

ORDINANCE NUMBER 2019- 21

**GRANTING A MAJOR AMENDMENT TO A SPECIAL USE PERMIT GRANTED BY  
ORDINANCE 2012-22 BY INCREASING THE NUMBER OF HORSES ALLOWED BOARDED  
AT 17J ASHE ROAD (PINS: 01-01-200-020 AND 02-06-102-009) FROM TWENTY-FOUR (24) TO  
THIRTY-SIX (36) HORSES ON PROPERTY ZONED RPD-1 RESIDENTIAL PLANNED  
DEVELOPMENT ONE ZONING DISTRICT IN LITTLE ROCK AND BRISTOL TOWNSHIPS**

*WHEREAS*, Section 13.08 of the Kendall County Zoning Ordinance permits the Kendall County Board to issue major amendments to special use permits and place conditions on major amendments to special use permits and provides the procedure through which special use permits are granted and amended; and

*WHEREAS*, Section 8.03.H.1.m of the Kendall County Zoning Ordinance permits the operation of riding stables a special use with certain restrictions in the RPD-1 Residential Planned Development One 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 RPD-1 Residential Planned Development One Zoning District and consists of approximately 8.5 acres located at 17J Ashe Road, Sugar Grove, Illinois (PINs: 01-01-200-020 and 02-06-102-009) in Little Rock and Bristol Townships. 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*, Ordinance 2012-22, adopted September 18, 2012, granted a special use permit for the operation of a central horse stable and stable manager housing with conditions at the subject property; and

*WHEREAS*, Condition Number 1 of Ordinance 2012-22 set a maximum of twenty-four (24) horses allowed to be housed in stable at the subject property; and

*WHEREAS*, Skyfall Equestrian, LLC acquired the subject property on or about October 1, 2016; and

*WHEREAS*, Dorothy Flisk is authorized to represent Skyfall Equestrian, LLC and shall hereinafter be referred to as “Petitioner”; and

*WHEREAS*, on or about June 26, 2018, Petitioner filed a petition for a Major Amendment to a Special Use Permit increasing the number of horses allowed boarded at the subject property from twenty-four (24) to thirty-six (36); and

*WHEREAS*, following due and proper notice by publication in the Kendall County Record not less than fifteen days prior thereto, the Kendall County Zoning Board of Appeals started a public hearing on August 27, 2018, at 7:00 p.m., and continued the public hearing until April 29, 2019, at 7:00 p.m., and continued the public hearing until July 1, 2019, at 7:00 p.m., and concluded the public hearing on July 29, 2019, at 7:00 p.m., in the County Office Building at 111 W. Fox Street in Yorkville, at which time the Petitioner’s attorney presented evidence, testimony, and exhibits in support of the requested major amendment to a special use permit and two members of the public testified in favor of the request and one member of the public testified in opposition to the request; and

*WHEREAS*, based on the evidence, testimony, and exhibits, the Kendall County Zoning Board of Appeals has made their Findings of Fact and recommended approval of the major amendment to a 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 29, 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 major amendment to a 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 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:

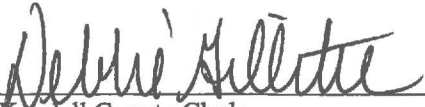
1. The Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals attached hereto as Exhibit B is hereby accepted and the Findings of Fact set forth therein are hereby adopted as the Findings of Fact and Conclusions of this Kendall County Board.
2. The Kendall County Board hereby grants approval of Petitioner's petition for a major amendment to a special use permit allowing the operation of a central horse stable and manager housing on the subject property subject to the following conditions:
  - A. All of the conditions contained in Ordinance 2012-22, except conditions Number 1, Number 2, Number 3, Number 6, and Number 8 shall remain in effect. Conditions Numbers 1, 2, 3, 6, and 8 of Ordinance 2012-22 are hereby repealed.
  - B. The site shall be developed substantially in accordance with the attached site plan attached hereto as Exhibit C. Unless otherwise shown on Exhibit C, the residential lots within the Subdivision shall remain residential with no ability for horse pasturing. Lot 1 can be used just for pasture or a single-family residential house and related accessory structure(s). No trail system shall be placed on the conservation area behind houses.
  - C. The owner(s) of the property shall secure applicable building permits prior to the construction of any structures on the property.
  - D. A maximum of thirty-six (36) horses are allowed to be housed in the stable.
  - E. The manure shall be handled in substantially the manner stated in the manure management plan attached hereto as Exhibit D.
  - F. The facility shall be exclusively used by the owners, trainers, boarders, and their guests. In keeping with the private and quiet nature intended for the residential community, activities at the facility should never be so large or noisy or late that it would be disruptive to residents of the Subdivision. If the facility hosts an outside event exceeding fifty (50) guests, the owner shall provide each property owner that so requests and the Homeowners Association with at least two

