

ORDINANCE NUMBER 2019- 32

**GRANTING A SPECIAL USE PERMIT ON PROPERTY ZONED A-1 AGRICULTURAL FOR A  
LANDSCAPING BUSINESS AT 276 ROUTE 52 ROAD AND IDENTIFIED BY PARCEL  
IDENTIFICATION NUMBER 09-13-400-006 IN SEWARD 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.28 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 Zoning District and consists of approximately 10.0 acres located at 276 Route 52 (PIN: 09-13-400-006) in Seward 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 Erb Properties, LLC represented by Edward and Robert Baltz and is leased to TZ Landscaping, LLC represented by Thomas and Tyler Zurliene and collective shall hereinafter be referred to as “Petitioners”; and

WHEREAS, on or about June 20, 2019, Petitioners’ representative filed a petition for a Special Use Permit allowing the operation of a landscaping business at the subject property; and

WHEREAS, following due and proper notice by publication in the Herald News not less than fifteen days prior thereto, the Kendall County Zoning Board of Appeals conducted a public hearing on July 29, 2019, at 7:00 p.m., in the County Office Building at 111 W. Fox Street in Yorkville, which said public hearing was continued to September 30, 2019, and continued again to October 28, 2019, at which the Petitioners’ attorney 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; 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 October 28, 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 neutral recommendation 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 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.
  - B. Any new structures constructed on the property shall not be considered for agricultural purposes and must secure applicable building permits.
  - C. One (1) business related five foot by six foot (5'X6') sign shall be allowed on the subject property as shown on the attached site plan. The sign will not be illuminated.
  - D. The parking area shown on the site plan shall be located to comply with the Kendall County Zoning Ordinance, shall be gravel, and shall be approximately forty-five feet by sixty feet (45'X60') in size.
  - E. A berm three feet (3') in height as measured from the top of the berm to the base of the berm shall be erected east of the driveway as shown on the site plan. The berm shall be six feet (6') wide at the base, shall extend approximately fifty feet (50'), and shall be made of dirt and seed. The berm shall be installed by October 2020.
  - F. One hundred twenty-four (124) Techny Arborvitae shall be planted in substantially the locations shown on the attached site plan. The arborvitae shall be three feet (3') tall at the time of planting and shall grow to approximately fifteen feet (15'). The arborvitae shall be installed by October 2020. Damaged or dead arborvitae shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.
  - G. Any materials associated with the landscaping business stored outdoors, including the debris area and brick area, must be stored on concrete pads with blocks on three sides of the materials in substantially the same locations as shown on the site plan. The concrete pads must be installed by March 2020.
  - H. Equipment and vehicles related to the business may be stored outdoors.
  - I. Within sixty (60) days of the approval of this special use permit, the Petitioners shall supply the Kendall County Health Department with the locations of the existing well and septic systems on the property. This deadline may be extended by mutual agreement between the Petitioners and the Kendall County Health Department.
  - J. No landscape waste generated off the property can be burned on this site.

- K. A maximum of fifteen (15) employees of the business allowed by this special use permit may report to this site for work. No employees shall engage in the sale of landscaping related materials on the property.
  - L. No customers of the business allowed by this special use permit shall be invited onto the property by anyone associated with the use allowed by this special use permit.
  - M. The hours of operation of the business allowed by this special use permit shall be Monday through Saturday from 6:00 a.m. until 8:00 p.m. between the months of April and November. The business allowed by this special use permit may operate at any time between the months of December and March.
  - N. 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.
  - O. 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.
  - P. 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 19<sup>th</sup> day of November, 2019.

Attest:

  
\_\_\_\_\_  
Kendall County Clerk  
Debbie Gillette

  
\_\_\_\_\_  
Kendall County Board Chairman  
Scott R. Gryder



Exhibit A

**TZ Landscaping, LLC**

**Legal Description for 276 Rt. 52, Minooka, IL 60447**

THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 35 NORTH, RANGE 8 EAST  
OF THE THIRD PRINCIPAL MERIDIAN, EXCEPTING THEREFROM THE SOUTH 544 00  
FEET OF THE WEST 480 FEET THEREOF, IN KENDALL COUNTY, ILLINOIS

## Exhibit B

The Kendall County Zoning Board of Appeals approved the following Findings of Fact and Recommendation at their meeting on October 28, 2019, by a vote of five (5) in favor and zero (0) in opposition. Chairman Mohr and Member Cherry were absent.

### FINDINGS OF FACT

§ 13.08.J of the Zoning Ordinance outlines findings that the Zoning Board of Appeals must make in order to recommend in favor of the applicant on special use permit applications.

