

ORDINANCE NUMBER 2024-25

GRANTING A SPECIAL USE PERMIT FOR A LANDSCAPING BUSINESS AT 2142 WOOLEY ROAD, OSWEGO, (PIN: 03-22-400-001) IN OSWEGO TOWNSHIP

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

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

WHEREAS, the property which is the subject of this ordinance has been, at all relevant times, and remains currently located within the A-1 Agricultural District and consists of approximately three acres located at 2142 Wooley Road, Oswego (PIN: 03-22-400-001), in Oswego Township. The legal description for the subject property is set forth in Exhibit A attached hereto and incorporated by reference, and the property shall hereinafter be referred to as “the subject property”; and

WHEREAS, the subject property is owned by Alex Schuster and shall hereinafter be referred to as the “Petitioner”; and

WHEREAS, on or about April 23, 2024, Petitioner filed a petition for a special use permit to allow the operation of landscaping business with outdoor storage at the subject property; and

WHEREAS, following due and proper notice by publication in The Voice on June 6, 2024, and following due and proper notification to the Village of Oswego on or about June 1, 2024, and following due and proper notification to Oswego Township on or about June 1, 2024, and following due and proper notification to the property owners of record of properties located within seven hundred fifty feet of the subject property on or about June 1, 2024, the Kendall County Zoning Board of Appeals conducted a public hearing on July 1, 2024, at 7:00 p.m., in the County Office Building at 111 W. Fox Street in Yorkville, at which the Petitioner presented evidence, testimony, and exhibits in support of the requested special use permit and zero members of the public testified in favor or in opposition to the request or asked questions about the proposal; 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, 2024, a true and correct copy of which is attached hereto as Exhibit B; and

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

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

WHEREAS, this special use permit shall be treated as a covenant running with the land and is binding on the

successors, heirs, and assigns as to the same special use conducted on the property; and

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

1. The Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals attached hereto as Exhibit B is hereby accepted and the Findings of Fact set forth therein are hereby adopted as the Findings of Fact and Conclusions of this Kendall County Board.
2. The Kendall County Board hereby grants approval of Petitioner's petition for a special use permit allowing the operation of a landscaping business on the subject property subject to the following conditions:
 - A. The site shall be developed substantially in accordance with the site plan attached hereto as Exhibit C and landscaping plan attached hereto as Exhibit D.
 - B. Within ninety (90) days of the approval of the special use permit, the owners of the subject property shall dedicate a strip of land forty feet (40') in depth along the northern property line to Oswego Township. The Kendall County Planning, Building and Zoning Committee may grant an extension to this deadline.
 - C. The location and size of the septic system should be assessed to determine if the system is placed and sized properly for the use allowed by this special use permit.
 - D. Equipment and vehicles related to the business allowed by the special use permit may be stored outdoors at the subject property when the business is closed.
 - E. None of the vehicles or equipment parked or stored on the subject property related to the business allowed by the special use permit shall be considered agricultural vehicles or agricultural equipment.
 - F. All of the vehicles and equipment stored on the subject property related to the business allowed by the special use permit shall be maintained in good condition with no deflated tires and shall be licensed if required by law.
 - G. The owners of the businesses allowed by this special use permit shall diligently monitor the property for leaks from equipment and vehicles parked and stored and items stored on the subject property and shall promptly clean up the site if leaks occur.
 - H. Except for the purposes of loading and unloading, all landscape related materials shall be stored at the designated storage areas shown on the site plan attached hereto as Exhibit C. The maximum height of the piles of landscaping related material shall be ten feet (10').
 - I. A maximum of fifteen (15) employees of the business allowed by this special use permit, including the owners of the business allowed by this special use permit, may report to this site for work.
 - J. No customers of the business allowed by the special use permit shall be invited onto the subject property for matters related to the business allowed by the special use permit.
 - K. The hours of operation of the business allowed by this special use permit shall be Monday through Friday from 6:00 a.m. until 6:00 p.m. and the business shall be open twenty-four (24) hours to address snow events. The owners of the business allowed by this special use permit may reduce these hours of operation.
 - L. Any structures constructed, installed, or used related to the business allowed by this special use permit on the property shall not be considered for agricultural purposes and must secure

applicable building permits. This restriction does not apply to greenhouses.

