standard Operating Procedures (Including Security, Transportation, and Inventory)
Fees Paid
Complete Application

Requirements for Licensure
Air Quality Approval
Fire Department Approval
Background Check (for Example Agent Card from the State)
Advertising Approval
Financial Suitability (Performed by CCBL Audit Division)
On-Site Inspection
Code Conference

Best Practices

Creation of Cannabis Control Board
Prohibition of Consumption Lounges
Scheduled Courtesy Audits by CCBL Audit Division
Annual Submissions of Ownership Disclosure and Local Community Benefit Forms
Fee Structure is Reasonable for an Emerging Industry
Alignment of Regulation for Medical & Retail especially Co-Location
Open, Streamlined, Flexible, and Transparent Process

Lessons Learned

Collection of Marijuana Fees Including Construction of a Merchant Teller Room and Scheduled Appointments
Utilization of Marijuana Fees that were Earmarked for Homeless Families with Children Specifically Rapid Re-Housing
Acceptance of Applications in Electronic Form Instead of Paper Submissions
Greater than Expected Amount of Time Providing Formal & Informal Guidance Assure Compliance Standards
Marijuana Tracking System used by Licensees Lacked Maturity which Hindered Reporting and Compliance Requirements
Required Businesses that Supported Marijuana Establishments to Apply for a Marijuana Support Business thus Every Business that was in the Supply & Service Chain is Properly Licensed

NACo Conference Committee Notes

County Role in the Growing World of Legal Cannabis

Speaker #1: Chuck Calloway – NV Law Enforcement

- Cautionary Tales
 - Conflicting language in bill - transport proceeds vs. oz
 - PSA's/leaflets for tourists - what they can/can't do
 - Law enforcement advisory committee setup for training officers on what can/can't be enforced
 - Guidance for airport - dropboxes for people who think they can fly with it → only law enforcement can empty
 - Must have good relationship with cannabis industry and method to hold accountable
 - Illegal delivery and pop-ups – i.e. yoga & cannabis etc.
 - Laundering cash through ATM's at dispensaries → Banking pilot program for cannabis industry so they are not cash-only
 - Homeless dumpster diving behind airport, dispensaries, other cannabis businesses
 - Black market increase
 - Mailing cannabis

Speaker #2: Jacqueline Holloway – NV Business Licensing

- See Handout for more info
- Cautionary Tales
 - Don't accept incomplete applications
 - Odor control plan setup – structure of buildings for growhouses
 - Quarterly onsite inspections
 - Cannabis Control Board setup
 - Ownership disclosure forms annually – for any ownership % in business, look into financial background
 - Collaborative environment that is open, transparent, and flexible
 - Learn about cultivation/dispensary industry
 - Collection of Cannabis \$
 - 2.6 million quarterly
 - Must hand-count until purchase of gaming cash count machines (like the ones used in casinos)
 - Merchant teller room for turning in/picking up cash
 - Armored cart for moving cash

Speaker #3: Eric Johnson – WSACo

- WA had an unregulated medical system initially, so it took longer to harmonize medical and recreational
- Touring locations in legalized states to learn about industry is advisable
- Monitoring Impact of Legalization Report online, highlights below:
 - Grades 6-12 had **no** measurable changed use of cannabis
 - Adult consumption increase 14% annually, has since plateaued
 - Traffic violations/crashes with THC present have increased, but *does not necessarily mean they are under the influence while currently driving*
 - Traffic fatalities increased from 10 to 26% with THC in system
 - Drug only DUI arrests have increased 40%
 - 18/39 counties have more dispensaries than Starbucks
- 37.5% state tax with 4% going to cities/counties
- Land use – authority to ban via zoning
 - 6/39 counties have banned retail processing and production
 - Don't put growhouses in residential areas (odor)

