

ORDINANCE NUMBER 2019- 02

**GRANTING A SPECIAL USE PERMIT ON PROPERTY ZONED A-1 AGRICULTURAL FOR A LANDSCAPING BUSINESS FOR A 3.0 ACRE +/- PARCEL LOCATED AT 6725 ROUTE 71, YORKVILLE, ILLINOIS AND IDENTIFIED BY PARCEL IDENTIFICATION NUMBERS 02-24-300-018 AND 02-24-300-017 IN OSWEGO 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 3.0 acres located at 6725 Route 71, Yorkville, Illinois (PINs: 02-24-300-018 and 02-24-300-017) in Oswego 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 Rodolfo and Georgina Nunez and shall hereinafter be referred to as “Petitioner”; and

*WHEREAS*, on or about December 21, 2018, Petitioner filed a petition for a Special Use Permit allowing the operation of a landscaping businesses at the subject property 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 conducted a public hearing on January 28, 2019, at 7:00 p.m., in the County Office Building at 111 W. Fox Street in Yorkville, at which the Petitioner’s 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 January 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 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 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 attached site plan attached hereto as Exhibit C.
  - B. Within sixty (60) days of the approval of this special use, the Petitioner 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 Petitioner and the Kendall County Health Department.
  - C. All vehicles, equipment and materials associated with a landscaping business shall be stored entirely within enclosed structures. The owner of the business allowed by this special use permit may store nursery stock outdoors. All equipment related to the business allowed by this special use permit shall be inside the enclosed structures between sunset and sunrise. The owner of the business allowed by this special use permit may keep one (1) company truck parked outdoors between sunset and sunrise.
  - D. No landscape waste generated off the property can be burned on this site
  - E. A maximum of five (5) employees of the business allowed by this special use permit may report to this site for work.
  - F. No permanent commercial related signage may be displayed at the property.
  - G. 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.
  - H. 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.
  - I. 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.

State of Illinois  
County of Kendall

Zoning Petition  
#19-04

*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 February, 2019.

Attest:



Kendall County Clerk  
Debbie Gillette



Kendall County Board Chairman  
Scott R. Gryder

Exhibit A

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

That Part of the Southwest Quarter of Section 24, Township 37 North, Range 7 East of the Third Principal Meridian described as follows: Commencing at the Northwesterly Corner of Herren's Third Subdivision; thence South 68°16'35" West, along the Southerly Right-of-Way Line of Illinois Railnet (formerly known as Chicago, Burlington and Quincy Railroad Company), 493.67 feet; thence South 23°13'27" East, 405.50 feet; thence South 51°25'35" West, 523.58 feet; thence South 41°56'10" West, 1071.73 feet; thence South 66°46'00" East, 742.45 feet to a point on the Northerly Right-of-Way Line of Illinois Route 71 hereinafter referred to as "Point A"; thence North 66°46'00" West, 337.64 feet; thence North 41°47'24" East, 141.40 feet for the point of beginning; thence South 66°46'00" East, 316.51 feet to said Northerly Right-of-Way; thence Northeasterly, along said Northerly Right-of-Way being a curve to the right with a radius of 3233.23 feet and a chord bearing North 38°34'44" East, an arc distance of 455.93 feet to a point on said Northerly Right-of-Way which is an arc distance of 592.09 feet from "Point A" aforesaid; thence North 66°46'00" West, 289.60 feet; thence South 41°47'24" West, 463.40 feet to the point of beginning in Oswego Township, Kendall County, Illinois.

## 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 property is developed in accordance with the submitted site plan, that the maximum number of employees reporting to the site is minimal, that landscaping debris is not stored onsite, that the majority of equipment is stored in an enclosed structure, and that the new structure is constructed per applicable codes, 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 submitted site plan shows the construction of a new two thousand four hundred (2,400) square foot building. A berm is already located on the subject property. The proposed use is consistent with similar agricultural related uses. The proposed use will not be located near any structures on adjoining properties. With appropriate restrictions, 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.* The existing well, septic, and electrical systems are adequate for the proposed use. Route 71 is State maintained highway that can handle loads of at least seventy-three thousand two hundred eighty pounds (73,280 lbs). If best management practices are followed when constructing the new building and if no landscape debris is stored onsite, no concerns about drainage of stormwater runoff exist.