*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 landscaping materials are properly stored, that appropriate screening is installed, that the well and septic systems are operational and sized to handle the proposed use, and that applicable building and stormwater permits are secured, the proposed use will not be detrimental to 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 subject property is shown as commercial on the future land use map. Provided that landscaping materials are properly stored and that appropriate screening is installed, the proposed use should not adversely impact adjacent uses.***

*That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. **Route 52 is a State maintained highway that can handle loads of at least seventy-three thousand two hundred eighty pounds (73,280 lbs.). The location and size septic field are unknown. The Petitioners may have to upgrade the septic system because of the new use of the property.***

*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. **Provided the Petitioners comply with all applicable laws, the proposed business and site plan conform to all other applicable regulations of the A-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 encourages agriculture and agribusiness (Page 3-3). The proposed use is consistent with the purpose and objectives of the LRMP.***

### RECOMMENDATION

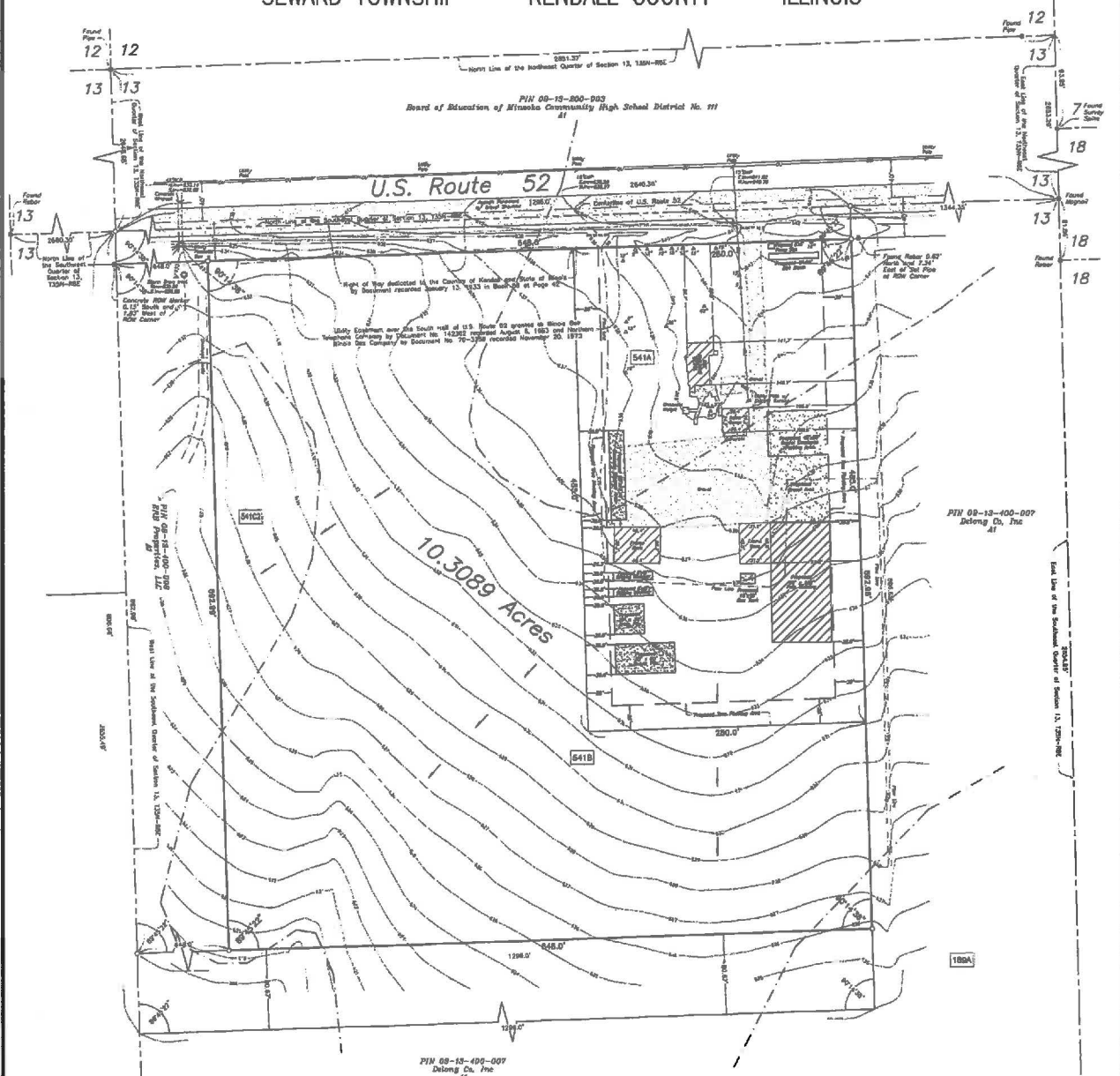
Approval subject to the following conditions:

1. The site shall be developed substantially in accordance with the attached site plans submitted on September 18, 2019 and dated October 14, 2019.
2. Any new structures constructed on the property shall not be considered for agricultural purposes and must secure applicable building permits.
3. One (1) business related five foot by six foot (5'X6') sign shall be allowed on the subject property as shown on the attached site plan. The sign will not be illuminated.
4. The parking area shown on the site plan shall be located to comply with the Kendall County Zoning

Ordinance, shall be gravel, and shall be approximately forty-five feet by sixty feet (45'X60') in size.

