COUNTY OF KENDALL, ILLINOIS
COMMITTEE OF THE WHOLE
County Office Building; Room 210; Yorkville IL
Thursday, September 13, 2018 at 4:00 PM
AGENDA

1. Call to Order and Pledge of Allegiance

2. Roll Call: Lynn Cullick, Matt Kellogg, Audra Hendrix, Matthew Prochaska, John Purcell, Bob Davidson, Elizabeth Flowers, Tony Giles, Judy Gilmour, Scott Gryder

3. Approval of Agenda

4. Committee Business

   ➢ Presentation on Kendall County Water – Pete Wallers, Engineering Enterprises, Inc.

   ➢ Discussion and Approval of Yorkville Historical Preservation Society’s request to hold a fundraising event on County-owned property

   ➢ FY 2019 Budget Discussion

   ➢ From PB&Z Committee

Petition 18 – 13 – Kendall County Planning, Building and Zoning Committee


Petition 18 – 26 – Maurice E. Ormiston as Trustee u/t/a No. 101 and Marilyn J. Ormiston as Trustee u/t/a 102 (Owners) and Gay Hoddy (Tenant)
Requests: Special Use Permit to Operate a Banquet Center at the Subject Property
Variance to Section 7.01.D .10.a of the Kendall County Zoning Ordinance to Allow a Banquet Center on a Non-Arterial or Non-Major Collector Roadway
Variance to Section 11.02.F.2 of the Kendall County Zoning Ordinance to Allow Off-Street Parking and Driving Aisles to Not Be Improved with a Permanent, Concrete, Unit Paver, Asphalt Surface or Some Other Environmentally Friendly or Green Design Practice
Variance to Section 11.02.F.12.B of the Kendall County Zoning Ordinance to Waive the Requirement for “Fully Shielded” or “Cut Off” Light Fixtures for the Parking Facility

PIN: 04-34-100-001

If special accommodations or arrangements are needed to attend this County meeting, please contact the Administration Department at 630- 553-4171, a minimum of 24-hours prior to the meeting time.
Location: 14905 Hughes Road, Fox Township
Purpose: Petitioners Desire to Operate a Banquet Facility with Variances at the Subject Property

Petition 18-28 – Kendall County Planning, Building and Zoning Committee
Request: Update to the Kendall County Inoperable Vehicle Ordinance and Repeal of Ordinance 88-15
Purpose: Proposal Would Repeal Ordinance 88-15 and Allow the Code Inspector and Sheriff’s Department to Issue Citations for Inoperable Vehicles

5. Public Comment

6. Questions from the Media

7. Chairman’s Report

8. Review Board Action Items

9. Executive Session Executive Session for the purpose of the review of discussion of minutes of meetings lawfully closed under the Open Meetings Act, whether for purposes of approval by the body of the minutes or semi-annual review of the minutes as mandated by Section 2.06, 5ILCS 120-2

10. Adjournment
COUNTY OF KENDALL, ILLINOIS
COMMITTEE OF THE WHOLE
Thursday, August 16, 2018

CALL TO ORDER AND PLEDGE OF ALLEGIANCE - The meeting was called to order at 4:01 p.m. by Chair Scott Gryder who led the committee in the Pledge of Allegiance to the American Flag.

ROLL CALL

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Others present: Matt Asselmeier, Jill Ferko, Scott Koeppel, Raeann VanGundy, Assistant State’s Attorney Jim Webb

APPROVAL OF AGENDA – Motion made by Member Cullick with the amendment to move the Public Comment section to follow the Approval of the agenda, second by Member Prochaska. With seven members present voting aye, the motion carried by a vote of 7-0.

PUBLIC COMMENT – Tom and Mary Bromeland, Newark, IL; Bonnie Johnson, Newark, IL; Alex Bromeland, Newark, IL; Andy Bromeland, Newark, IL; Joan Cardwell, Newark, IL

COMMITTEE BUSINESS

From PBZ Committee:

Petition 18-15 - Request from Nancy Harazin on Behalf of Nancy L. Harazin Trust Number 101 for a Special Use Permit for a Public or Private Utility-Other (Solar Panels) at 16400 Newark Road, approximately 0.2 Miles East of Route 71 on the South Side of Newark Road (PIN: 07-05-400-003) in Big Grove Township - Mr. Asselmeier briefed the committee on the Special Use Permit request, reviewing the County Ordinance, the site plan, signage, fencing, the term of the lease, the Decommissioning Plan, the specific requirements for construction, applicable building codes, federal, state and County law and permit requirements, liability, safety fire, and public health issues and training for the Newark Fire District, drainage issues, aesthetics of the solar field, the sheet erosion concerns and landscaping around the solar field to address the issue, repair and replacement of broken panels, and the property value study conducted by Borrego Solar Systems.
Mr. Asselmeier also shared the process, and various committees and boards that reviewed the request, site plan and proposal for the solar field, and any changes that each board or committee recommended.

The request was reviewed by the Village of Newark, Big Grove Township, the Newark Fire Protection District, the County ZPAC Committee, the County Planning, Building and Zoning Committee, the County Zoning Board of Appeals, and the County State’s Attorney’s Office. **The County Board will vote on the issue at the August 21, 2018 County Board meeting.**

*Discussion and Recommendation for Accounting and Auditing Company RFP* — Lynn Cullick informed the committee about discussions at the Admin HR Committee meeting, and the three companies that were selected as potential candidates to provide auditor services to the County. Discussion on the three bidders, the auditing process, the proposed fees, and the proposed number of hours that would be committed to the County for providing auditing services. Members from the Finance Committee also provided the pros and cons determined for the three bidders. The recommendation from the Finance Committee was to approve the acceptance of the bid from Mack and Associates for Accounting and Auditing Services for 3-years with the cost of $61,450 in year 1, $62,900 in year 2, and $64,350 in year 3. **The County Board will vote on the issue at the August 21, 2018 County Board meeting.**

- **Discussion and Recommendation for Property, Casualty and Liability Insurance Broker RFQ** — Member Cullick reported that there was discussion at the Admin HR Committee meeting, and stated that the committee wanted full-board input prior to giving staff direction as far as proceeding with contract negotiations. Mr. Koeppel reported that just today, he received an email from Alliant-Mesirow today proposing a fixed annual cost of $49,000 per year, for a 5-year contract. This information was not provided in their bid proposal or offered during the bidder’s presentation at the Admin HR COW meeting in June 2018.

Discussion on the risk management pool and participation by all three companies, concerns and questions by members following the presentations, the term length and possible options for extension of the contract, and pros and cons for each applicant.

There was consensus by the committee to direct administrative staff to proceed with negotiations with Alliant-Mesirow for a 3-year contract with the possibility of two 1-year extensions.

- **FY2019 Budget Discussion** — Chair Gryder stated that there were a number of topics that County Board members had questions regarding the budget, at the last County Board meeting. Mr. Koeppel stated that the County won’t have final Health Insurance increase numbers until mid-September, and that the Finance Committee would like to hold Budget Presentations in September if possible, but that Elected Officials and Department Heads would need time to prepare their budgets for Budget Presentations in September. Discussion on funds used to balance the budget last year, lower new construction revenues, decreased CPI, decreased revenues, salary increases for non-union personnel, elected official and department head input on the budget, and a potential budget decrease of 2-percent county-wide.
QUESTIONS FROM THE MEDIA – None

CHAIRMANS REPORT – None

REVIEW BOARD ACTION ITEMS – Chair Gryder asked the committee to review the draft County Board agenda for August 21, 2018.

EXECUTIVE SESSION – Member Prochaska made a motion to enter into Executive Session for the purpose of Litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that 5ILCS 120/2 (11), second by Member Davidson.

ROLL CALL:

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With seven members voting aye, the committee entered into Executive Session at 5:56p.m. and reconvened into Open Session at 6:03p.m.

ADJOURNMENT – Member Prochaska made a motion to adjourn the meeting, second by Member Giles. With seven members voting aye, the meeting was adjourned at 6:05p.m.

Respectfully Submitted,

Valarie McClain
Administrative Assistant and Recording Secretary
COUNTY OF KENDALL, ILLINOIS
SPECIAL EVENT NOTIFICATION FORM

CONTACT INFORMATION

Name of Organization/Group/Individual: Yorkville Historic Preservation Society
Address: 406 E. Madison St.
City/State/Zip: Yorkville, IL 60560
Phone: 

EVENT INFORMATION

Event: Life Size Monopoly Fundraiser
Event Date(s): Sept 29, 2018
Time (Start) 1:00 pm (End) 6:00 pm
Type of Activity/Event: Life Size Monopoly - Kids Activities, Food Trucks
Estimated Number of Participants: 90
Estimated Attendance at the Event: 200
Description/Purpose of Event: Fundraiser for nonprofit Above
Event Location/Address: Jefferson St. Yorkville, IL
City, State, Zip: Yorkville, IL 60560

Primary Contact Phone: 
Email Address: 
Contact Phone Day of Event: 
Email Address: 

EVENT CONTACT/Person Completing this form: Robin Sutliff

Phone Number: 
Email: 

9/7/2018 @ 12:40 PM

Copy to: Skeppel, Sheriff's Office, Highway PBZ+ Environmental Health

For internal office use: Email notification sent to Sheriff's Office, Highway Department, Environmental Health
The organization is the Yorkville Historical Preservation Society, not the KC Historical Society. Life Size Monopoly Games will be held every 45 minutes from 1:00 pm to 6:00 pm. We are hoping to have 3-4 food trucks.

A local school will be organizing free kids games, crafts and activities for kids. TRY (teens reaching youth) from Yorkville High School will also be helping with the kids activities. Parking will be located in the nearby public parking lots and streets to the east of Rt 47. Port-a-potties will be located near the SW corner of Madison and Jefferson Streets.

This is a non alcohol event. Only water and pop will be sold by a local school.

All food trucks will have necessary Mobile Health Department licenses.

Our Rain date is October 6th.

Please let me know if you have any additional questions.

Thank you,
Robyn Sutcliff
Chair person of Fundraising
Yorkville Historic Preservation Society, Non Profit

On Fri, Sep 7, 2018 at 12:16 PM Valarie McClain <vmcclain@co.kendall.il.us> wrote:

Robyn,

Is the organization the KC Historical Society, I wasn't sure. This request will need to go to the County Board for approval at the September 18th meeting. Please send your detailed plan for that day please? If you can also send us a diagram of the event set-up that would help — where games will be held, where food trucks will set-up, where people will park, where port-a-potties will be placed, how many food trucks, etc. Alcohol is not allowed on any County property, so if there is a plan to sell any alcoholic beverages, I’ll need to know that and the location of that sale as well.