Speaker #4: Jim Burack – CO Revenue and Enforcement

- Local gov homegrows, caregivers, and commercial are regulated as separate economies but effect each other
- Hemp = major issue because need to figure out what lane it's in:
 - cousins with marijuana, but separate commodity
 - looks similar to law enforcement, must be trained to distinguish between the two
 - alchemy of THC and CBD similar, but hemp has less %
- People, Places, Plants, Products
- Tracked, Taxed, Tested, Tagged
 - Successful equilibrium of supply and demand thanks to accurate tracking
 - 14 labs throughout the state for testing potency & setting limitations
 - No human animals/fruits for edibles to deter kids
- Numbers for 2018:
 - 1.5 billion in sales
 - 266 million state level revenue
 - 3,000 business licenses state level
 - ½ million pounds of flower and concentrate grown
- Major issues:
 - Social equity
 - High youth vaping rate – relationship between nicotine & THC
 - Publicly traded companies can own licensing
 - Illegal delivery & hospitality/clubs – not General Assembly, because local control

Do's and Don'ts for Cannabis Legalization



Do's

- A. Know that large quantities of high-quality cannabis will have a strong odor. (Think political nightmare).
- B. Realize that for some people marijuana will always be a schedule 1 drug.
- C. Listen (to everyone involved).
- D. Engage early and often with community and industry stakeholders TOGETHER.
- E. Develop relationships with key industry and community leaders who can help you communicate.
- F. Identify core regulatory goals, and work to accomplish them.
- G. Provide clear definitions and performance criteria for permits, inspections and enforcement.
- H. Have an enforcement plan in place at the same time you begin your permit process.
- I. Develop a robust inspection plan before permits are issued.
- J. Realize without the willingness to enforce, the permitting process is compromised.
- K. Be Creative, think outside the Box.
- L. Collaborate with state agencies.
- M. Evaluate your expected results and adjust based on actual results, be willing to adapt.
- N. Be specific where you want to allow and where you don't want cannabis operations.
- O. Assign experienced staff to lead the effort and train support staff early.
- P. Provide a complete list of required application materials.
- Q. Protect Prime Agricultural soils so that they may be returned to growing food crops.
- R. Seek agreement between State and Local jurisdictions on the definition of terms.
- S. Remember that cannabis is an agricultural commodity and subject to changes and impacts that affect production like any crop (weather, disease, insect pests)
- T. Collect fees upfront.

Don'ts

- 1. Don't allow cultivation of large quantities of high-quality cannabis in close proximity to residential areas (See A above).
- 2. Don't think taxing cannabis will solve all governmental economic problems.
- 3. Don't let adjoining jurisdictions be silent in the process of ordinance development. (Go talk directly to their governing body).
- 4. Do NOT accept incomplete applications.
- 5. Don't wing it...make it up as you go.
- 6. Don't expect to devise a solution that makes everybody happy.
- 7. Don't think leaders in the cannabis industry are dopes.
- 8. Don't assume all cannabis growers are wealthy.