to four (2-4) weeks notice of the event. The Owner shall host no more than two (2) such outside events a year. The Owner has no intention of hosting any activity with the general public that would intentionally invite so much traffic that parking would spill off the stable property on to the private residential streets. Events at the stable will be consistent with the image of a small private equestrian club. No tent erection shall occur at any event.

- G. Parking for events shall be restricted to the north and west side of the road within the boundaries of Lot 17 to allow room for emergency vehicles.
  - H. The owner of the special use allowed by this special use permit shall be responsible for twenty-one percent (21%) of the road maintenance for the side streets. The owner of the special use allowed by this special use permit shall be responsible for seventy-nine percent (79%) of the road maintenance of the main road. The owner of the special use allowed by this special use permit shall be responsible for one hundred percent (100%) of road maintenance on Lot 17.
  - I. The owner of the special use allowed by this special use permit will maintain a comprehensive general liability umbrella policy in the minimum amount of \$3 Million. The Homeowners' Association shall be named as an additional insured. The owner of the special use allowed by this special use permit shall obtain workers' compensation insurance.
  - J. The owners(s) of the facility allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business.
  - K. Failure to comply with one or more of the above conditions or restrictions contained in this ordinance and Ordinance 2012-22 could result in the amendment or revocation of the special use permit.
  - L. If one or more of the conditions contained in this ordinance and Ordinance 2012-22 is declared invalid by a court of competent jurisdiction, the remaining conditions of both ordinances 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 major amendment to a special use permit.

IN WITNESS OF, this ordinance has been enacted by a majority vote of the Kendall County Board and is effective this 27<sup>th</sup> day of August, 2019.

Attest:

  
Kendall County Clerk  
Debbie Gillette

  
Kendall County Board Chairman  
Scott R. Gryder

Exhibit A

PARCEL ONE:

LOT 17, EQUESTRIAN ESTATES OF LEGACY FARMS SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED ON JUNE 9, 2006, AS DOCUMENT NUMBER 200600017122, AND PER CORRECTION INSTRUMENTS RECORDED MARCH 27, 2007 AS DOCUMENT 200700010031 AND AS DOCUMENT 200700010032 IN LITTLE ROCK AND BRISTOL TOWNSHIPS, KENDALL COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR INGRESS AND EGRESS OVER LOT 19 (PRIVATE ROAD) IN EQUESTRIAN ESTATES AT LEGACY FARMS, AFORESAID, AS CREATED BY INSTRUMENT RECORDED JUNE 9, 2006, AS DOCUMENT 200600017122 AND PER CORRECTION INSTRUMENTS RECORDED MARCH 27, 2007 AS DOCUMENT 200700010031 AND AS DOCUMENT 200700010032

## 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. Provided that the manure management plan is implemented as proposed, the amendment to the special use 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. Provided that the manure management plan is implemented as proposed and that the property owner follows the remaining restrictions in Ordinance 2012-22, the amendment will not be substantially injurious to the use and enjoyment of other property in the area nor will the amendment impair property values.*