5. A berm three feet (3') in height as measured from the top of the berm to the base of the berm shall be erected east of the driveway as shown on the site plan. The berm shall be six feet (6') wide at the base, shall extend approximately fifty feet (50'), and shall be made of dirt and seed. The berm shall be installed by October 2020.
6. One hundred twenty-four (124) Techny Arborvitae shall be planted in substantially the locations shown on the attached site plan. The arborvitae shall be three feet (3') tall at the time of planting and shall grow to approximately fifteen feet (15'). The arborvitae shall be installed by October 2020. Damaged or dead arborvitae shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.
7. Any materials associated with the landscaping business stored outdoors, including the debris area and brick area, must be stored on concrete pads with blocks on three sides of the materials in substantially the same locations as shown on the site plan. The concrete pads must be installed by March 2020.
8. Equipment and vehicles related to the business may be stored outdoors.
9. Within sixty (60) days of the approval of this special use permit, the Petitioners shall supply the Kendall County Health Department with the locations of the existing well and septic systems on the property. This deadline may be extended by mutual agreement between the Petitioners and the Kendall County Health Department.
10. No landscape waste generated off the property can be burned on this site.
11. A maximum of fifteen (15) employees of the business allowed by this special use permit may report to this site for work. No employees shall engage in the sale of landscaping related materials on the property.
12. No customers of the business allowed by this special use permit shall be invited onto the property by anyone associated with the use allowed by this special use permit.
13. The hours of operation of the business allowed by this special use permit shall be Monday through Saturday from 6:00 a.m. until 8:00 p.m. between the months of April and November. The business allowed by this special use permit may operate at any time between the months of December and March.
14. 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.
15. 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.
16. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

# ZONING PLAT OF PART OF THE SOUTHEAST QUARTER OF SECTION 13, T35N-R8E, 3rd PM SEWARD TOWNSHIP KENDALL COUNTY ILLINOIS



**FLOODPLAIN STATEMENT:**

The Subject property is located in Zone X (areas of minimal flood hazard determined to be outside the 0.2% annual chance floodplain) as shown on FEMA Flood Insurance Rate Map Panel No. 1706501450 with an effective date of January 8, 2014.

**WETLANDS STATEMENT:**

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

**DEVELOPER:**  
T.Z. Landscaping, LLC  
Thomas and Tyler Zurhine  
1001 Lyra Court  
Shorewood, Illinois 60404

**PROPERTY LOCATION:**  
PIN: 09-13-400-008  
276 US Highway 52  
Mirambe, Illinois 60447

**AREA TO BE REZONED:**  
10.3089 Acres

**PRESENT ZONING:**  
A-1

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



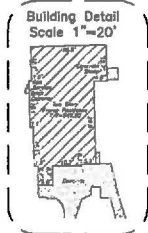
- SCALE**  
1"=50'
- 0 50 100 150
- Indicates Iron Stake Found
  - Indicates Iron Stake Set
  - Indicates Concrete Right of Way Monument
  - Indicates Line of Fence
  - Indicates Overhead Utilities
  - Indicates Soils Boundary
  - Indicates Tree Location and Diameter
  - Indicates Spot Elevation
  - Indicates Contour Elevation
  - Indicates Direction of Flow

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

The East Half of the North 806.86 feet of the West 1298.0 feet of the Southeast Quarter of Section 13, Township 35 North, Range 8 East of the Third Principal Meridian, EXCEPT the South 80.67 feet thereof, in Kendall County, Illinois.