Please feel free to call me at the number below with any questions.

Valarie McClain
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 Committee of the Whole
From: Matthew H. Asselmeier, AICP, Senior Planner
Date: September 11, 2018
Re: 18-13 Proposed Text Amendments Pertaining to Solar Panel Zoning Regulations

At their meeting on March 12, 2018, the Planning, Building and Zoning Committee approved initiating text amendments to the Kendall County Zoning Ordinance incorporating DeKalb County's proposed solar panel regulations into the Kendall County Zoning Ordinance.

The amendment worksheet is attached to this memo.

Mr. Holdiman previously suggested that 4.18.O.2 be removed from the proposal because the County currently does not require insurance for existing solar panels.

The Kendall County Farm Bureau was sent the proposal in March. They questioned why the bonding requirement was "may" and not "shall" (4.18.P.6).

The townships were mailed the proposal on March 22nd and were notified of the results of the July 30, 2018, Zoning Board of Appeals hearing. To date, no townships have submitted comments.

ZPAC met on the proposal on April 3rd and unanimously recommended approval of the proposal with the following amendments:

1. Section 4.18.D.10 should be removed because the same language is found in 4.18.Q.3.

2. A more detailed contour map with existing vegetation, waterways, wetland boundaries, and FEMA FIRM information in a manner described in the Boone County ordinance should be added to the proposal.

3. The reference to the State of Illinois Uniform Building Code found in Section 4.18.C.8 should be removed.

4. Greater discussion should occur regarding the desire to have solar gardens in residential zoned districts.

5. The word "crops" found in line 7 of 4.18.C.4 should be replaced with the word "vegetation" because crops probably will not be the only plants growing around the solar panels and crops probably will not grow around the solar panels.

The Kendall County Regional Planning Commission met on May 23, 2018, and recommended approval of the proposal with the following changes.

1. The reference to a county solar garden in the definition of "Solar Garden" should be deleted.
2. All references to waiving the special use permit requirements and setback requirements should be deleted.

3. Solar gardens and solar farms had to follow the setback requirements for the zoning district in which they are located. Accordingly, the reference to a one hundred foot (100') distance from the right-of-way or property line found in 4.18.D.2 should be deleted.

4. The statement that solar farms require a special use permit found in Section 4.18.D.1 should be removed.

5. If allowed by the State's Attorney's Office, a provision should be added to Section 4.18.F regarding repair of damaged drain tile.

The Kendall County Zoning Board of Appeals held a public hearing on this proposal on July 30, 2018. No members of the public testified in favor or in opposition to the proposal. The Zoning Board of Appeals unanimously recommended approval of the proposal.

The State of Illinois recently approved an Agricultural Impact Mitigation Agreement (AIMA) requirement. This proposal requires decommissioning to be completed within six (6) months of the commencement of the decommissioning plan (4.18.P.4); the AIMA allows a maximum twelve (12) month for decommissioning to occur (17.B). In addition, the proposal gives the County Board discretion whether or not to require a decommissioning bond (4.18.P.6); the AIMA allows decommissioning Financial Assurance to be phased over the first eleven (11) years (17.D).

At their meeting on September 10, 2018, the Planning, Building and Zoning Committee recommended forwarding the proposal to the Committee of the Whole with the decommissioning bond requirement changed from "may" to shall in 4.18.P.6.

The proposal in ordinance form is also attached to this memo.

If you have any questions prior to the meeting on this topic, please let me know.

Thanks,

MHA

ENCS: Worksheet for Solar Panels (Dated 9/11/18)
Draft Ordinance
Solar Panel Amendments

(Updated 9/11/18)

RED=New Language to the Ordinance

Black=Language Changed by One of the Advisory Committees

Amend Section 3.02 by adding the following terms and definitions:

ACTIVE SOLAR ENERGY SYSTEM. A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEMS. An active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

GRID-INTERIE SOLAR ENERGY SYSTEM. A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

GROUND MOUNT SOLAR ENERGY SYSTEM. A solar energy system mounted on a rack or pole that rests on or is attached to the ground.

OFF-GRID SOLAR ENERGY SYSTEM. A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

PASSIVE SOLAR ENERGY SYSTEM. A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

PHOTOVOLTAIC SYSTEM. An active solar energy system that converts solar energy directly into electricity.

ROOF MOUNT SOLAR ENERGY SYSTEM. A solar energy system that is mounted on a rack that is fastened onto a building roof.

SOLAR ACCESS. Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.
SOLAR COLLECTOR. An assembly, structure, and the associated equipment and housing, designed for gathering, concentrating, or absorbing direct and indirect solar energy for which the primary purpose is to convert or transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

SOLAR ENERGY. Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

SOLAR ENERGY EASEMENT. An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.

SOLAR ENERGY SYSTEM (SES). All components required to become a complete assembly or structure that will convert solar energy into electricity for use.

SOLAR ENERGY SYSTEM ADDITION. A private solar energy system which is structurally attached to a building or structure on the zoning lot on which said system is located. Said system shall be considered part of the building and shall comply with all provisions of this ordinance pertaining thereto.

SOLAR ENERGY SYSTEM, PRIVATE. A collection of one (1) or more solar collectors designed for use by the occupant(s) of the zoning lot on which said system is located; excess power generation is limited to net metering or similar technology with regulations set by the local power utility, community, county, and state. Private solar energy system equipment shall conform to applicable industry standards, and applicants for building permits for private solar energy systems shall submit certificates from equipment manufacturers that the equipment is manufactured in compliance with industry standards.

SOLAR FARM. A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located.

SOLAR GARDEN. A commercial solar-electric (photovoltaic) array, of no more than 20 acres in size, that provides retail electric power (or a financial proxy for retail power) to multiple households or businesses residing in or located off-site from the location of the solar energy system. A county solar garden may be either an accessory use, when a part of an existing or a proposed subdivision or a special use if it is a stand-alone garden. (Updated 5/24/18)

SOLAR HEAT EXCHANGER. A component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.
SOLAR HOT AIR SYSTEM. An active solar energy system (also referred to as Solar Air Heat or Solar Furnace) that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air.

SOLAR HOT WATER SYSTEM. A system (also referred to as Solar Thermal) that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

SOLAR MOUNTING DEVICES. Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

SOLAR STORAGE UNIT. A component of a solar energy device that is used to store solar generated electricity or heat for later use.

Amend Section 4.18 as follows:

4.18 SOLAR PANELS
A. Roof Mounted for On-Site Energy Consumption. Solar panels located on the roof of an existing structure shall be permitted in all districts. Roof mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted. Roof mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. Roof mounted or building integrated private solar energy systems for residential or business use shall be considered an accessory use in all zoning districts where there is a principal structure and shall meet the regulations of the Kendall County Zoning Ordinance. Roof mounted solar panels used as accessory to agricultural uses and which the energy generated from the solar panels is consumed on-site shall be exempt from building permits. The use of roof mounted solar panels for on-site energy consumption shall comply with all applicable federal, state, and local laws and the rules of the local electrical utility. (Updated 5/14/18)

B. Freestanding for On-Site Energy Consumption. Solar panels located on the ground or attached to a framework located on the ground shall be classified as accessory structures in all zoning districts provided that the system is no larger than necessary to provide one hundred twenty percent (120%) of the electrical and/or thermal requirements of the structure to which it is accessory as determined by a contractor licensed to install photovoltaic and thermal solar energy systems. Freestanding solar panels shall be permitted if they comply with all of the following standards: the standards listed in the Kendall County Zoning Ordinance. Ground or pole mounted solar energy systems shall not exceed the maximum height, when oriented at maximum tilt, for the zoning district in which it is located. Freestanding solar panels used as accessory to agricultural uses and which the energy generated from the solar panels is
consumed on-site shall be exempt from building permits. The use of freestanding solar panels for on-site energy consumption shall comply with all applicable federal, state, and local laws and the rules of the local electrical utility. (Updated 5/14/18)

(Properties considered agriculturally exempt as defined in State Statute from building permits are further exempt from these standards with the exception of #3 listed below):

1. The proposed system is no larger than necessary to provide 120 percent of the electrical and/or thermal energy requirements of the structure to which it is accessory as determined by a contractor licensed to install photovoltaic and thermal solar energy systems.

2. The solar panels and supporting framework shall not exceed 12’ in all districts with the exception of the agricultural district as measured from adjoining grade at base to the highest elevation of the equipment.

3. The solar energy system including any appurtenant equipment is not located within any required setback areas within the respective zoning district.

4. If the solar panels are visible from off-site, the solar panels are not located within 150 feet of a dwelling located on a lot other than the lot on which the solar energy system is located unless:

   a. There are appropriate facades, walls, fences or landscaping that screen the solar panels and supporting framework from unobstructed view.
   b. Reflection angles from collector surfaces are oriented away from neighboring windows.
   c. The panels are mounted as close as possible to the ground while allowing adequate drainage and preventing vegetation from shading the panels.

5. The solar panels are located so that they are not readily visible from public viewing areas including parks, roads and trails located to the south of the site.

C. Solar Gardens. Solar gardens shall be allowed in all zoning districts and shall require a special use permit whether accessory or principal use of the property subject to the following requirements:

1. The requirement for a special use permit may be waived, provided the solar garden’s owner/lessee obtains and records with the Kendall County Planning, Building and Zoning Department signed and notarized affidavits agreeing that the need for a special use permit be waived from all property
ownership adjoining the zoning lot on which the solar garden is to be located (as determined by the Kendall County Planning, Building and Zoning Department). (Updated 5/24/18)

2. Unless otherwise noted in the Kendall County Zoning Ordinance, solar gardens must comply with all required standards for structures in the district in which the system is located.

3. Rooftop community systems are permitted in all zoning districts where buildings are permitted.

4. Ground-mount community solar energy gardens must be less than or equal to twenty (20) acres in total size. Ground-mount solar developments covering more than twenty (20) acres shall be considered solar farms. (Updated 5/14/18)

5. Solar gardens are subject to Kendall County’s Stormwater Management Ordinance and NPDES permit requirements.

6. An interconnection agreement must be completed with the electric utility in whose service territory the system is located.

7. For solar gardens located within 500 feet of an airport or within the approach zones of an airport, the applicant must complete and provide the results of the Solar glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA. (Updated 5/14/18)

8. Ground-mount systems must comply with all required standards for structures in the district in which the system is located. All solar gardens shall also be in compliance with all applicable local, state and federal regulatory codes, including the State of Illinois Uniform Building Code, as amended, and the National Electric Code, as amended. Also, Health Department requirements for wells and septic systems must be met. (Updated 5/14/18).