**Chairman Mohr dissented from 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. Provided that the manure management plan is implemented as proposed, no concerns exist regarding drainage. The owner of the property will need to continue their required contributions to the Homeowners' Association as outlined in Ordinance 2012-22 to ensure that the subdivision roads remain in good repair.*

*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 and site plan conform to all other applicable regulations of the RPD-1 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. The LRMP states the following regarding the Rural Estate Residential Area, "limited business use may also be appropriate for small offices or agricultural service enterprises" and "agricultural uses will continue to be a major use in Rural Estate areas" (Page 5-17). Accordingly, with proper restrictions, the proposed use is consistent with the purpose and objectives of the LRMP.*

**Chairman Mohr dissented from this Finding.**

### Recommendation

The Kendall County Zoning Board of Appeals recommends approval of the requested major amendment to an existing special use permit with the following conditions:

1. All of the conditions contained in Ordinance 2012-22, except condition number 1 shall remain in effect.
2. Condition number 1 contained in Ordinance 2012-22 is hereby amended to read, "A maximum of thirty-six (36) horses are allowed to be housed in the stable."
3. The site shall be developed substantially in accordance with the attached site plan.
4. The owner(s) of the property shall secure applicable building permits prior to the construction of any structures on the property.

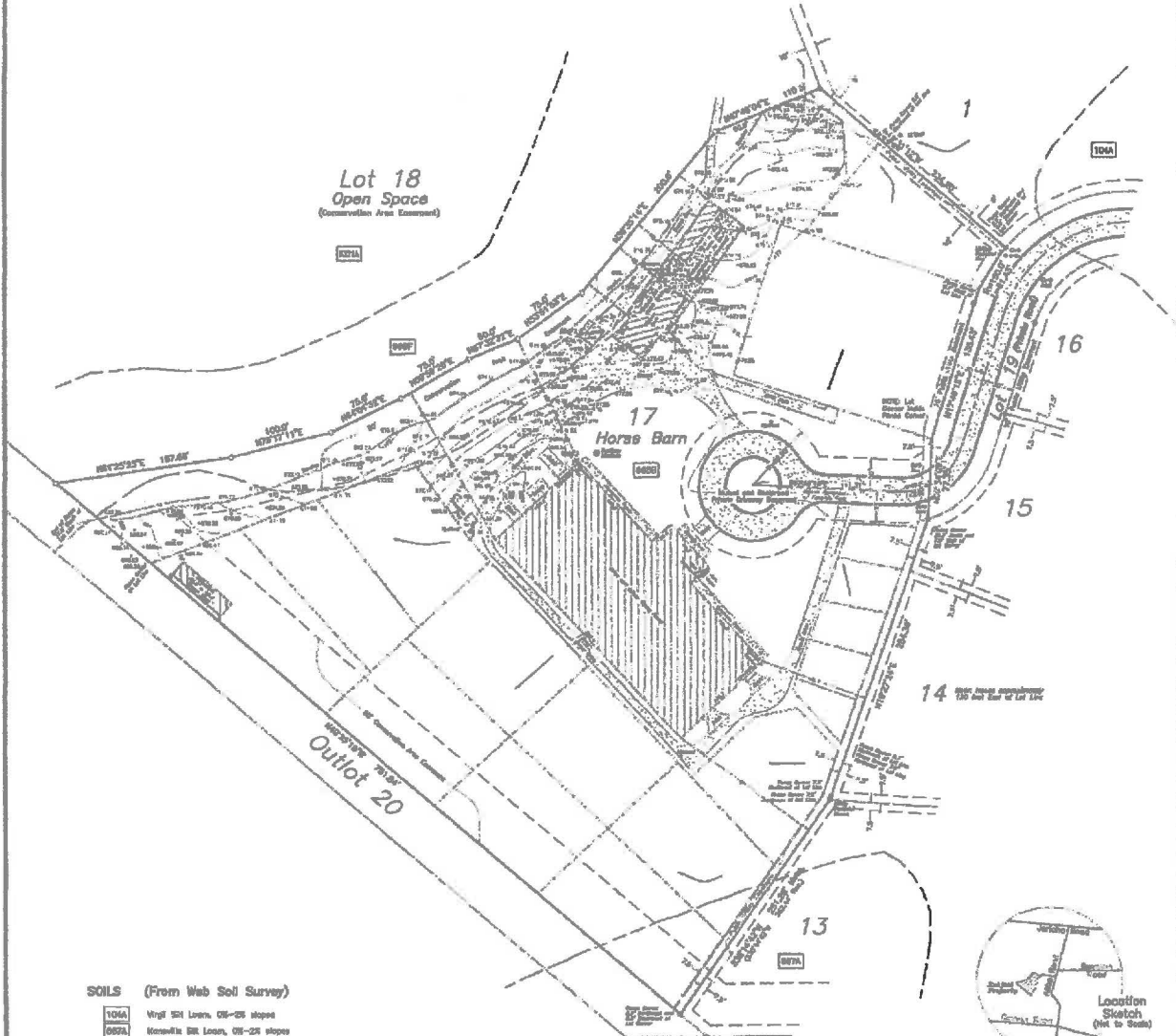
5. The owners(s) of the facility allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business.
6. Failure to comply with one or more of the above conditions or restrictions contained in this ordinance and Ordinance 2012-22 could result in the amendment or revocation of the special use permit.
7. If one or more of the conditions contained in this ordinance and Ordinance 2012-22 is declared invalid by a court of competent jurisdiction, the remaining conditions of both ordinances shall remain valid.
8. Residential lots to remain residential with no ability for horse pasturing.
9. 2-4 weeks Notice for outdoor events.
10. Change notice for "outdoor" events to "outside, not referring to roofs" events.
11. No tent erection at any event.
12. Parking for events to be restricted to one (1) side of the street to allow room for emergency vehicles.
13. Recommended that Skyfall obtain workers' compensation insurance as she has four (4) employees.
14. Increase additional insured insurance amount from \$1 Million to \$10 Million.
15. HOA responsible for 79% of road maintenance on the side streets; Dorothy responsible for 21%.
16. Skyfall responsible for 79% of road maintenance on the main road; HOA responsible for 21%.
17. Skyfall responsible for 100% of road maintenance for its property line.
18. Change the responsibility for the trail system to the HOA.
19. No trail system on the conservation area behind houses.
20. Keep Lot 1 pasture.
21. HOA to install requirement that anyone who sits on the Board must actually reside in the subdivision, not just be an owner.