*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 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.

### APPROVAL WITH CONDITIONS

1. The site shall be developed substantially in accordance with the attached site plan.
2. Within sixty (60) days of the approval of this special use, the Petitioner 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 Petitioner and the Kendall County Health Department.
3. All vehicles, equipment and materials associated with a landscaping business shall be stored entirely within enclosed structures. The owner of the business allowed by this special use permit may store nursery stock outdoors. All equipment related to the business allowed by this special use permit shall be inside the enclosed structures between sunset and sunrise. The owner of the business allowed by this special use permit may keep one (1) company truck parked outdoors between sunset and sunrise.

## Exhibit B

4. No landscape waste generated off the property can be burned on this site
5. A maximum of five (5) employees of the business allowed by this special use permit may report to this site for work.
6. No permanent commercial related signage may be displayed at the property.
7. 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.
8. 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.
9. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

Exhibit C

ZONING PLAT OF  
PART OF THE SOUTHWEST QUARTER OF SECTION 24, T37N-R7E, 3rd PM  
OSWEGO TOWNSHIP KENDALL COUNTY ILLINOIS

DEVELOPER:

OutdoorScapes, Inc.  
Rodolfo Nunez  
P.O. Box 851  
Montgomery, Illinois 60538

PROPERTY LOCATION:

PINs: 02-24-300-017 and -018  
6725 State Highway 71  
Yorkville, Illinois 60560

AREA TO BE REZONED:

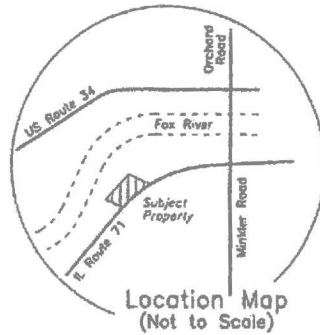
3.0004 Acres

PRESENT ZONING:

A-1

PROPOSED ZONING:

A-1, SU

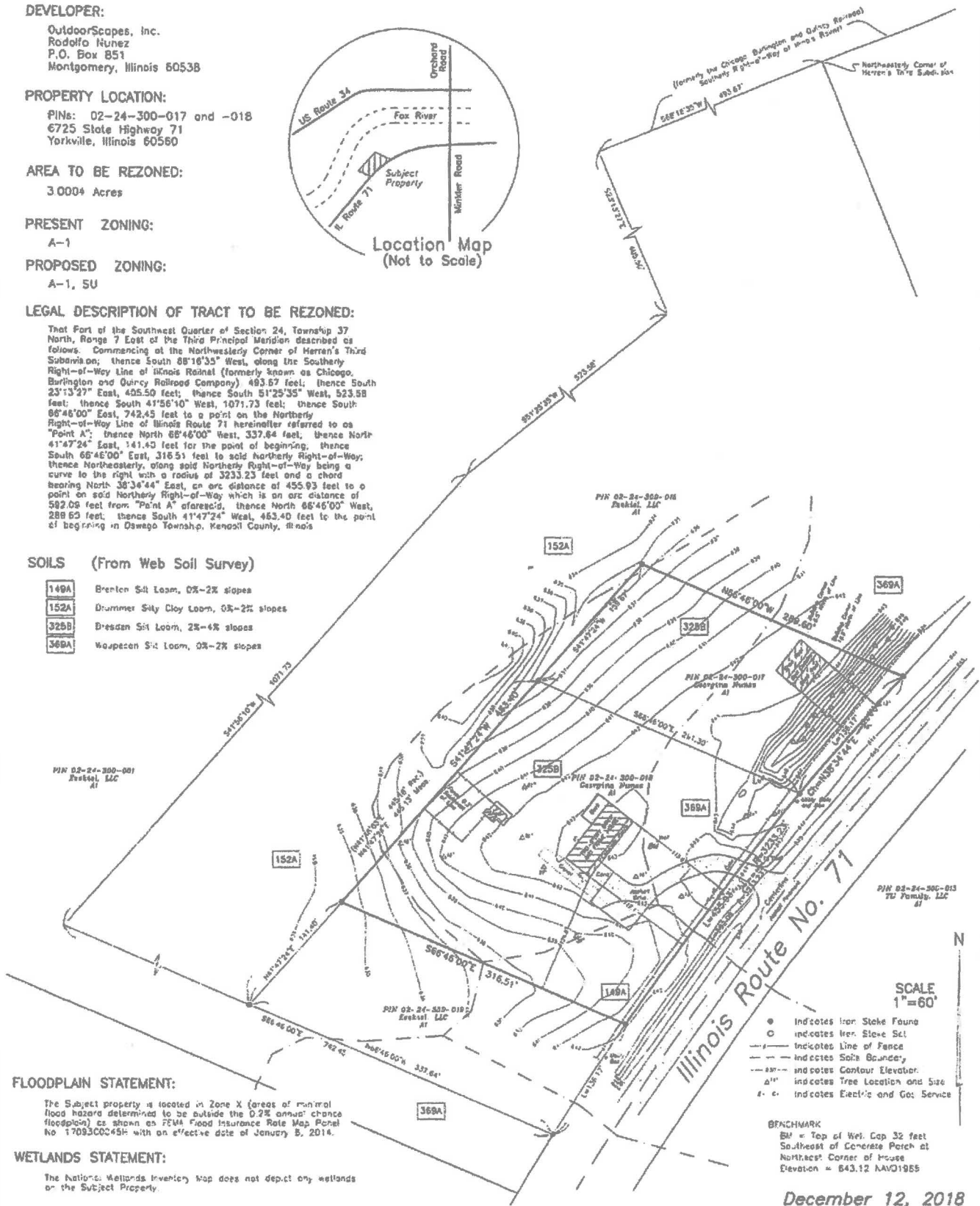


LEGAL DESCRIPTION OF TRACT TO BE REZONED:

That Part of the Southwest Quarter of Section 24, Township 37 North, Range 7 East of the Third Principal Meridian described as follows: Commencing at the Northwestern Corner of Herran's Third Subdivision; thence South 88°16'35" West, along the Southerly Right-of-Way Line of Illinois Railroad (formerly known as Chicago, Burlington and Quincy Railroad) 403.67 feet; thence South 23°13'27" East, 405.50 feet; thence South 51°25'35" West, 523.88 feet; thence South 41°56'10" West, 1071.73 feet; thence South 68°46'00" East, 742.43 feet to a point on the Northerly Right-of-Way Line of Illinois Route 71 hereinafter referred to as "Point A"; thence North 68°46'00" West, 337.84 feet; thence North 41°47'24" East, 141.40 feet for the point of beginning; thence South 66°46'00" East, 316.51 feet to said Northerly Right-of-Way; thence Northeasterly, along said Northerly Right-of-Way being a curve to the right with a radius of 3233.23 feet and a chord bearing North 36°34'44" East, an arc distance of 455.93 feet to a point on said Northerly Right-of-Way which is an arc distance of 582.08 feet from "Point A" aforesaid; thence North 66°46'00" West, 289.63 feet; thence South 41°47'24" West, 463.40 feet to the point of beginning in Oswego Township, Kendall County, Illinois

SOILS (From Web Soil Survey)

- 149A Brecken Sil Loam, 0%-2% slopes
- 152A Drummer Silty Clay Loam, 0%-2% slopes
- 325B Dresden Sil Loam, 2%-4% slopes
- 369A Wepecan Sil Loam, 0%-2% slopes



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. 17093C0045H with an effective date of January 5, 2014.

WETLANDS STATEMENT:

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

SCALE  
1"=60'

- indicates Iron Stake Found
- indicates Iron Level Set
- indicates Line of Fence
- - - indicates Salt Boundary
- indicates Contour Elevation
- △ indicates Tree Location and Size
- ⊙ indicates Electric and Gas Service

BENCHMARK  
BM = Top of Wel. Cap 32 feet  
Southeast of Concrete Pier at  
Northeast Corner of House  
Elevation = 643.12 NAVD1985

December 12, 2018

JOB NO.	18305
JOB NAME	NUNEZ
DWG FILE	18305

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

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