D. Solar Farms. Ground-mount solar energy systems that are the primary use on the lot, designed for providing energy to off-site uses or export to the wholesale market are permitted under the following standards:

1. Solar farms shall require a special use permit in the A-1 Agricultural District. Unless otherwise noted in the Kendall County Zoning Ordinance, solar farms must comply with all the required standards for structures in the district in which the system is located. (Updated 5/24/18)
2. The solar array and all components of the solar collector system in a solar farm shall be kept at least one hundred feet (100') from a property line or right-of-way. However, this requirement may be waived, provided the solar farm's owner/lessee obtains, and records with the Kendall County Planning, Building and Zoning Department, signed and notarized affidavits agreeing that the minimum setback be waived, from all property owners and affected road authorities adjoining the zoning lot on which the solar farm is to be located (as determined by the Kendall County Planning, Building and Zoning Department). However, in no instance shall any part of the solar farm be located within fifty feet (50') of any of the aforementioned items. Unless otherwise noted in the Kendall County Zoning Ordinance, solar farms must comply with all required standards for structures in the district in which the system is located. (Updated 5/24/18)

3. Solar farms are subject to Kendall County’s Stormwater Management Ordinance and NPDES permit requirements.

4. Top soils shall not be removed during development, unless part of a remediation effort. Soils shall be planted to and maintained in perennial vegetation to prevent erosion, manage run off and build soil. A plan must be approved by the Kendall County Soil and Water Conservation District and paid for by the developer. Applicable noxious weed ordinances shall be followed. Due to potential County liability under the Illinois Endangered Species Protection Act (520 ILCS 10/11(b)), it is required that any crops or vegetation planted be in compliance with all federal and state laws protecting endangered species. This will also include pollinators such as bees. A report showing demonstration of plan compliance shall be submitted annually and paid for by the developer. (Updated 5/14/18)

5. A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.

6. All solar farms shall be in compliance with all applicable local, state and federal regulatory codes and the National Electric Code, as amended.

7. Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by Kendall County in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines or distance makes undergrounding Infeasible, at the discretion of the Kendall County Planning, Building and Zoning Department. In addition, the Illinois Department of Agriculture (IDOA) has established standards and policies in the Agricultural Impact Mitigation Agreements (AIMA) regarding the
construction or burial of electric transmission lines which should be agreed to and adhered to between the landowner and the developer.

8. A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, farm tile, electric equipment, fencing, and screening materials and all other characteristics requested by Kendall County. The site plan should also show all zoning districts and overlay districts.

9. For solar farms located within five hundred feet (500') of an airport or within approach zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA. (Updated 5/14/18)

40. Solar farm developers shall be required to initiate a natural-resource review consultation with the Illinois Department of Natural Resources (IDNR) through the department’s online, EcoCat program. Areas reviewed through this process will be endangered species and wetlands. The cost of the EcoCat consultation will be borne by the developer. (Updated 5/14/18)

E. Setback Requirements. Unless otherwise stated in the Kendall County Zoning Ordinance, the setback requirements for all solar energy systems shall meet the structure minimum setback requirements when the solar energy system is oriented at any and all positions.

No solar energy system shall be located in any front yard of any residentially zoned or used property.

F. Design Standards. Active solar energy systems shall be designed to conform to the County’s Land Resource Management Plan and to blend into the architecture of the building or may be required to be screened from the routine view from public rights-of-way other than alleys. Screening may be required to the extent it does not affect the operation of the system. The color of the solar collector is not required to be consistent with other roofing materials.

1. Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the district in which the building is located.
2. Solar energy systems using roof mounting devices or ground-mount solar energy systems shall not be restricted if the system is not visible from the closest edge of any public right-of-way or immediately adjacent to a residential structure.

3. All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties. Measures to minimize glare include selective placement of the system, screening on the north side of the solar array, modifying the orientation of the system, reducing use of the reflector system, or other remedies that limit glare.

4. Damaged field drain tile shall be repaired or rerouted on a timetable approved by the Kendall County Planning, Building and Zoning Department. (Updated 5/24/18)

5. For solar units located within 500 feet of an airport or within approach zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA. (Updated 5/14/18)

G. Coverage. Roof or building mounted solar energy systems, excluding building-integrated systems, shall allow for adequate roof access for firefighting purposes to the south-facing or flat roof upon which the panels are mounted. Ground-mount private solar energy systems shall be exempt from impervious surface calculations if the soil under the collector is not compacted and maintained in vegetation. Foundations, gravel, or compacted soils are considered impervious.

H. Plan Approval Required. All solar energy systems shall require administrative plan approval by the Kendall County Building Official via the review of the application for a building permit.

1. Plan applications for solar energy systems shall be accompanied by horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system including the property lines.

2. For all roof-mounted systems other than a flat roof, the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.

3. For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building shall identify
the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.

4. Applications that meet the design requirements of the Kendall County Zoning Ordinance and do not require an administrative variance shall be granted administrative approval by the Zoning Administrator and not require Planning, Building and Zoning Committee review. Plan approval does not indicate compliance with Building or Electrical Codes.

I. Approved Solar Components. Electric solar energy system components must have a UL listing approved equivalent and solar hot water systems must have an SRCC rating.

J. Compliance with Building Code. All active solar energy systems shall meet approval of County building officials; solar thermal systems shall comply with HVAC-related requirements of the Illinois State Energy Code. All County adopted building codes will apply and take precedence where applicable.

K. Compliance with State Plumbing Code. Solar thermal systems shall comply with applicable Illinois State Plumbing Code requirements. (Updated 5/14/18)

L. Compliance with State Energy Code. All photovoltaic systems and solar thermal systems shall comply with the Illinois State Energy Code. (Updated 5/14/18)

M. Utility Notification. All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

N. Building Permit Requirements and Fees. All solar energy systems will be required to have a Kendall County Building Permit before any work can be started. A written plan and a plat/drawing for the proposed solar energy system shall be provided with the Building Permit Application. The plat/drawing must show the location of the system on the building or on the property, (for a ground-mount system show arrangement of panels), with all property lines and set back footages indicated. Fees for processing the applications for building permits shall be submitted to and collected by the Kendall County Planning, Building and Zoning Department as follows:

<table>
<thead>
<tr>
<th>Capacity</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>0- 10 kilowatts (kW)</td>
<td>$150.00</td>
</tr>
<tr>
<td>11- 50 kilowatts (kW)</td>
<td>$300.00</td>
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<tr>
<td>51- 100 kilowatts (kW)</td>
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<tr>
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</tr>
<tr>
<td>1,001- 2,000 kilowatts (kW)</td>
<td>$6,000.00</td>
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Over 2,000 kilowatts (kW)  $6,000.00 + $200.00 for each additional 0-100 kilowatts

Any solar energy system that construction has started before a Building Permit has been applied and paid for will be charged double the permit fee. The above fees do not apply to solar energy systems used to generate energy for on-site consumption of energy for agricultural purposes. (Updated 5/14/18)

O. Liability Insurance and indemnification.

1. For Solar Farms and Solar Gardens, commencing with the issuance of building permits, the Applicant, Owner, or Operator shall maintain a current general liability policy covering bodily injury and property damage with limits of at least Three Million Dollars ($3 Million) per occurrence and Five Million Dollars ($5 Million) in the aggregate. Such insurance may be provided pursuant to a plan of self-insurance, by a party with a net worth of Twenty Million Dollars ($20 Million) or more. The County shall be named as an individual insured on the policy to the extent the county is entitled to indemnification.

2. For private/individual SES(s), commencing with the issuance of building permits, the applicant or owner shall maintain a current liability policy covering bodily injuries and any damage that may occur, on their home owner’s policy or other applicable policy as approved by the Planning, Building and Zoning Department. (Remove Per Brian Holiman)

3. Any SES(s), applicant, owner, or operator, whether individual or commercial, shall defend, indemnify, and hold harmless the County and its officials, employees, and agents (collectively and individually, the “Indemnified Parties”) from and against any and all claims, demands, losses, suits, causes of actions, damages, injuries, costs, expenses, and liabilities whatsoever, including reasonable attorney’s fees, except to the extent arising in whole or part out of negligence or intentional acts of such Indemnified Parties (such liabilities together known as “liability”) arising out of applicant, owner, or operators selection, construction, operation, and removal of the SES(s) and affiliated equipment including, without limitation, liability for property damage or personal injury (including death), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limited or qualifying the County’s other indemnification rights available under the law.

P. Decommissioning Plan.

1. Upon the request of the Kendall County Planning, Building and Zoning Department, an owner of a commercial-solar energy system must provide
documentation, within thirty (30) days, that the solar energy system is still in use. If the solar energy system is not in use, the owner of the system shall have 180 days, after notification from the Kendall County Planning, Building and Zoning Department, to remove the solar energy system from the property. (Updated 5/14/18)

2. A decommissioning plan shall be required at the time of applying for all solar farms and solar gardens to ensure that the facilities are properly removed after their useful life.

3. Decommission of solar panels must occur in the event they are not in use for ninety (90) consecutive days.

4. The owner or operator will have six (6) months to complete the decommissioning plan after operation of a solar farm or solar garden ceases.

5. The decommissioning plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation, and a plan ensuring financial resources will be available to fully decommission the site.

6. The Kendall County Board may shall require the posting of a bond, letter of credit, or the establishment of an escrow account to ensure the proper decommissioning. The posting of a bond may be required prior to the issuance of a building permit for the facility. (Updated 9/10/18)

7. In the event that the State of Illinois enacts a law with regards to the decommissioning of a solar farm, the strictest requirements shall prevail.

Q. Other Requirements.

1. Upon request from the Kendall County Planning, Building and Zoning Department, an owner of a commercial solar energy system must provide documentation, within thirty (30) calendar days, that the solar energy system is still in use. If it is not still in use, the owner of the system will have one hundred eighty (180) calendar days, after notification from the Planning, Building and Zoning Department, to remove the solar energy system from the property. (Updated 5/14/18)

2. Upon request from the Kendall County Planning, Building and Zoning Department, the owner or operator of a solar farm or a solar garden must submit, within fourteen (14) calendar days, a current operation and maintenance report to the Department.
3. In all undeveloped areas, the solar energy developer will be required to complete a consultation with both the Illinois Historic Preservation Agency (IHPA) and the Illinois Department of Natural Resources (IDNR) through the Department's online EcoCat Program. The cost of this consultation shall be at the developer's expense. The final certificate from EcoCat shall be provided to the Kendall County Planning, Building and Zoning Department before a permit or special use permit will be issued.

4. No fencing is required; however, if installed on the property the fencing shall have a maximum height of eight (8) feet. The fence shall contain appropriate warning signage that is posted such that it is clearly visible on the site.