The Kendall County Zoning Board of Appeals issues this recommendation by a vote of five (5) in favor, one (1) opposed (Mohr), and one (1) absent.

July 29, 2019

Exhibit C

ZONING PLAT OF  
 LOT 17 EQUESTRIAN ESTATES AT LEGACY FARMS  
 BRISTOL AND LITTLE ROCK TOWNSHIPS KENDALL COUNTY ILLINOIS



SOILS (From Web Soil Survey)

- 101A Very Sil Loam, 0%-2% slopes
- 022A Monohill Sil Loam, 0%-2% slopes
- 020A Sertoma Sil Loam, 2%-5% slopes
- 020F Opaco-Hadawa Complex, 20%-30% slopes
- 021A DuPage Sil Loam, 0%-2% slopes, occasionally flooded

FLOODPLAIN STATEMENT:

The Subject Property is located in Zone 2 (areas determined to be within the 0.2% annual chance floodplain), as depicted on FEMA Flood Insurance Rate Map Number 17083000300 with an effective date of February 4, 2008. Base Flood Elevation (BFE) is approximately 548 located West of the West Line of Lot 17.

WETLANDS STATEMENT:

The National Wetlands Inventory Map shows no designated wetlands on the Subject Property.

LEGAL DESCRIPTION OF SUBJECT PROPERTY:

PARCEL ONE:

Lot 17, Equestrian Estates at Legacy Farms Subdivision, according to the Plat Burred recorded on June 8, 2006, on Document Number 000802071122, and per Correction Instrument recorded March 27, 2007 on Document 000700010031 and on Document 200700010032 in Little Rock and Bristol Townships, Kendall County, Illinois.