Do's and Don'ts for Cannabis Legalization



COUNTY OF HUMBOLDT, CALIFORNIA

Rex Bohn, Supervisor District 1

825 5th street #111
Eureka, Ca. 95501
(707) 476-2391
rbohn@co.humboldt.ca.us

John Ford, Director

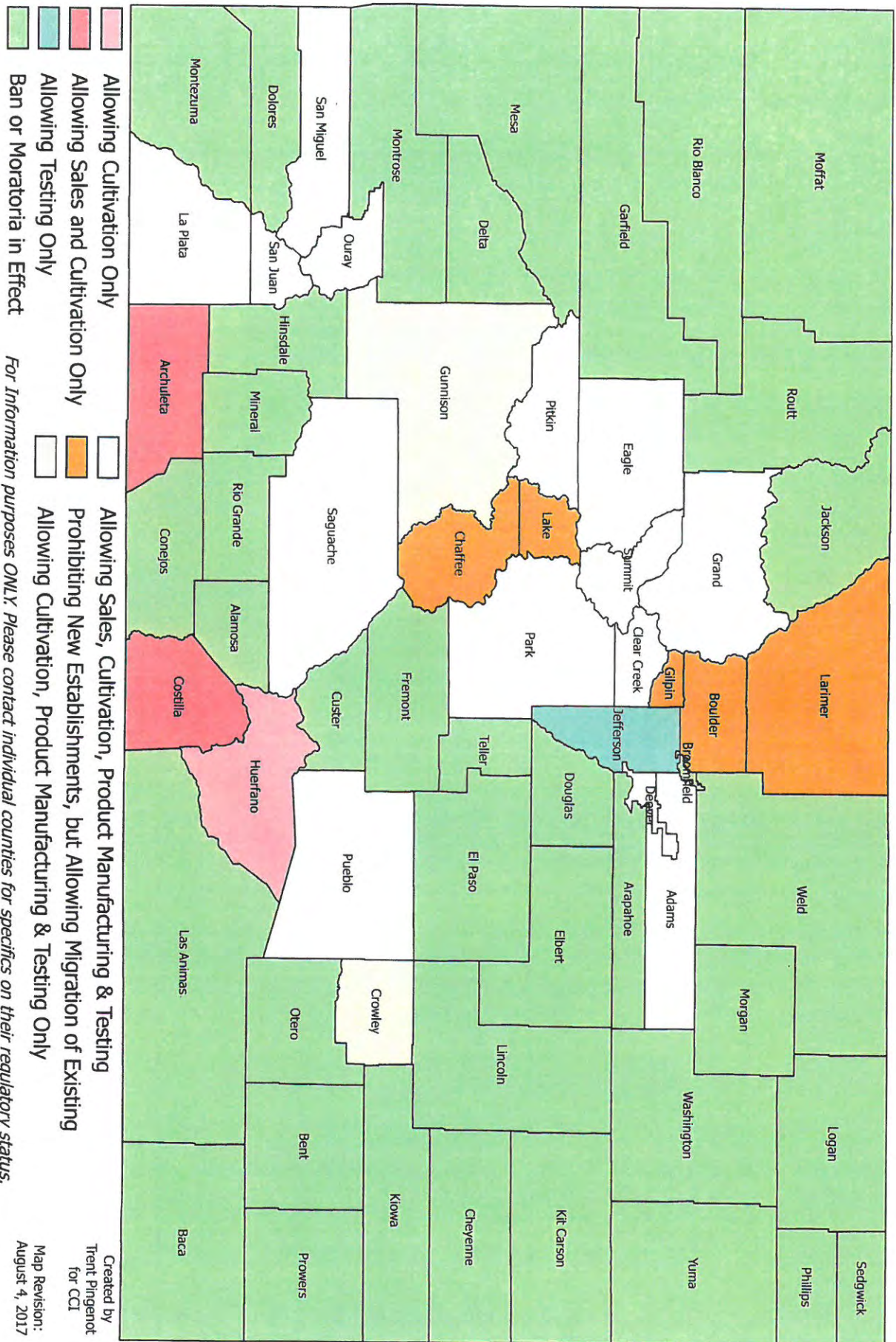
Planning and Building
3015 H Street
Eureka, Ca. 95501
(707) 268-3738
jford@co.humboldt.ca.us

Jeff Dolf, Agricultural Commissioner

5630 South Broadway
Eureka, CA. 95501
707-441-5260
jdolf@co.humboldt.ca.us



County Regulatory Status - Recreational Marijuana



For Information purposes ONLY. Please contact individual counties for specifics on their regulatory status.

Map Revision:
August 4, 2017
Created by
Trent Pingnot
for CCI



Jacqueline R. Holloway
Director

Department of Business License

**Clark County
Green Ribbon Advisory Panel Recommendations**

Green Ribbon Panel Members:

Andrew Abboud, Antonio Alamo, John DiBella, Frank Hawkins, Andrew Jolley, Carmen F. Jones, Jay Matos, Brian Padgett, Scott Sibley, Howard Starr, Lucy Stewart, Chao-Hsiung Tung, Virginia Valentine, Armen Yemenidjian.

Facilitator:

David Ebersold

Background:

On February 21, 2017, the Board approved the creation of a Green Ribbon Advisory Panel (GRAP) to include twelve (12) representatives, comprised of representatives from the Nevada Retail Association (1), the Nevada Resort Association (1), Local Casino interests (2), Medical Marijuana Dispensaries (1), Medical Marijuana Cultivators (1) Medical Marijuana Cultivators not associated with a Medical Marijuana Dispensary (1), Medical Marijuana Laboratories (1), Medical Marijuana Production Establishments (1), Medical Marijuana Patient Advocates (1), Medical Marijuana Industry Associations (1) and the Nevada Gaming Control Board/Gaming Commission (1).

The intent of the Green Ribbon Advisory Panel is to make recommendations to the Board concerning Land Use and Business License code amendments for the regulation of recreational marijuana establishments in Unincorporated Clark County.