5. Any lighting for solar farms or solar gardens shall be installed for security and safety purposes only. Except for lighting that is required by the FCC or FAA, all lighting shall be shielded so that no glare extends substantially beyond the boundaries of the facility.

6. Reflection angles for solar collectors shall be oriented such that they do not project glare onto adjacent properties.

7. Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).

8. Solar energy systems must be in compliance with all State of Illinois Plumbing and Energy Codes.

9. For solar energy systems located within five hundred feet (500') of an airport or within approach zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA (Updated 5/14/18).

Amend Section 7.01.D by adding:

“54. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.

55. Solar Farms subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”

Amend Section 8.02.C by adding:
“19. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”

Amend Section 8.03.H.1 by adding

“p. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”

Amend Section 8.09.B by adding

“9. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”

Amend Section 9.02.C

“15. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”

Amend Section 9.03.C

“26. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”

Amend Section 9.04.C

“29. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”

Amend Section 9.05.C

“20. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”

Amend Section 9.06.F

“Solar Gardens. Solar gardens shall be a special use in the B-5 Business Planned Development District.

Amend Section 9.07.C

“19. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”

Amend Section 10.03.B
“5. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”

Amend the Table of Uses to reflect Solar Gardens as special use in every zoning district and Solar Farms as a special use in the A-1 District.
ORDINANCE NUMBER 2018-_____


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, Section 13.08 of the Kendall County Zoning Ordinance contains the procedures for approving special use permits, major and minor amendments to special use permits, and revocations of special use permits, but does not contain specific procedures for the renewal of special use permits;

WHEREAS, on March 12, 2018, the Kendall Count Planning, Building and Zoning Committee, hereinafter be referred to as “Petitioner”, submitted a text amendment to the Kendall County Zoning Ordinance amending Kendall County’s Solar Panel Zoning Regulations; and

WHEREAS, following due and proper notice by publication in the Kendall County Record on July 12, 2018, the Kendall County Zoning Board of Appeals conducted a public hearing on July 30, 2018, 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 zero members of the public asked questions or testified in favor or testified in opposition to the request; and

WHEREAS, based on the evidence, testimony, and exhibits, the Kendall County Zoning Board of Appeals has recommended approval of the text amendment on July 30, 2018; 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 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 terms and definitions:

“ACTIVE SOLAR ENERGY SYSTEM. A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEMS. An active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or
substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

GRID-INTERIE SOLAR ENERGY SYSTEM. A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

GROUND MOUNT SOLAR ENERGY SYSTEM. A solar energy system mounted on a rack or pole that rests on or is attached to the ground.

OFF-GRID SOLAR ENERGY SYSTEM. A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

PASSIVE SOLAR ENERGY SYSTEM. A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

PHOTOVOLTAIC SYSTEM. An active solar energy system that converts solar energy directly into electricity.

ROOF MOUNT SOLAR ENERGY SYSTEM. A solar energy system that is mounted on a rack that is fastened onto a building roof.

SOLAR ACCESS. Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

SOLAR COLLECTOR. An assembly, structure, and the associated equipment and housing, designed for gathering, concentrating, or absorbing direct and indirect solar energy for which the primary purpose is to convert or transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

SOLAR ENERGY. Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

SOLAR ENERGY EASEMENT. An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.

SOLAR ENERGY SYSTEM (SES). All components required to become a complete assembly or structure that will convert solar energy into electricity for use.

SOLAR ENERGY SYSTEM ADDITION. A private solar energy system which is structurally attached to a building or structure on the zoning lot on which said system is located. Said system shall be considered part of the building and shall comply with all provisions of this ordinance pertaining thereto.

SOLAR ENERGY SYSTEM, PRIVATE. A collection of one (1) or more solar collectors designed for use by the occupant(s) of the zoning lot on which said system is located; excess power generation is limited to net metering or similar technology with regulations set by the local power utility,
community, county, and state. Private solar energy system equipment shall conform to applicable industry standards, and applicants for building permits for private solar energy systems shall submit certificates from equipment manufacturers that the equipment is manufactured in compliance with industry standards.

SOLAR FARM. A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located.

SOLAR GARDEN. A commercial solar-electric (photovoltaic) array, of no more than 20 acres in size, that provides retail electric power (or a financial proxy for retail power) to multiple households or businesses located off-site from the location of the solar energy system.

SOLAR HEAT EXCHANGER. A component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

SOLAR HOT AIR SYSTEM. An active solar energy system (also referred to as Solar Air Heat or Solar Furnace) that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air.

SOLAR HOT WATER SYSTEM. A system (also referred to as Solar Thermal) that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

SOLAR MOUNTING DEVICES. Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

SOLAR STORAGE UNIT. A component of a solar energy device that is used to store solar generated electricity or heat for later use.”

III. Amended Text: Section 4.18 is hereby deleted in its entirety and replaced with the following:

“A. Roof Mounted for On-Site Energy Consumption. Solar panels located on the roof of an existing structure shall be permitted in all districts. Roof mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted. Roof mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. Roof mounted or building integrated private solar energy systems for residential or business use shall be considered an accessory use in all zoning districts where there is a principal structure and shall meet the regulations of the Kendall County Zoning Ordinance. Roof mounted solar panels used as accessory to agricultural uses and which the energy generated from the solar panels is consumed on-site shall be exempt from building permits. The use of roof mounted solar panels for on-site energy consumption shall comply will all applicable federal, state, and local laws and the rules of the local electrical utility.

B. Freestanding for On-Site Energy Consumption. Solar panels located on the ground or attached to a framework located on the ground shall be classified as accessory structures in all zoning districts provided that the system is no larger than necessary to provide one hundred twenty percent (120%) of the electrical and/or thermal requirements of the structure to which it is accessory as determined by a contractor licensed to install photovoltaic and thermal solar energy systems. Freestanding solar panels
shall be permitted if they comply with the standards listed in the Kendall County Zoning Ordinance. Ground or pole mounted solar energy systems shall not exceed the maximum height, when oriented at maximum tilt, for the zoning district in which it is located. Freestanding solar panels used as accessory to agricultural uses and which the energy generated from the solar panels is consumed on-site shall be exempt from building permits. The use of freestanding solar panels for on-site energy consumption shall comply will all applicable federal, state, and local laws and the rules of the local electrical utility.

C. Solar Gardens. Solar gardens shall be allowed in all zoning districts and shall require a special use permit whether accessory or principal use of the property subject to the following requirements:

1. Unless otherwise noted in the Kendall County Zoning Ordinance, solar gardens must comply with all required standards for structures in the district in which the system is located.

2. Rooftop community systems are permitted in all zoning districts where buildings are permitted.

3. Ground-mount community solar energy gardens must be less than or equal to twenty (20) acres in total size. Ground-mount solar developments covering more than twenty (20) acres shall be considered solar farms.

4. Solar gardens are subject to Kendall County’s Stormwater Management Ordinance and NPDES permit requirements.

5. An interconnection agreement must be completed with the electric utility in whose service territory the system is located.

6. Ground-mount systems must comply with all required standards for structures in the district in which the system is located. All solar gardens shall also be in compliance with all applicable local, state and federal regulatory codes, including the National Electric Code, as amended. Also, Health Department requirements for wells and septic systems must be met.

D. Solar Farms. Ground-mount solar energy systems that are the primary use on the lot, designed for providing energy to off-site uses or export to the wholesale market are permitted under the following standards:

1. Unless otherwise noted in the Kendall County Zoning Ordinance, solar farms must comply with all required standards for structures in the district in which the system is located.

2. Solar farms are subject to Kendall County’s Stormwater Management Ordinance and NPDES permit requirements.

3. Top soils shall not be removed during development, unless part of a remediation effort. Soils shall be planted to and maintained in perennial vegetation to prevent erosion, manage run off and build soil. A plan must be approved by the Kendall County Soil and Water Conservation District and paid for by the developer. Applicable noxious weed ordinances shall be followed. Due to potential County liability under the Illinois Endangered Species Protection Act (520 ILCS 10/11(b)), it is required that any crops or vegetation planted be in compliance with all federal and state laws protecting endangered species. This will also include
pollinators such as bees. A report showing demonstration of plan compliance shall be submitted annually and paid for by the developer.

4. A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.

5. All solar farms shall be in compliance with all applicable local, state and federal regulatory codes and the National Electric Code, as amended.

6. Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by Kendall County in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines or distance makes undergrounding infeasible, at the discretion of the Kendall County Planning, Building and Zoning Department. In addition, the Illinois Department of Agriculture (IDOA) has established standards and policies in the Agricultural Impact Mitigation Agreements (AIMA) regarding the construction or burial of electric transmission lines which should be agreed to and adhered to between the landowner and the developer.

7. A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, farm tile, electric equipment, fencing, and screening materials and all other characteristics requested by Kendall County. The site plan should also show all zoning districts and overlay districts.

E. Setback Requirements. Unless otherwise stated in the Kendall County Zoning Ordinance, the setback requirements for all solar energy systems shall meet the structure minimum setback requirements when the solar energy system is oriented at any and all positions.

No solar energy system shall be located in any front yard of any residentially zoned or used property.

F. Design Standards. Active solar energy systems shall be designed to conform to the County’s Land Resource Management Plan and to blend into the architecture of the building or may be required to be screened from the routine view from public rights-of-way other than alleys. Screening may be required to the extent it does not affect the operation of the system. The color of the solar collector is not required to be consistent with other roofing materials.

1. Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the district in which the building is located.

2. Solar energy systems using roof mounting devices or ground-mount solar energy systems shall not be restricted if the system is not visible from the closest edge of any public right-of-way or immediately adjacent to a residential structure.

3. All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties. Measures to minimize glare include selective placement of the system, screening on the north side of the solar array, modifying the
orientation of the system, reducing use of the reflector system, or other remedies that limit glare.

4. Damaged field drain tile shall be repaired or rerouted on a timetable approved by the Kendall County Planning, Building and Zoning Department.

G. Coverage. Roof or building mounted solar energy systems, excluding building-integrated systems, shall allow for adequate roof access for fire-fighting purposes to the south-facing or flat roof upon which the panels are mounted. Ground-mount private solar energy systems shall be exempt from impervious surface calculations if the soil under the collector is not compacted and maintained in vegetation. Foundations, gravel, or compacted soils are considered impervious.

H. Plan Approval Required. All solar energy systems shall require administrative plan approval by the Kendall County Building Official via the review of the application for a building permit.

1. Plan applications for solar energy systems shall be accompanied by horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system including the property lines.

2. For all roof-mounted systems other than a flat roof, the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.

3. For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.

4. Applications that meet the design requirements of the Kendall County Zoning Ordinance and do not require an administrative variance shall be granted administrative approval by the Zoning Administrator and not require Planning, Building and Zoning Committee review. Plan approval does not indicate compliance with Building or Electrical Codes.