- M. No signs are shown on the site plan attached hereto as Exhibit C. The owner of the business allowed by the special use permit may request a sign in the future using the minor amendment process, provided that the proposed sign meets the requirements of the Kendall County Zoning Ordinance.
- N. Only lighting related to security may be installed outdoors at the subject property.
- O. Damaged or dead plantings described on the landscaping plan attached hereto as Exhibit D shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.
- P. The vegetation described in the landscaping plan attached hereto as Exhibit D shall be installed within one (1) year of the approval of the special use permit. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to install the vegetation. Materials and vegetation stored in the greenhouses and material storage area shall not be subject to this requirement and shall not be considered part of the landscaping plan.
- Q. No landscape waste generated off the property can be burned on the subject property.
- R. The noise regulations are as follows:

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

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

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


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

- S. At least one (1) functioning fire extinguisher and one (1) first aid kit shall be on the subject property. Applicable signage stating the location of the fire extinguisher and first aid kit shall be placed on the subject property.
- T. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
- U. The property owner and operator of the business allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business, including, but not limited to, installed the applicable number of ADA required parking spaces.
- V. Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permit.

- W. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
3. This special use permit shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property.
 4. The Zoning Administrator and other appropriate County Officials are hereby authorized and directed to amend the Official Zoning Map of Kendall County to reflect this 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, 2024.

Attest:



Kendall County Clerk
Debbie Gillette



Kendall County Board Chairman
Matt Kellogg



Exhibit "A" – Legal Description

THAT PART OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 22, TOWNSHIP 37 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTH WEST CORNER OF THE SOUTH EAST 1/4 OF SAID SECTION 22, THENCE SOUTH 89 DEGREES, 50 MINUTES, 30 SECONDS EAST 1417.6 FEET FOR THE POINT OF BEGINNING, THENCE SOUTH 89 DEGREES 50 MINUTES 30 SECONDS EAST 287.12 FEET, THENCE SOUTH 00 DEGREES 09 MINUTES 30 SECONDS WEST 517.87 FEET, THENCE NORTH 89 DEGREES 50 MINUTES 30 SECONDS WEST 137.22 FEET, THENCE NORTH 00 DEGREES 09 MINUTES 30 SECONDS EAST 96.87 FEET, THENCE NORTH 072 DEGREES 37 MINUTES 30 SECONDS WEST 156.93 FEET, THENCE NORTH 00 DEGREES 09 MINUTES 30 SECONDS EAST 374.54 FEET TO THE POINT OF BEGINNING IN THE TOWNSHIP OF OSWEGO, KENDALL COUNTY, ILLINOIS.

Exhibit B

The Kendall County Zoning Board of Appeals held a public hearing on the Petition 24-10 on July 1, 2024. On the same date, the Kendall County Zoning Board of Appeals issued the following findings of fact and recommendation by a vote of four (4) in favor and zero (0) in opposition. Members Mohr, Prodehl, and Whitfield were absent.

FINDINGS OF FACT

The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Numerous landscaping businesses have been approved throughout unincorporated Kendall County, including one (1) at 655 Wooley Road. The proposed use is along Wooley Road, which is classified as a minor collector. Reasonable restrictions can be placed in the special use permit to ensure the health, safety, and general welfare of the area are protected.

*The special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use makes adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. **The subject property is in a large A-1 Agricultural District. The use will not impede farms or residential uses on the adjoining properties. Reasonable restrictions may be placed on the special use permit to address hours of operation, noise, landscaping, and site layout to prevent neighboring property owners are not negatively impacted by the proposed use.***

*Adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. **The proposal states that customers will not come to the property. Given the limited number of employees reporting to the property, adequate utilities, access roads, and ingress/egress exists. A stormwater permit and conditions in the special use permit can address concerns related to drainage.***

*The special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. **This is true.***

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

RECOMMENDATION

Approval subject to the following conditions and restrictions:

1. The site shall be developed substantially in accordance with the submitted site plan and landscaping plan.
2. Within ninety (90) days of the approval of the special use permit, the owners of the subject property shall dedicate a strip of land forty feet (40') in depth along the northern property line to Oswego Township. The Kendall County Planning, Building and Zoning Committee may grant an extension

to this deadline.