On March 8, 2017, the Board appointed twelve (12) members to the GRAP to represent the categories listed above.

Further, on March 21, 2017, the Board of County Commissioners appointed two (2) additional at-large members to the GRAP.

The Green Ribbon Advisory Panel met on the following dates at the Clark County Department of Building and Fire Prevention, Presentation Room at 4701 West Russell Road, Las Vegas Nevada 89118:

March 27, 2017

April 3, 2017

April 7, 2017

April 24, 2017

Each agenda item was properly noticed and posted at seven (7) locations including the Clark County website, www.clarkcountynv.gov. A transcript of each meeting will be made available, upon request.

Based on the meetings as noted above, the following document represents the Land Use and Business License recommendations that will be made to the Board of County Commissioners on May 2, 2017.

Representatives of the Nevada Gaming Commission and Board, Nevada Resort Association and Local Casino interests did not take a position on any items that facilitate the legalization of marijuana (medical and recreational).

***DRAFT RECOMMENDATIONS OF THE GREEN RIBBON
ADVISORY PANEL***

***LAND USE REQUIREMENTS AND BUSINESS LICENSING: KEY
CONCEPTS FOR THE LICENSE AND REGULATION OF RETAIL
MARIJUANA***

The Panel recommends:

1. A priority is to maintain the existing successful medical marijuana program while implementing the licensing and regulation of retail marijuana.

RECOMMENDATION NO. 1: Existing Medical Marijuana licensees in good standing will be offered the privilege of applying for a retail marijuana license at the existing licensed location or an alternative location if co-location is not permissible.

- Existing cultivation, production and laboratory medical marijuana establishments have obtained land use and public safety approvals and therefore can seamlessly onboard retail marijuana operations through land use and business license administrative processes. Medical marijuana dispensaries will require a new special use permit for retail marijuana sales.

RECOMMENDATION NO. 2: Hours of operation for medical marijuana establishments and retail marijuana establishments should remain from 7:00 a.m. to 3:00 a.m.

- Current land use code includes a sunset provision to take effect on January 1, 2018, that would revert hours of operation back to 6:00 a.m. to 10:00 p.m. as originally enacted. Panel recommends removal of sunset provision so hours of operation remain 7:00 a.m. to 3:00 a.m.

RECOMMENDATION NO. 3: A “Master Marijuana Business License” can streamline the application process for medical marijuana establishments to onboard retail marijuana operations under one license.

- The licensing and regulation of retail marijuana establishments within the existing framework for medical marijuana eliminates the need for two separate sets of regulations and operating requirements (such as transportation, delivery, security plans).

RECOMMENDATION NO. 4: Dispensaries with both medical and retail marijuana must accommodate a medical patient’s request for a confidential and private consultation within the available space.

*patients &
patient
advocates*

RECOMMENDATION NO 5: The patient cost of medical marijuana should be significantly less than the purchase price for retail marijuana. Initially in Clark County, retail marijuana establishments should operate under the same fee structure as existing medical marijuana establishments. Once permanent State regulations are in place, if medical marijuana does not cost significantly less than retail marijuana, strong consideration should be given to reducing fees for medical marijuana in order to lower the cost of medicine for the medical marijuana patients.

- Current Comprehensive Planning land use application fee structure:
 - \$5,000 for a Special Use Permit for the establishment of a new facility
 - \$2,500 for an Extension of Time

- Current Business License fee structure:
 - \$1,500 application fee.
 - \$500 for additional location under the same ownership.
 - \$250.00 flat fee for delivery between establishments with common ownership with no sale transactions can be amended as the fee for marijuana distributors.

- License fees: Quarterly fees based on gross revenue:
 - 1% of gross revenue not to exceed \$150,000 per quarter
 - 2% of gross revenue between \$150,000 – \$400,000
 - 3% of gross revenue over \$400,000

RECOMMENDATION NO. 6: Marijuana distribution licenses can be included in the Master Marijuana Establishment Category for existing medical marijuana licensees to allow for streamlined processing at County level.