PARCEL TWO:

Document for the benefit of Parcel 1 for Ingress and Egress over Lot 19 (Private Road) in Equestrian Estates at Legacy Farms, otherwise, as created by Instrument Item 8, 2006, on Document Number 000802071122, and per Correction Instruments recorded March 27, 2007 on Document 000700010031 and on Document 200700010032 in Little Rock and Bristol Townships, Kendall County, Illinois.

DEVELOPER:

Dorothy M. Fisk  
 17 Ash Road, Lot J  
 Sugar Grove, Illinois 60654

AREA OF SUBJECT PROPERTY:  
 370,289 Sq. Ft. = 8.5002 Acres

PRESENT ZONING:

RPD-1 SU (Residential Planned Development - Special Use)

PROPOSED ZONING:

RPD-1 SU (Residential Planned Development - Special Use)

SUBJECT PROPERTY ADDRESS:  
 17 Ash Road, Lot J

SUBJECT PROPERTY P.I.N.  
 02-06-102-008  
 01-01-200-028



SCALE  
 1"=50'

- Indicates Iron Stake Found
- Indicates Iron Disk Set
- Indicates Line of Fence
- Indicates Spot Elevation
- Indicates Contour Direction
- Indicates Direction of Drains

REMARKS:

- BM1 - Northwest Corner of Concrete Dumpster Pad West of Frame Barn. Elevation = 677.47
- BM2 - Northwest Corner of Concrete Pad at Northwest Corner of Indoor Riding Area. Elevation = 682.68

December 21st, 2018

JOB NO.	18045
JOB NAME	ZONING PLAT
DWG FILE	18045
REVISION DATE	

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

11078 South Bridge Street  
 Yorkville, Illinois 60560  
 Telephone (630)553-1580

Exhibit D

Aaron J. Rybski, L.E.H.P.  
Director of Environmental Health Services  
Kendall County Health Department  
811 W. John St., Yorkville, IL 60560

March 7, 2019

Dear Mr. Rybski,

Thank you again for the opportunity to provide the information about the manure management. When I first bought the property and since October of last year we had to dump the daily waste in a pile and then transfer to the garbage which were 8 yards and I had 3 of them that were picked up 4 days a week, which was costing me approximately \$50,000 a year on waste removal which was not a cost I originally had accounted when purchasing the business. Where the garbage containers were I have had built a concrete pad which was grated and sealed with 3 rows of concrete, in late November I am adding a 4<sup>th</sup> row next two weeks to ensure nothing escapes the enclosure. Additionally, I am going to this spring get a fence to make the enclosure look well not like manure and more appealing. This winter I had to figure out the difficult way what to do if the driver for the mushroom farmer was unable to come, so now I have two backups when the mushroom farmer has no room for more waste; most likely during two months of winter January & February. The manure is picked up every 7-8 days depending on the driver's schedule; The driver Griffin Trucking Larry picks up the manure, and delivers to River Valley Ranch- Eric Rose owner whom has been in business since 1975 in Wisconsin. The backups which I used over the winter are Mark Boyle with MTB green technologies in Somonauk, IL., he has a company that transfers the manure waste into energy. Also my straw farmer Reece has taken it as well to spread on his fields. In regards to how often trucks will be entering the premises it will actually be significantly less than it was with the garbage. The manure is monitored daily; **Manure shall be picked up on the more frequent during hot weather to limit odors and insect attraction. Additionally, pickups shall be scheduled more frequently if the pad is fills completely before overflowing.** Please do not hesitate with any other questions. I thank you for your time and assistance, and hope this note finds you well.

Best,

Dorothy M Flisk  
Direct: [REDACTED]  
Proprietor Legacy River Equestrian Center  
17 Ashe Road Lot J  
Sugar Grove, IL. 60608