3. The location and size of the septic system should be assessed to determine if the system is placed and sized properly for the use allowed by this special use permit.
4. Equipment and vehicles related to the business allowed by the special use permit may be stored outdoors at the subject property when the business is closed.
5. None of the vehicles or equipment parked or stored on the subject property related to the business allowed by the special use permit shall be considered agricultural vehicles or agricultural equipment.
6. All of the vehicles and equipment stored on the subject property related to the business allowed by the special use permit shall be maintained in good condition with no deflated tires and shall be licensed if required by law.
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11. The hours of operation of the business allowed by this special use permit shall be Monday through Friday from 6:00 a.m. until 6:00 p.m. and the business shall be open twenty-four (24) hours to address snow events. The owners of the business allowed by this special use permit may reduce these hours of operation.
12. Any structures constructed, installed, or used related to the business allowed by this special use permit on the property shall not be considered for agricultural purposes and must secure applicable building permits. This restriction does not apply to greenhouses.
13. No signs are shown on the site plan. The owner of the business allowed by the special use permit may request a sign in the future using the minor amendment process, provided that the proposed sign meets the requirements of the Kendall County Zoning Ordinance.
14. Only lighting related to security may be installed outdoors at the subject property.
15. Damaged or dead plantings described on the landscaping plan shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.
16. The vegetation described in the landscaping plan shall be installed within one (1) year of the approval of the special use permit. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to install the vegetation. Materials and vegetation stored in the greenhouses and material storage area shall not be subject to this requirement and shall not be considered part of the landscaping plan.
17. No landscape waste generated off the property can be burned on the subject property.

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

19. At least one (1) functioning fire extinguisher and one (1) first aid kit shall be on the subject property. Applicable signage stating the location of the fire extinguisher and first aid kit shall be placed on the subject property.
20. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
21. The property owner and operator of the business allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business, including, but not limited to, installed the applicable number of ADA required parking spaces.
22. Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permit.
23. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
24. This special use permit shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property.