I. Approved Solar Components. Electric solar energy system components must have a UL listing approved equivalent and solar hot water systems must have an SRCC rating.

J. Compliance with Building Code. All active solar energy systems shall meet approval of County building officials; solar thermal systems shall comply with HVAC-related requirements of the Illinois State Energy Code. All County adopted building codes will apply and take precedence where applicable.

K. Utility Notification. All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

L. Building Permit Requirements and Fees. All solar energy systems will be required to have a Kendall County Building Permit before any work can be started. A written plan and a plat/drawing for the proposed solar energy system shall be provided with the Building Permit Application. The plat/drawing must show the location of the system on the building or on the property, (for a ground-mount system show arrangement of panels), with all property lines and set back footages indicated.
Fees for processing the applications for building permits shall be submitted to and collected by the Kendall County Planning, Building and Zoning Department as follows:

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Any solar energy system that construction has started before a Building Permit has been applied and paid for will be charged double the permit fee. The above fees do not apply to solar energy systems used to generate energy for on-site consumption of energy for agricultural purposes.

M. Liability Insurance and Indemnification.

1. For Solar Farms and Solar Gardens, commencing with the issuance of building permits, the Applicant, Owner, or Operator shall maintain a current general liability policy covering bodily injury and property damage with limits of at least Three Million Dollars ($3 Million) per occurrence and Five Million Dollars ($5 Million) in the aggregate. Such insurance may be provided pursuant to a plan of self-insurance, by a party with a net worth of Twenty Million Dollars ($20 Million) or more. The County shall be named as an individual insured on the policy to the extent the county is entitled to indemnification.

2. Any SES(s), applicant, owner, or operator, whether individual or commercial, shall defend, indemnify, and hold harmless the County and its officials, employees, and agents (collectively and individually, the “Indemnified Parties”) from and against any and all claims, demands, losses, suits, causes of actions, damages, injuries, costs, expenses, and liabilities whatsoever, including reasonable attorney’s fees, except to the extent arising in whole or part out of negligence or intentional acts of such Indemnified Parties (such liabilities together known as “liability”) arising out of applicant, owner, or operators selection, construction, operation, and removal of the SES(s) and affiliated equipment including, without limitation, liability for property damage or personal injury (including death), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limited or qualifying the County’s other indemnification rights available under the law.

N. Decommissioning Plan.

1. Upon the request of the Kendall County Planning, Building and Zoning Department, an owner of a solar energy system must provide documentation, within thirty (30) days, that the solar energy system is still in use. If the solar energy system is not in use, the owner of the system shall have 180 days, after notification from the Kendall County Planning, Building and Zoning Department, to remove the solar energy system from the property.

2. A decommissioning plan shall be required at the time of applying for all solar farms and solar gardens to ensure that the facilities are properly removed after their useful life.
3. Decommission of solar panels must occur in the event they are not in use for ninety (90) consecutive days.

4. The owner or operator will have six (6) months to complete the decommissioning plan after operation of a solar farm or solar garden ceases.

5. The decommissioning plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation, and a plan ensuring financial resources will be available to fully decommission the site.

6. The Kendall County Board shall require the posting of a bond, letter of credit, or the establishment of an escrow account to ensure the proper decommissioning. The posting of a bond may be required prior to the issuance of a building permit for the facility.

7. In the event that the State of Illinois enacts a law with regards to the decommissioning of a solar farm, the strictest requirements shall prevail.

O. Other Requirements.

1. Upon request from the Kendall County Planning, Building and Zoning Department, the owner or operator of a solar farm or a solar garden must submit, within fourteen (14) calendar days, a current operation and maintenance report to the Department.

2. In all undeveloped areas, the solar energy developer will be required to complete a consultation with both the Illinois Historic Preservation Agency (IHPCA) and the Illinois Department of Natural Resources (IDNR) through the Department's online EcoCat Program. The cost of this consultation shall be at the developer's expense. The final certificate from EcoCat shall be provided to the Kendall County Planning, Building and Zoning Department before a permit or special use permit will be issued.

3. No fencing is required; however, if installed on the property the fencing shall have a maximum height of eight (8) feet. The fence shall contain appropriate warning signage that is posted such that is clearly visible on the site.

4. Any lighting for solar farms or solar gardens shall be installed for security and safety purposes only. Except for lighting that is required by the FCC or FAA, all lighting shall be shielded so that no glare extends substantially beyond the boundaries of the facility.

5. Reflection angles for solar collectors shall be oriented such that they do not project glare onto adjacent properties.

6. Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).

7. Solar energy systems must be in compliance with all State of Illinois Plumbing and Energy Codes.

8. For solar energy systems located within five hundred feet (500') of an airport or within approach zones of an airport, the applicant must complete and provide the results of the Solar
Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.”

IV. Amended Text: Section 7.01.D is hereby amended by adding the following to the list of special uses:

“54. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.

55. Solar Farms subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”

V. Amended Text: Section 8.02.C is hereby amended by adding the following to the list of special uses:

“19. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”

VI. Amended Text: Section 8.03.H.1 is hereby amended by adding the following to the list of special uses:

“p. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”

VII. Amended Text: Section 8.09.B is hereby amended by adding the following to the list of special uses:

“9. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”

VIII. Amended Text: Section 9.02.C is hereby amended by adding the following to the list of special uses:

“15. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”

IX. Amended Text: Section 9.03.C is hereby amended by adding the following to the list of special uses:

“26. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”

X. Amended Text: Section 9.04.C is hereby amended by adding the following to the list of special uses:

“29. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”

XI. Amended Text: Section 9.05.C is hereby amended by adding the following to the list of special uses:

“20. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance.”
XII. Amended Text: Section 9.06.F is hereby amended by adding the following to the list of special uses:

"Solar Gardens. Solar gardens shall be a special use in the B-5 Business Planned Development District."

XIII. Amended Text: Section 9.07.C is hereby amended by adding the following to the list of special uses:

"19. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance."

XIV. Amended Text: Section 10.03.B is hereby amended by adding the following to the list of special uses:

"5. Solar Gardens subject to the provisions of Section 4.00 of the Kendall County Zoning Ordinance."

XV. The Table of Uses is hereby amended to reflect Solar Gardens as special use in every zoning district and Solar Farms as a special use in the A-1 District.

IN WITNESS OF, this ordinance has been enacted by a majority vote of the Kendall County Board and is effective this 18th day of September, 2018.

Attest:

Kendall County Clerk
Debbie Gillette

Kendall County Board Chairman
Scott R. Gryder
INTRODUCTION
Gay Hoddy is the daughter-in-law of the Owners of the subject property. Ms. Hoddy would like to establish a banquet facility at the subject property and is requesting variances to the requirement that the facility must be located on an arterial or major collector road, the requirement for hard surface parking areas (except for the ADA required parking spaces), and that the property not be required to have fully shielded parking facility lighting.

RECOMMENDATION
Because a similar special use permit and similar variances were granted at a property near the subject property, Staff recommends approval of the requested special use permit and variances subject to the conditions contained in the proposed ordinance.

PBZ COMMITTEE
The Planning, Building and Zoning Committee reviewed this proposal at their meeting on September 10, 2018. The Committee agreed to allow the Petitioner to use the loft as event space if applicable codes were met. Discussion also occurred regarding the playing music in the tent during events. The Committee approved forwarding this petition to the Committee of the Whole with four (4) members in favor and one (1) member absent.

FOX TOWNSHIP
Fox Township was emailed information on July 30, 2018. No comments were received.

NEWARK FIRE PROTECTION DISTRICT
Newark Fire Protection District was emailed information on July 30, 2018. No comments were received.

UNITED CITY OF YORKVILLE
The United City of Yorkville was emailed information on July 30, 2018. While the property is within one five (1.5) miles of the Yorkville City Limits, the subject property is not included in Yorkville’s extraterritorial planning area as shown on the Yorkville Future Land Use Map.

ZPAC
ZPAC reviewed this proposal at their meeting on August 7, 2018. The consensus of ZPAC was to allow the Petitioner to install or expand her septic system in the future (thus removing the need for porta-potties) without having to amend her site plan. Discussion also occurred about requiring landscaping, berming, and/or trees if the neighbors complain. John Whitehouse, engineer for the Petitioner, expressed concerns installing buffering because of a complaint; he wondered who would investigate a complaint and if a complaint, whether founded or unfounded, would trigger a buffering requirement. The Petitioner agreed not to have music outside the barn except wedding ceremony music. No private security would be provided. Mr. Rybski indicated that private events are not under the jurisdiction of the Health Department so long as the well is not used. If all the water is trucked in, that is fine. Mr. Whitehouse said that he would provide additional information on the lines for the septic field. Mr. Asselmeier indicated that WBK had concerns about the unpaved parking area. Mr. Asselmeier indicated that, if the area looked bad, Ms. Hoddy's business would suffer because some prospective customers would not want to have events at a location that looked
undesirable. Mr. Davidson said the Petitioner will have to let the grass grow slightly higher and mow it frequently. ZPAC unanimously recommended approval of the proposal with restrictions.

KCRPC
The Kendall County Regional Planning Commission reviewed this proposal at their meeting on August 22, 2018. Discussion occurred regarding verifying that the property owners supported the application. No music would be allowed to originate from tents. The special use permit would run with the land; a resident of the property could operate a banquet facility. Ms. Wilson expressed concerns regarding noise, particularly wedding reception music, created by the proposed use. The Petitioner indicated that no bands shall perform at events. Mr. Bledsoe expressed concerns regarding the impact of noise and lights on the house across the street from the property. Ms. Zubko suggested adding landscaping south of the parking area to block lights from the parking lot. She also suggested adjusting the handicapped stall or walkway to prevent a vehicle from blocking the south access point of the path from the handicapped parking area to the barn. Mr. Nelson suggested adding arborvitaes to block the headlights from motorists on the driveway. Discussion occurred regarding adding a right-turn only sign. However, the consensus of the Commission was that people would not follow the instruction and that enforcing the sign would be difficult. Ms. Vickery stated that she visited her daughter who lives near another banquet facility and did not hear any noise from that banquet facility. She also stated that people will travel down the path of least resistance and a right-turn only sign will not work. The Kendall County Planning Commission recommended approval the conditions proposed by Staff with seven (7) Commissioners in favor and one (1) Commissioner in opposition. Ms. Wilson voted no because of the lack of mitigation of noise and light. She was unsure that the property owner was in favor of the petition. She also does not think the County does an adequate job of enforcing the noise regulations.