- Proposed regulations from Nevada Department of Taxation would allow applications for marijuana distribution licenses by:
 - Licensed liquor wholesalers
 - Medical marijuana establishments holding registration certificates in good standing
 - Applicants currently transporting medical marijuana whose employees hold valid marijuana agent registration cards

2. A priority is the prohibition of delivery and consumption of marijuana within the Las Vegas Boulevard Gaming Corridor, H1 Zones, and on the premises of any restricted or non-restricted gaming licensee to comply with the Nevada Gaming Commission and Board's prohibition of any consumption and possession of marijuana on gaming properties.

RECOMMENDATION NO. 1: Delivery and consumption of retail marijuana to establishments within the Las Vegas Boulevard Gaming Corridor, H1 Zones and on the premises of any restricted or non-restricted gaming licensee should be prohibited.

- Licensed retail marijuana stores may deliver to a customer's residence which is consistent with proposed regulations by the State, provided that deliverers must demand and verify proof of age of recipient. Delivery is prohibited within the Las Vegas Boulevard Gaming Corridor, H1 Zones, and on the premises of any restricted or non-restricted gaming licensee.

RECOMMENDATION NO. 2: While we believe that the panel needs additional time to work cooperatively across all interests, we believe that the creation of a privileged license category for a marijuana consumption lounge after the State has begun to grant temporary retail licenses will accommodate marijuana tourism while preventing the consumption and possession of marijuana within the Las Vegas Boulevard Gaming Corridor, H1 Zones, and on the premises of any restricted or non-restricted gaming licensee.

3. A priority is the public health and safety of residents and tourists (especially children and medical marijuana patients) living and visiting Clark County.

RECOMMENDATION NO. 1: Until the passage of regulations for retail marijuana operations by the Nevada Department of Taxation, all operational requirements existing for medical marijuana establishments, where possible, should be maintained for the operation of retail marijuana establishments. Upon the passage of State legislation, the County shall adopt any additional regulations and requirements that may include, but not limited to:

- Packaging and labeling requirements
- Standardized dosing instructions and THC potency information
- Child proof protection by using child proof packaging or child proof exit bags.
- Educational information dispensed with product to include education on recreational use (start low, go slow).
- Cease production and sale of edible marijuana whose name maybe confusing to children. e.g., "girl scout cookies."

RECOMMENDATION NO 2: Laboratories should employ testing protocols to ensure reliable results, including the measurement of levels of potency and microbials in products.

- The County shall adopt regulations for standardized dosing instructions and THC potency information for retail marijuana upon passage by the Nevada Department of Taxation.
- The County may conduct testing, such as round robin testing, to verify the effectiveness of testing protocols.
- All testing results should be readily accessible to the Business License Department.

RECOMMENDATION NO. 3: An education campaign should be developed cooperatively by various stakeholders in the industry to address the following:

- Medical problems associated with marijuana use including side effects of consuming marijuana with alcohol and other substances.
- Compliance with the prohibition of marijuana delivery and consumption within the Las Vegas Boulevard Gaming Corridor, HI Zones, and on the premises of any restricted or non-restricted gaming licensee, and the McCarran Aviation System.
- Visitors entering or leaving Clark County via the McCarran Aviation system and highways, to educate on the criminal penalties of failing to comply with regulations.
- Medical marijuana operators may continue their educational plans to medical marijuana patients and may expand their educational efforts to retail consumers.

4. A priority is the McCarran Aviation System's compliance with federal regulations.

RECOMMENDATION NO. 1: The McCarran Aviation System should provide amnesty boxes at locations for passengers prior to entering the secured areas of the airports, as well as at rental car returns.

RECOMMENDATION NO. 2: In order to comply with Federal regulations, Clark County should adopt an ordinance prohibiting the possession, distribution, and consumption of medical or retail marijuana within the McCarran Aviation system.