**SOILS (From Web Soil Survey)**

188A	Morriston S11 Loam, 0%–2% slopes
S41A	Graymont S11 Loam, 0%–2% slopes
S41B	Graymont S11 Loam, 2%–5% slopes
S41C	Graymont S11 Loam, 5%–10% slopes, eroded



PIN: 09-13-400-006

October 14, 2019

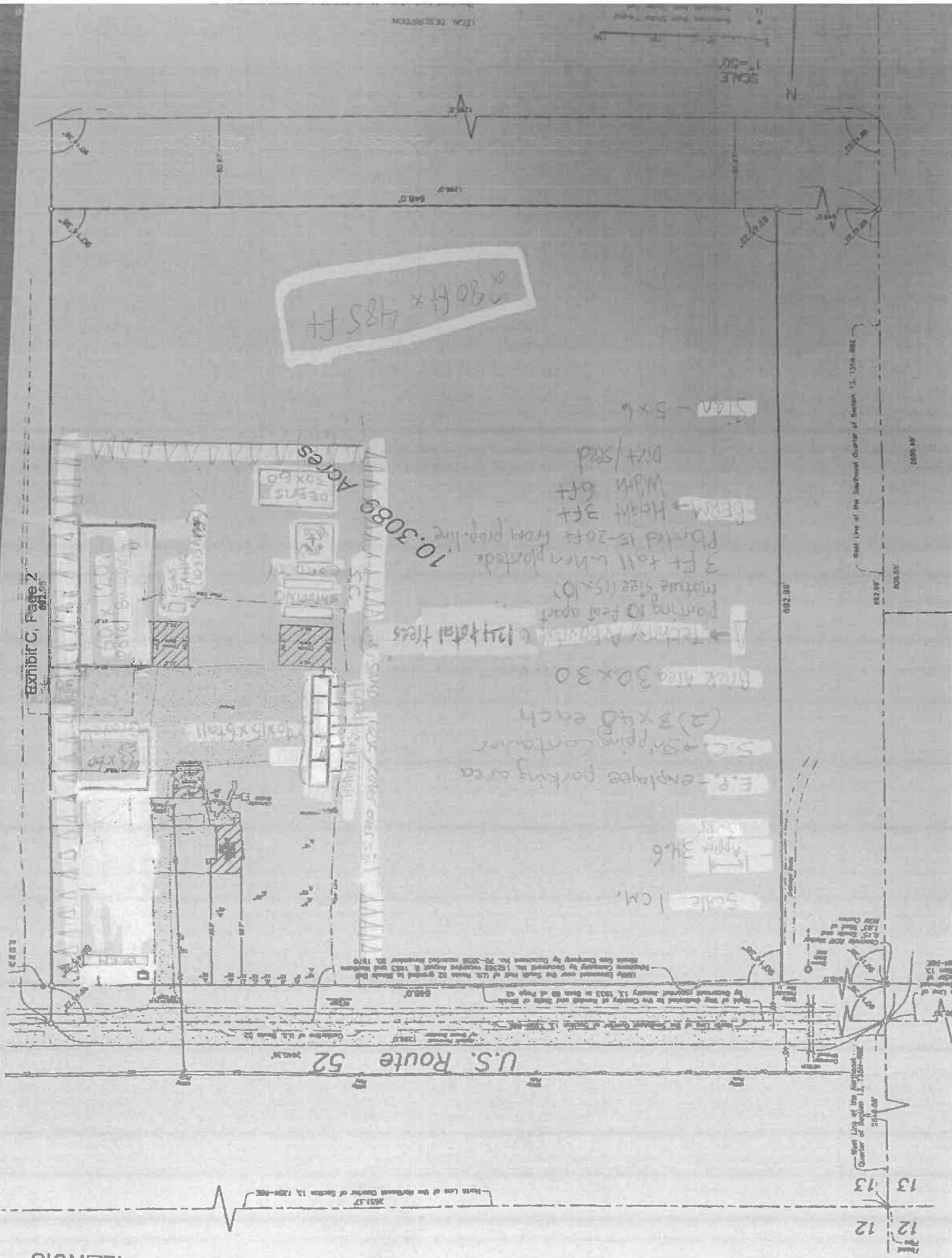
JOB NO.	19160
JOB NAME	020 PROPPINES
DWG FILE	191603
REVISION DATE	10-14-2019

NOTE: Plat revised October 14, 2019  
ss to show proposed improvements.

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

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





290 ft x 485 ft

5 x 6

10.3089 Acres

BRM - Height 3ft  
Width 6ft  
Planted 15-20ft from prop. line

Planting 10 feet apart  
mature size (5x10)  
3 ft tall when planted  
Planted 15-20ft from prop. line

Technical Appendix C 124 total trees  
Brick area 30 x 30

S.C. - Shipping Containers  
(2) 3 x 40 each  
E.P. - employee parking area

Area 34.6

SCALE 1 CM.

Right of Way granted to the County of Kendall and State of Illinois  
by Decree recorded January 11, 1913 in Book 89 at Page 42  
1924 Decree over the East half of U.S. Road 22 granted to Paul M.  
Hudson Company by Decree No. 14282 recorded August 4, 1923 and modified  
State Gas Company by Decree No. 29-2288 recorded November 20, 1919

U.S. Route 52

13

12

North Line of the Northwest Quarter of Section 13, 1294-885

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