ZBA
The Kendall County Zoning Board of Appeals held a public hearing on this proposal on August 27, 2018. No members of the public expressed support or objections to this proposal. The Petitioner’s attorney provided documentation from the owner expressing his support for the proposal. The Petitioner’s attorney also provided a letter of no opposition from the tenant living in the house across Hughes Road from the subject property. The Zoning Board of Appeals unanimously recommended approval of the special use permit and variances with the restrictions proposed by Staff. The complete record of the hearing, including the minutes of all related meetings and documents related to the Petition, can be found at https://www.co.kendall.il.us/wp-content/uploads/Petition_19-26.pdf.

The Zoning Board of Appeals also unanimously approved the following Findings of Fact:

FINDINGS OF FACT-SPECIAL USE
§ 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. The Kendall County Sheriff's Department, Fox Township Road District, and Newark Fire Protection District have not submitted comments expressing concerns for public health and safety. However, without proper buffering or screening, light and noise from the proposed use could impact the comfort of the property located southeast of the subject property.*

*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 and light created from the proposed use. Some of the negative impacts of the proposed use on properties in the*
Immediate vicinity could be mitigated by restrictions related to hours of operation, number of events, and buffering within the ordinance granting the special use permit.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. True, adequate utilities, drainage, and points of ingress and egress are provided.

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 that variances are approved regarding distance to arterial and collector roads, the waiver of the requirement that off-street parking areas and access drives be improved with a permanent, concrete, unit paver, asphalt surface, or some other environmentally friendly surface or green design practice, and the waiver of the requirement that only “fully shielded” or “cut-off” light fixture are allowed, the special use would conform to the applicable regulations of the 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.” Also, if the business allowed by this special use permit were to cease operations, the land could be easily converted to other uses allowed in the A-1 Zoning District.

FINDINGS OF FACT-VARIANCE
§ 13.04.A.3 of the Zoning Ordinance outlines findings that the Zoning Board of Appeals must make in order to grant variations. They are listed below in italics. Staff has provided findings in bold below based on the recommendation:

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. If the owner of the business allowed by this special use permit were required to install the required parking, the property would have greater difficulty reverting back to a farmstead if the business ceased operations. The required light is for businesses located in a more developed, commercial area and not a rural, agricultural area. The proposed banquet facility is approximately one point two (1.2) miles from an arterial roadway (Route 71); an existing, approved banquet facility on the same road is approximately one point five (1.5) miles away from an arterial roadway or major collector roadway.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. This is not true. Other banquet facilities in the rural areas could face similar concerns related to lighting, parking, and access to an arterial roadway or major collector roadway. The specific number of properties sharing similar characteristics is unknown.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. While no one involved with the requested special use permit and variances platted the subject property, the Petitioners created the hardship by desiring to have a banquet facility at the subject property.

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. True, the Kendall County Sheriff’s Department, Fox Township Road District, and the Newark Fire Protection District have not expressed any concerns regarding the proposed use being materially detrimental to the public welfare or Injurious to other property in the neighborhood.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. True, the proposed use will not block light or air from adjacent properties. The proposed use will not cause an Increase
in congestion on public streets because events will not be held every day. Provided the business allowed by the special use permit follows the restrictions placed on the special use permit, no increase to the danger of fire or the endangerment of public safety should occur. Data does not exist as to whether the placement of the proposed use will diminish or impair the property value of the property located southeast of the subject property.

SITE INFORMATION
LOCATION Approximately 1.2 Miles East of Route 71 on the North Side of Hughes Road
(Approximately 0.5 Miles East of Sleezer Road)
PARCEL # 04-34-100-001
LOT SIZE 5.112 +/- Acres
EXISTING LAND USE Agricultural/Single Family Residential
ZONING A-1 Agricultural District

<table>
<thead>
<tr>
<th>Current Land Use</th>
<th>Agricultural and Single-Family Residential</th>
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</thead>
<tbody>
<tr>
<td>Future Land Use</td>
<td>Agricultural</td>
</tr>
<tr>
<td>Roads</td>
<td>Hughes Road is a Township Road Classified as a Local Road.</td>
</tr>
<tr>
<td>Trails</td>
<td>None</td>
</tr>
<tr>
<td>Floodplain/ Wetlands</td>
<td>None</td>
</tr>
</tbody>
</table>

REQUESTED ACTION A-1 Special Use to Operate a Banquet Facility with variances to be located on a non-arterial or non-collector road, allow off-street parking and driving aisles to not be improved with a permanent, concrete, unit paver, asphalt surface or some other environmentally friendly or green design practice and to waive the requirement for “fully shielded” or “cut off” light fixtures for the parking facility.

APPLICABLE REGULATIONS
Section 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

Section 7.01.D.10.a – Requires Banquet Facilities to be Have Direct Access to an Arterial Roadway or Major Collector Road as Defined in the Land Resource Management Plan

Section 11.02.F.2 – Additional Regulations – Parking – Design and Maintenance – Surfacing – Requires All Required Open Off-Street Parking Areas and Access Drives Constructed or Re-Constructed after May 20, 2008 (Effective Date of This Amendment) in all Zoning Districts Shall Be Improved with a Permanent, Concrete, Unit Paver, Asphalt Surface or Some Other Environmentally Friendly Surface or Green Design Practices. (Petitioners are not asking for a variance to the requirements for ADA parking stalls.)

Section 11.02.F.12 – Additional Regulations – Parking – Light – Only “fully shielded” or “cut-off” light fixtures are allowed. Fully shielded means that no light is emitted above the horizontal plane of the luminaries.

Section 13.04 – Variations
Section 13.08 – Special Use Procedures

SURROUNDING LAND USE

<table>
<thead>
<tr>
<th>Location</th>
<th>Adjacent Land Use</th>
<th>Adjacent Zoning</th>
<th>Land Resource Management Plan</th>
<th>Zoning within ¼ Mile</th>
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<tbody>
<tr>
<td>North</td>
<td>Agricultural</td>
<td>A-1</td>
<td>Agricultural</td>
<td>A-1</td>
</tr>
</tbody>
</table>

COW Memo – Prepared by Matt Asselmeier – September 11, 2018
PHYSICAL DATA

ENDANGERED SPECIES REPORT
EcoCat submitted on July 11, 2018; consultation was termination.

NATURAL RESOURCES INVENTORY
NRI application submitted on July 11, 2018. The NRI was completed on August 14, 2018. The LESA Score was 201 indicating a medium level of protection.

GENERAL
Gay Hoddy lives on the subject property with her husband and would like to operate the Harvest Moon Barn banquet facility. Ms. Hoddy requires a special use permit to operate a banquet facility at the subject property. The barn furthest to the north will be used for events. The building with red doors will not be used for events.

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. (Variances required for this requirement.)

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.

BUSINESS OPERATION
Ms. Hoddys’s business plans were provided. The site plan was provided. The site plan was revised prior to the Kendall County Regional Planning Commission meeting to reflect concerns by the Health Department regarding the location of the septic field.

Events would be held in the frame barn located on the north side of site. Tents could be set up to the west of the barn. Based on the current size of the barn (approximately 1100 square feet), approximately one hundred COW Memo – Prepared by Matt Asselmeier – September 11, 2018
twenty (120) people could fit inside the barn. Ms. Hoddy anticipates the largest group of attendees to be approximately two hundred fifty (250) people including staff. No members of the public would be allowed in the loft of the barn. At some point in the future, Ms. Hoddy may put concrete pavement in the barn; the current pavement is compacted gravel.

The facility would be operational from May 1st through October 31st. Ms. Hoddy would like the ability to have events outside these dates, weather permitting. The majority of events would be on weekends. However, she would like the ability to have weekday events as well. She seemed open to capping the number of events per week. The proposed hours of operation for events would be from 4:00 p.m. until Midnight. Setup for events would start at 10:00 a.m. and take down from events would be completed by 1:00 a.m.

Ms. Hoddy plans to have two (2) hostesses and four (4) servers at a maximum.

In the event of a security issue, Ms. Hoddy would call 911. The Sheriff’s Department had no objections to this plan.

All events would be catered, both food and drink.

The reserving party would be responsible for securing applicable insurance. Ms. Hoddy will also have insurance.

The banquet hall will be used for weddings, birthdays, retirement parties, and similar events.

Ms. Hoddy and her husband live on the property. She has over twenty (20) years of experience as a waitress and banquet related work. She has taken CPR classes in the past and plans to take a refresher course.

Ms. Hoddy reported that she has received at least four (4) phone calls requesting weddings at the property. She had her wedding at the property. One (1) niece had a wedding at the property and another niece is planning a wedding at the property.

Ms. Hoddy agreed to follow all applicable laws related to this type of business and she also agreed to follow the Kendall County Right to Farm Clause.

If approved, Ms. Hoddy would like to start having events in May 2019.

BUILDING CODES
A Change of Occupancy Permit will be required for each existing structure that will be used in conjunction with the proposed banquet facility.

ENVIRONMENTAL HEALTH
Ms. Hoddy indicated that all water used for events will be brought into the site; no well water will be used. Porta-potties will be used for events. According to the site plan, one (1) handicapped accessible porta-potty and two (2) other porta-potties will be located to the northeast of the barn. Refuse containers and a dumpster will be located near the porta-potties. An ADA approved path from the barn to the handicapped accessible porta-potty will be installed with lights.

ROAD ACCESS
The Fox Township Highway Commissioner informed the Kendall County Highway Engineer that he had no issues with the proposed use at the subject property.

PARKING AND INTERNAL TRAFFIC CIRCULATION
Ms. Hoddy submitted a parking plan showing sixty-three (63) parking spaces including four (4) handicapped parking spaces. The parking area is planned to be grass except for the handicapped parking spaces; Ms. Hoddy is requesting a variance to allow this type of parking. Parking will be to the south of the house west of the driveway and to the east of the driveway. No parking will encroach in the required setbacks. The site plan was revised prior to the Kendall County Regional Planning Commission meeting to reflect concerns by the Health Department regarding the location of the septic field.
Staff discussed the lack of paved parking areas with WBK. If the grass is maintained correctly, no parking or erosion issues related to bare soil should arise.

The ADA parking areas will be hard surfaced.

The Kendall County Sheriff's Department expressed no concerns regarding the internal traffic circulation pattern as it relates to public health and safety concerns at the site.

**LIGHTING**

Ms. Hoddy submitted a photometric plan and lighting is shown on the parking plan. According to the plan, two (2) new lights would be added for the parking lot west of the driveway. Two (2) new lights would be added to the parking lot east of the driveway. One (1) new light would be installed north of the handicapped parking area. Eight (8) solar powered lights will be installed on the walkway between the barn and the handicapped parking area. Ms. Hoddy indicated additional lighting could be installed along the south and east sides of the barn. The photometric and site plans were revised prior to the Kendall County Regional Planning Commission meeting to reflect concerns by the Health Department regarding the location of the septic field.