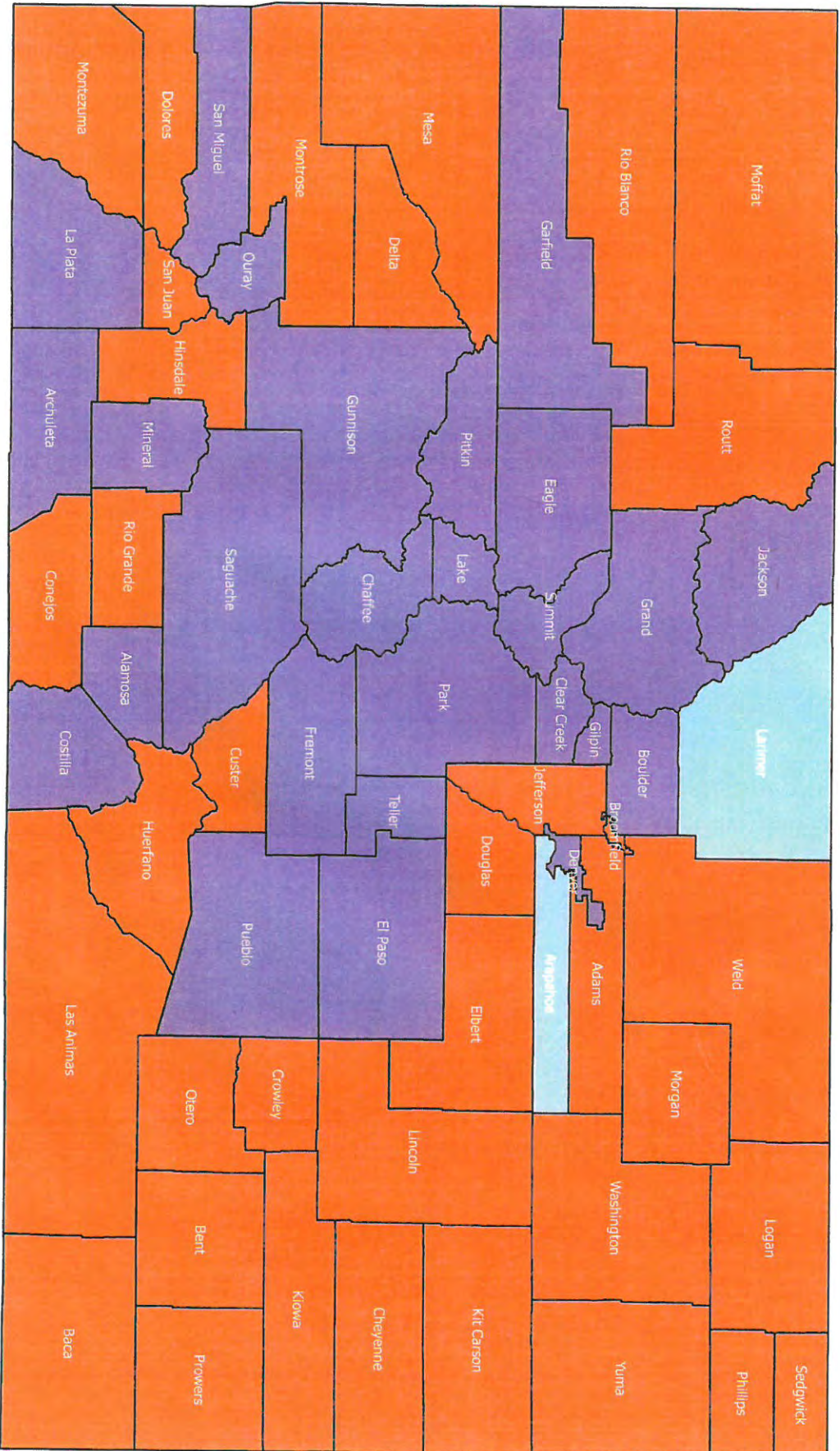
5. A priority is maintaining the positive image, quality, perception and appearance of our communities.

RECOMMENDATION NO. 1: The existing air quality standards should be extended to retail marijuana establishments and applications for retail marijuana business licenses should include an odor control plan to eliminate smell emanating outside of marijuana facilities.

RECOMMENDATION NO. 2: Retail marijuana establishments should maintain the same advertising rules and restrictions as required for medical marijuana establishments. Upon passage of any State legislation, the County shall adopt all additional regulations and requirements.

6. A priority is to continue the on-going dialogue and comprehensive collaboration of the Green Ribbon Advisory Panel, which may include the formation of sub-committees, to implement the priorities and recommendations contained herein.

County Regulatory Status - Medical Marijuana



Created by Trent Pinggenot for CCI For Information purposes ONLY. Please contact individual counties for specifics on their regulatory status.