2142 WOOLEY ROAD, OSWEGO, IL

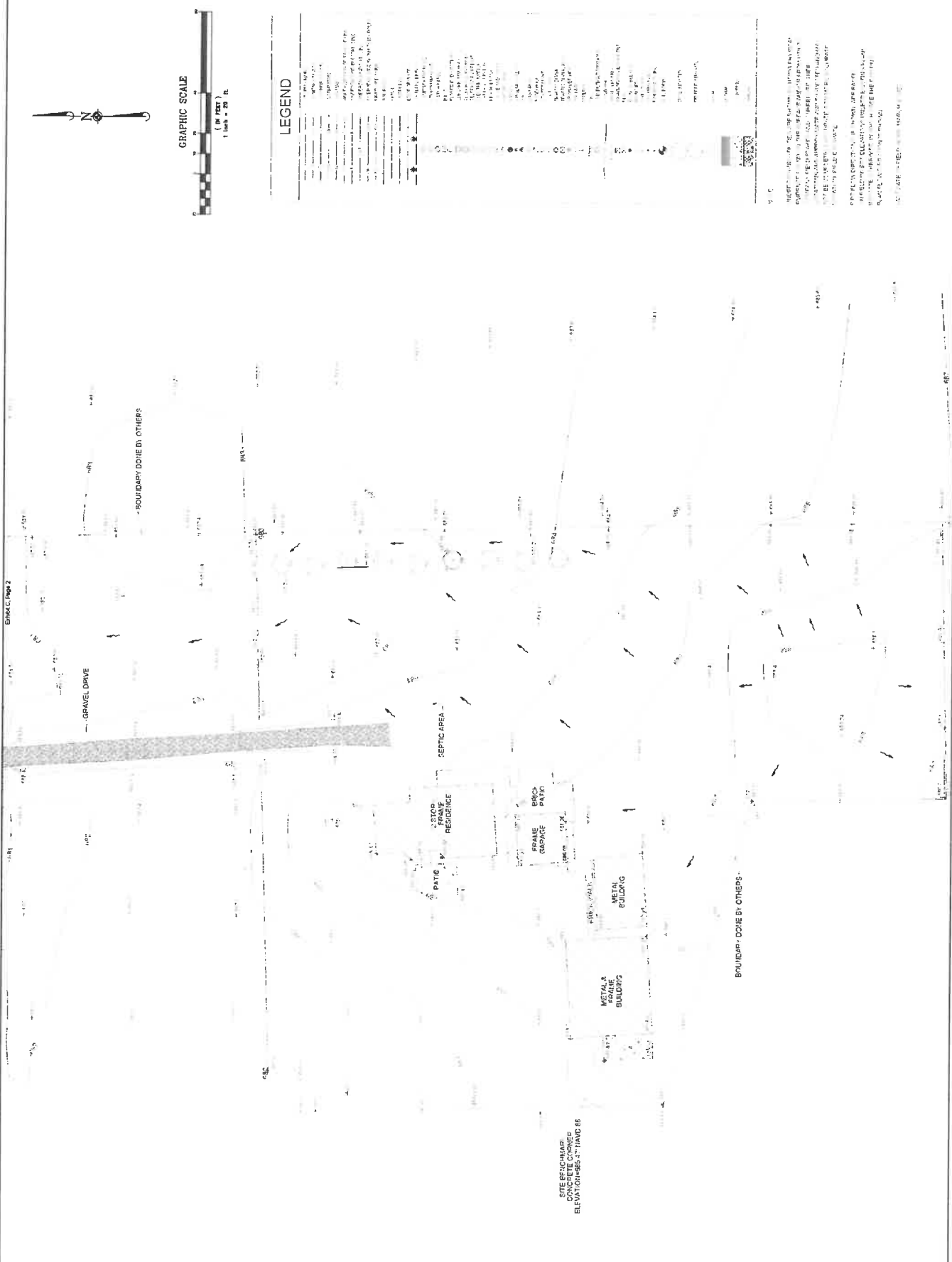
EXISTING CONDITIONS & PLAT OF SURVEY SCHUSTER RESIDENCE

PROJ. NO. 100
PROJ. ENG. TOC
DRAWN BY JDC
CHECKED BY JDC
SCALE 1"=40'
SHEET NO. C2.0
PROJ. NUMBER 2010

RIVERCREST CONSULTING, LLC
8922 HANBREE COURT, UNIT 13
OSWEGO, ILL. 60544
(815) 528-3108

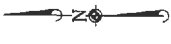
Lee Engineering
Surveying & Mapping
Engineers

NO.	REVISIONS
1	REVISED PER COUNTY COMMENTS



LEGEND

- Property Boundary
- Gravel Drive
- Septic Area
- Water Main
- Sewer Main
- Gas Main
- Electric Main
- Foundation
- Roof
- Wall
- Window
- Door
- Staircase
- Patio
- Deck
- Driveway
- Garage
- Pool
- Well
- Water Meter
- Sewer Meter
- Gas Meter
- Electric Meter
- Light Pole
- Sign
- Other



SITE RE-MAP
CONCRETE CHANGE
ELECTRICALS - TRAC 66

BOUNDARY - DONE BY OTHERS

GRAVEL DRIVE

BOUNDARY - DONE BY OTHERS

SEPTIC AREA

PATIO
KITCHEN
LIVING ROOM
DINING ROOM
BED ROOM
BATH
GARAGE

KITCHEN
LIVING ROOM
DINING ROOM
BED ROOM
BATH
GARAGE

KITCHEN
LIVING ROOM
DINING ROOM
BED ROOM
BATH
GARAGE

BOUNDARY - DONE BY OTHERS