**SIGNAGE**

A non-illuminated sign is proposed on the west side of the driveway as shown on the site plan. The sign will be approximately thirty-two (32) square feet in size and two (2) faced. The location and type of sign proposed meet the requirements of the Kendall County Zoning Ordinance.

**LANDSCAPING**

Ms. Hoddy does not plan to install any additional landscaping.

**NOISE CONTROL**

The barn would not be air conditioned and the doors on the south and east sides would likely be open during events.

Ms. Hoddy indicated that no music related to events would originate outside the barn except for music related to a wedding ceremony.

Ms. Hoddy agreed to follow the Kendall County noise regulations. However, she did not provide a method for tracking noise.

**RELATION TO OTHER SPECIAL USES**

Kendall County previously granted a special use permit at 13889 Hughes Road (Ordinance 2016-05) for a banquet facility. This banquet facility is approximately one point two (1.2) miles from the nearest major collector road (Newark Road via Hollenback Road). The proposed banquet facility at the subject property is approximately one point two (1.2) miles from Route 71.

Based on the Kendall County GIS, the barn at the subject property is approximately six hundred two feet (802') from the house at 14838 Hughes Road. The parking area east of the driveway is approximately two hundred twenty-four feet (224') from the house at 14838 Hughes Road. In comparison, the closest barn at 9111 Ashley Road is approximately six hundred twenty-four feet (624') from the house across the street and the parking area is approximately four hundred eleven feet (411') from the house across the street. The impact of noise and light on the adjoining property are concerns.

**PROPOSED ORDINANCE**

The proposed ordinance for this special use permit and variance is attached.

**ATTACHMENTS**

1. Proposed Ordinance
ORDINANCE NUMBER 2018-_____

GRANTING A SPECIAL USE PERMIT ON PROPERTY ZONED A-1 AGRICULTURAL FOR A BANQUET FACILITY AND A VARIANCE TO SECTION 7.01.D.10.A OF THE KENDALL COUNTY ZONING ORDINANCE TO ALLOW A BANQUET FACILITY TO BE LOCATED OFF OF A NON-ARTERIAL OR NON-MAJOR COLLECTOR ROADWAY AND A VARIANCE TO SECTION 11.02.F.2 OF THE KENDALL COUNTY ZONING ORDINANCE TO ALLOW OFF-STREET PARKING AND DRIVING AISLE TO NOT BE IMPROVED WITH A PERMANENT, CONCRETE, UNIT PAVER, ASPHALT SURFACE, OR SOME OTHER ENVIRONMENTALLY FRIENDLY OR GREEN DESIGN PRACTICE AND A VARIANCE TO SECTION 11.02.F.12.B OF THE KENDALL COUNTY ZONING ORDINANCE TO WAIVE THE REQUIREMENT FOR "FULLY SHIELDED" OR CUT-OFF LIGHT FIXTURES FOR THE PARKING FACILITIES FOR A 5.112 ACRE +/- PARCEL LOCATED AT 14905 HUGHES ROAD, NEWARK, ILLINOIS AND IDENTIFIED BY PARCEL IDENTIFICATION NUMBER 04-34-100-001 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 13.04 of the Kendall County Zoning Ordinance permits the Kendall County Board to issue variations and place conditions on variations and provides the procedure through which variations 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, Section 7.01.D.10.a of the Kendall County Zoning Ordinance requires banquet facilities located in the A-1 Agricultural Zoning District to have direct access to an arterial roadway or major collector road as defined in the Land Resource Management Plan; and

WHEREAS, Section 11.02.F.2 of the Kendall County Zoning Ordinance requires all off-street parking areas and access drives be constructed or re-constructed after May 20, 2008, shall be improved with a permanent, concrete, unit paver, asphalt surface, or some other environmentally friendly surface or green design practices; and

WHEREAS, Section 11.02.F.12 of the Kendall County Zoning Ordinance requires only "fully shielded" or "cut-off" lighting fixtures; 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 5.112 acres located at 14905 Hughes Road, Newark, Illinois (PIN: 04-34-100-001) 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 Maurice E. Ormiston as Trustee u/t/a No. 101 and Marilyn J. Ormiston as Trustee u/t/a 102 and Gay Hoddy currently resides at the subject property and shall hereinafter be referred to as "Petitioner"; and
State of Illinois
County of Kendall

Zoning Petition
#18-26

WHEREAS, on or about July 22, 2018, Petitioner filed a petition for a Special Use Permit allowing the operation of a banquet facility at the subject property and variances to Sections 7.01.D.10.a, 11.02.F.2, and 11.02.F.12 of the Kendall County Zoning Ordinance; 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 August 27, 2018, at 7:00 p.m., in the County Office Building at 111 W. Fox Street in Yorkville, at which the Petitioner and presented evidence, testimony, and exhibits in support of the requested special use permit and variances 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 and variances with conditions as set forth in the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, dated August 27, 2018, 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 variances 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 and variances 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 and variances allowing the operation of a banquet facility on the subject property subject to the following conditions:

A. The site, including parking plan, shall be developed in accordance to the attached site plan attached hereto as Exhibit C. The owner of the business allowed by this special use permit may remove the porta-potties shown on the site plan if adequate, permitted facilities (i.e. septic system) are installed on the property for use at the banquet facility. The owner of the business allowed by this special use permit may also install one or more temporary tents located west of the framed barn.

B. A maximum of two hundred fifty (250) guests in attendance at a banquet center related event may be on the subject property at a given time.

C. The lighting shall be developed in accordance to the attached site plan and photometric plan attached hereto as Exhibit C. The operator of the banquet facility may install two (2)
decorative lights on the south side of the barn and two (2) decorative lights on the east side of the barn.

D. Events shall be confined to the framed barn, patio area, and grassy area west of the barn. No events may be held in the loft or second story or above of the framed barn (unless these areas are included in the occupancy permit), the corn crib, garage, residence, or any new barns or accessory buildings on the property without an amendment to this special use permit.

E. A variance shall be granted to the requirement that 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 as required in Section 7.01.D.10.a of the Kendall County Zoning Ordinance.

F. The subject parcel must be a minimum of five (5) acres.

G. 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)

H. Off-street parking, lighting and landscaping shall be provided in accordance with the provisions of Section 11 of the zoning ordinance except where variances are granted.

I. A variance shall be granted to the requirement contained in Section 11.02.F.2 of the Kendall County Zoning Ordinance that the business allowed by this special use permit shall be exempt from the requirement that all required open off-street parking areas and access drives constructed or re-constructed after May 20, 2008 shall be improved with a permanent, concrete, unit paver, asphalt surface or some other environmentally friendly surface or green design practices. This variance shall not be extended to parking and parking related facilities required by the Americans with Disabilities Act.

J. A variance shall be granted to the requirement contained in Section 11.02.F.12.B of the Kendall County Zoning Ordinance that the business allowed by this special use permit shall provide only "fully shielded" or "cut-off" light fixtures.

K. 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. The signage will not be illuminated.

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

M. 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.

N. No music shall originate outside of any building associated with the special use permit. This exemption shall not apply to non-amplified music used or performed as part of a wedding ceremony. No bands shall perform at any events.

O. Events shall be held between May 1 and October 31. The property owner or banquet operator may hold events outside of this timeframe with the approval of the Planning, Building and Zoning Committee.

P. No more than four (4) events in a seven (7) day period may be held at the property.

Q. Setup for events shall not commence prior to 10:00 a.m.

R. All events must cease by Midnight except for cleaning up after an event which must cease by 1:00 a.m.

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

T. The operator of the banquet facility allowed by this special use permit shall reside at the subject property as their primary place of residence.

U. The operator of the banquet facility and property owner(s) acknowledge and agree to follow Kendall County’s Right to Farm Clause.

V. The property owner and operator of the banquet 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.

W. 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.

X. 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 18th day of September, 2018.

Attest:

Kendall County Clerk
Debbie Gillette

Kendall County Board Chairman
Scott R. Gryder
EXHIBIT A

LEGAL DESCRIPTION OF PARCEL
SUBJECT TO SPECIAL USE PERMIT APPLICATION
AND VARIANCE APPLICATION

THAT PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 34,
TOWNSHIP 36 NORTH, RANGE 6 EAST OF THE THIRD PRINCIPAL MERIDIAN,
DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID
WEST HALF; THENCE NORTH 89 DEGREES 41 MINUTES 16 SECONDS EAST, ALONG
THE SOUTH LINE OF SAID NORTH HALF, 425.00 FEET FOR THE POINT OF BEGINNING;
THENCE NORTH 00 DEGREES 18 MINUTES 44 SECONDS WEST, 240.00 FEET;
THENCE NORTH 89 DEGREES 41 MINUTES 16 SECONDS EAST, 175.00 FEET;
THENCE NORTH 02 DEGREES 40 MINUTES 49 SECONDS WEST, 100.09 FEET;
THENCE SOUTH 89 DEGREES 41 MINUTES 16 SECONDS WEST, 170.86 FEET;
THENCE NORTH 00 DEGREES 18 MINUTES 44 SECONDS WEST, 260.00 FEET;
THENCE NORTH 89 DEGREES 41 MINUTES 16 SECONDS EAST, 400.00 FEET;
THENCE SOUTH 00 DEGREES 18 MINUTES 44 SECONDS EAST, 600.00 FEET TO SAID
SOUTH LINE; THENCE SOUTH 89 DEGREES 41 MINUTES 16 SECONDS WEST, 400.00
FEET TO THE POINT OF BEGINNING, IN KENDALL COUNTY, ILLINOIS.

THE ABOVE DESCRIBED PROPERTY CONTAINS 5.1126 Acres
Exhibit B

FINDINGS OF FACT-SPECIAL USE

§ 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. The Kendall County Sheriff's Department, Fox Township Road District, and Newark Fire Protection District have not submitted comments expressing concerns for public health and safety. However, without proper buffering or screening, light and noise from the proposed use could impact the comfort of the property located southeast of the subject property.

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 ensure 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 and light created from the proposed use. Some of the negative impacts of the proposed use on properties in the immediate vicinity could be mitigated by restrictions related to hours of operation, number of events, and buffering within the ordinance granting the special use permit.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. True, adequate utilities, drainage, and points of ingress and egress are provided.