Map Revision:
July 31, 2017

KENDALL COUNTY JOB DESCRIPTION

I. DEPARTMENT: Planning, Building, and Zoning Department

II. POSITION TITLE: Code Compliance Assistant (Part-Time)

III. REPORTS TO:

IV. POSITION SUMMARY

Responsibilities: Coordinates and conducts the activities related to the enforcement of the County's Zoning, Subdivision, Stormwater Management, Junk and Debris, and Inoperable Vehicle Ordinances and other nuisance related ordinances. Knowledge of due process and prosecutorial procedures. Assists with the activities of the Code Compliance Officer.

Positions Supervised: None

Codes:

- A. Explain, apply, and enforce provisions of Zoning Ordinance, Subdivision Control Ordinance, Stormwater Management Ordinance, Junk and Debris Ordinance, Inoperable Vehicle Ordinance and related ordinances.
- B. Coordinate with zoning, subdivision, building, flood plain, erosion control, storm water management, and related codes at county, state, and national levels.
- C. Assist with research and updates to the above mentioned codes.

Inspections:

- A. Ability to read permits and permit applications.
- B. Conduct inspections and investigations on properties in relation to the Codes listed previously.
- C. Coordinates investigations with law enforcement, health department, other investigative agencies as needed.
- D. Assists with building code related inspections as needed.

Administration:

- A. Keeps records of permits, reviews, inspections, etc.
- B. Attends and testifies at court or other administrative adjudication hearings .

- B. Organizes workload to respond to all requests efficiently.
- C. Operates county vehicle safely.
- D. Attends meetings, prepares reports, assist others.
- E. Other duties as assigned by supervisor.

V. QUALIFICATIONS:

Education:

- A. High school diploma.

Experience:

- A. One year in code enforcement or other administrative or law enforcement.

Skills:

- A. Some knowledge of codes.
- B. Some knowledge of due process and prosecutorial procedures.
- C. Some knowledge of construction. - preferred but not required.
- D. Some knowledge of building plans - preferred but not required.
- E. Illinois State drivers' license and good driving record.
- F. Strong attention to detail.

Abilities:

- A. Analyze, decipher, detect, interpret, and exercise independent judgement in performing the responsibilities of this position.
- B. Effectively communicate in a manner that is impartial, empathetic, helpful, persuasive, and non-antagonistic.
- C. Understand the governmental function of development regulation and the role of employee as service provider.
- D. Physical endurance to walk through sites at all times of year.

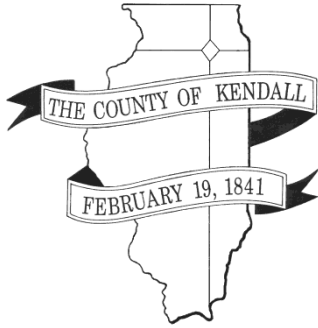
VIII. SALARY RANGE:

IX. LAST REVISION:

Code Enforcement Cost Analysis

	PT Option 1	PT Option 2	Full-time	Notes
Hourly Rate	18	18	18	
Hours per Year	900	1250	1950	
Annual Salary	\$ 16,200.00	\$ 22,500.00	\$ 35,100.00	
SS Taxes	\$ 1,004.40	\$ 1,395.00	\$ 2,176.20	
IMRF	\$ -	\$ 2,092.50	\$ 3,264.30	
Health Insurance	\$ -	\$ -	\$ 18,667.00	
Total Cost	\$ 17,204.40	\$ 25,987.50	\$ 59,207.50	

Zoning PT FY19 \$ 18,200.00



DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 204

Yorkville, IL • 60560

(630) 553-4141

Fax (630) 553-4179

MEMORANDUM

To: Kendall County Planning, Building & Zoning Committee

From: Matthew H. Asselmeier, AICP, Senior Planner

Date: July 22, 2019

Re: Land Cash Ordinance-Fair Market Value Calculation

PBZ Chairman Matthew Prochaska would like the State's Attorney's Office to research whether or not a County can have more than one (1) Fair Market Value in a Land Cash Ordinance.

The current Fair Market Value was set in 2014 at \$72,680. Discussion has occurred regarding changing this figure based on updated information.

It is Staff's understanding that Will County uses multiple Fair Market Values, but that State law only allows one (1) Fair Market Value in a Land Cash Ordinance.

Clarity on the matter could be helpful in determining the appropriate values in an updated Land Cash Ordinance.

If you have any questions, please let me know.

Thanks,

MHA