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 that variances are approved regarding distance to arterial and collector roads, the waiver of the requirement that off-street parking areas and access drives be improved with a permanent, concrete, unit paver, asphalt surface, or some other environmentally friendly surface or green design practice, and the waiver of the requirement that only “fully shielded” or “cut-off” light fixture are allowed, the special use would conform to the applicable regulations of the 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.” Also, if the business allowed by this special use permit were to cease operations, the land could be easily converted to other uses allowed in the A-1 Zoning District.

FINDINGS OF FACT-VARIANCE

§ 13.04.A.3 of the Zoning Ordinance outlines findings that the Zoning Board of Appeals must make in order to grant variations. They are listed below in italics. Staff has provided findings in bold below based on the recommendation:

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. If the owner of the business allowed by this special use permit were required to install the required parking, the property would have greater difficulty reverting back
to a farmstead if the business ceased operations. The required light is for businesses located in a more developed, commercial area and not a rural, agricultural area. The proposed banquet facility is approximately one point two (1.2) miles from an arterial roadway (Route 71); an existing, approved banquet facility on the same road is approximately one point five (1.5) miles away from an arterial roadway or major collector roadway.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. This is not true. Other banquet facilities in the rural areas could face similar concerns related to lighting, parking, and access to an arterial roadway or major collector roadway. The specific number of properties sharing similar characteristics is unknown.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. While no one involved with the requested special use permit and variances platted the subject property, the Petitioners created the hardship by desiring to have a banquet facility at the subject property.

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. True, the Kendall County Sheriff's Department, Fox Township Road District, and the Newark Fire Protection District have not expressed any concerns regarding the proposed use being materially detrimental to the public welfare or injurious to other property in the neighborhood.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. True, the proposed use will not block light or air from adjacent properties. The proposed use will not cause an increase in congestion on public streets because events will not be held every day. Provided the business allowed by the special use permit follows the restrictions placed on the special use permit, no increase to the danger of fire or the endangerment of public safety should occur. Data does not exist as to whether the placement of the proposed use will diminish or impair the property value of the property located southeast of the subject property.
ABOVE DESCRIBED PROPERTY CONTAINS 5.1126 Acres

SEE LEGEND ON SHEET 2

NOTES

1. ADA PARKING SPACES SHALL BE PAVED

2. TURF PARKING SPACES SHALL BE DELINEATED WITH POSTS, ROPE AND WITH TURF PAINT AS NECESSARY
PROPOSED EVENT LIGHT

EXISTING LIGHT

FRAME CORN CRIB

SITE R.M. #2
ELEV.=751.30

18 SPACES (9.5'x20')

25.00'

PROPOSED EVENT LIGHT

18 SPACES (9.5'x20')

25.00'

100.09'

W

N

25.00'

6 SPACES (9.5'x20')
To: Kendall County Committee of the Whole  
From: Matthew H. Asselmeyer, AICP, Senior Planner  
Date: September 11, 2018  
Re: Petition 18-28 Inoperable Vehicle Ordinance

The Kendall County State’s Attorney’s Office recently completed the attached draft Inoperable Vehicle Ordinance.

The proposal would allow the Kendall County Planning, Building and Zoning Department to issue citations in cases of inoperable vehicles.

The proposal removes the authority to allow the Kendall County Sheriff’s Department to tow inoperable vehicles.

At their meeting on September 10, 2018, the Planning, Building and Zoning Committee reviewed the proposal and recommended that farm machinery be exempt from the regulations. The attached proposal reflects this change in Section 2.e. The Committee approved forwarding this proposal to the Committee of the Whole with four (4) in favor and one (1) absent.

The existing Inoperable Vehicle Ordinance is also attached to this memo.

If you have any questions, please let me know.

MHA

ENC: Draft Inoperable Vehicle Ordinance  
     Ordinance 88-15
ORDINANCE NUMBER 18-

INOPERABLE MOTOR VEHICLES

WHEREAS, it is the policy of the Kendall County Board to promote the health, safety, and welfare of Kendall County by abating the nuisance created by the outside storage of inoperable motor vehicles in unincorporated areas of the County; and

WHEREAS, on May 10, 1988, the Kendall County Board adopted Ordinance No. 8815 entitled “Inoperable Motor Vehicles;” and

WHEREAS, Ordinance No. 8815 stated the circumstances under which the storage of inoperable motor vehicles in unincorporated areas of Kendall County would constitute a nuisance and provided procedures for the abatement of such nuisance; and

WHEREAS, the Kendall County Board now desires to implement an updated procedure for the abatement of the nuisance created by the storage of inoperable motor vehicles; and

WHEREAS, Section 5-1092 of the Counties Code (55 ILCS 5/5-1092) authorizes a county board to declare by ordinance inoperable motor vehicles, whether on public or private property, to be a nuisance and authorize fines to be levied against a person for failure to dispose of an inoperable motor vehicle after receiving notice; and

WHEREAS, pursuant to Section 5-1092, this Ordinance shall not apply to motor vehicles kept within a building when not in use, operable historic vehicles over 25 years of age, or motor vehicles on the premises of a place of business engaged in the wrecking or junking of motor vehicles; and

NOW, THEREFORE, BE IT ORDAINED, that the Kendall County Board hereby authorizes the abatement of the nuisances created by the storage of inoperable motor vehicles and the levying of fines for a person’s failure to abate as follows:

Section 1.

Pursuant to authority granted by 55 ILCS 5/5-1092, the purpose of this Ordinance is to provide a method for abating nuisances created in the County of Kendall by inoperable motor vehicles and to provide for fines to be levied for the failure of any person to obey a notice received from the county which states that such person is to dispose of any inoperable motor vehicles under that person’s control.

Section 2.

It is hereby declared a nuisance for any person to cause or permit the existence or storage upon any premises within the County of Kendall and outside the municipal confines of any city, village or incorporated town any inoperable motor vehicle or part thereof.

For purposes of this Section, “Inoperable motor vehicle” means any motor vehicle from which, for a period of at least 7 days, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power. “Inoperable motor vehicle” shall not include:

a. a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations;
b. any motor vehicle that is kept within a building when not in use;

c. an operable historic vehicle over 25 years of age which is licensed pursuant to section 3-804 of the Motor Vehicle Code (625 ILCS 5/3-804);

d. a motor vehicle on the premises of a place of business engaged in the wrecking or junking of motor vehicles.

e. any motorized equipment used in the production of agriculture.

Section 3.

a. Any Kendall County code enforcement officer and the Kendall County Sheriff, or his deputies, are hereby authorized to issue citations to the offender for a violation of this Ordinance.

b. Whenever any authorized officer determines an inoperable motor vehicle exists on any public or private property located in the County of Kendall and outside the municipal confines of any city, village, or Incorporated town, the officer shall cause a written notice to be served by hand delivery upon the person(s) controlling the inoperable motor vehicle, which notice shall inform the person served that an inoperable motor vehicle constitutes a nuisance under this Ordinance.

An inoperable motor vehicle is under the control of a person(s) if that person(s):

i. holds legal title to the inoperable motor vehicle;

ii. is in custody or possession of the inoperable motor vehicle;

iii. is the owner of real property upon which the inoperable motor vehicle is located;

iv. has any possessory interest in the real property upon which the inoperable motor vehicle is located;

v. has any possessory interest in the inoperable motor vehicle.

c. Such notice shall include the following:

i. The name of the defendant and his or her address, if known;

ii. The nature of the offense and a reference to this Ordinance;

iii. The date, time and place that the person is required to appear in court;

iv. A statement that defendant can avoid the court appearance if he, within 10 days of the service of the notice, repairs the vehicle to an operable condition or disposes of the inoperable vehicle;

v. A statement that the defendant may demand a jury trial by filing a jury demand and paying a jury demand fee when entering his or her appearance, plea, answer to the charge, or other responsive pleading;

vi. A statement that a default judgment may be entered in the event the person fails to appear in court or answer the charge made on the date set for the defendant’s court
appearance or any date to which the case is continued and the amount of any default judgment.

Section 4.

a. Any person receiving such notice to dispose of an inoperable motor vehicle shall, within 10 days of the date of service of said notice:

i. Repair all inoperable motor vehicles identified in the notice to operable condition; or

ii. Dispose of all inoperable motor vehicles identified in the notice in accordance with all applicable statutes of the State of Illinois and all applicable ordinances and resolutions of the County of Kendall.

b. If the person receiving such notice repairs or disposes of the inoperable motor vehicle within 10 days as required, that person shall contact the Kendall County Planning, Building, and Zoning Department at least 10 days prior to the scheduled court appearance for an inspection. If the code enforcement officer determines the inoperable motor vehicle has been repaired or disposed of so that it is no longer in violation of this Ordinance, the court appearance shall no longer be required.

Section 5.

a. It shall be unlawful and in violation of this Ordinance for any person to neglect, refuse, or otherwise fail to remove or abate any nuisance as defined in Section 2 within 10 days following service of notice pursuant to Section 3(c).

b. A violation of this Ordinance by any person shall be punishable by a fine not exceeding $200.00 for each offense.

c. Each day a violation continues to exist following the expiration of the 10 day cure period set forth in Section 4(a) shall constitute a separate offense.

Section 6.

Ordinance No. 8815 adopted May 10, 1988 is repealed.

IN WITNESS OF, this Ordinance has been enacted by a majority vote of the Kendall County Board this _____ day of __________, 2018.

Attest:

_____________________________________________  _______________________________________
Debbie Gillette                                  Scott R. Gryder
Kendall County Clerk                             Kendall County Board Chairman
ORDINANCE #88-15

BE IT HEREBY ORDAINED AS FOLLOWS:

1. That all inoperable motor vehicles located in the unincorporated areas of the County, whether on public or private property are hereby declared to be a nuisance.

2. That "inoperable motor vehicle" means any motor vehicle from which for a period of at least 7 days, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own power. "Inoperable motor vehicle" shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations.

3. That any person having an inoperable motor vehicle under his or her control shall dispose of said vehicle within 7 days after receipt by said person from the County of notice thereof.

4. That the Building and Zoning Office of Kendall County is hereby authorized to enforce the notice provision under the terms of this ordinance.

5. That any person failing to dispose of an inoperable motor vehicle after notice shall be in violation of this Ordinance and shall be fined not to exceed $200.00 for each day that such a violation continues.

6. This Ordinance is expressly declared not to apply to any motor vehicle that is kept within a building when not in use, to operable historic vehicles over 25 years of age, or to a motor vehicle on the premises of a place of business engaged in the wrecking or junking of motor vehicles.

7. That the Sheriff's Office of Kendall County is authorized to remove, after 7 days from the issuance of the Notice as provided in § 3 herein, any inoperable motor vehicle or parts thereof.

ADOPTED this _16_ day of _May_, 1988

[Signature]
Chairman, Kendall County Board

ATTEST:

[Signature]
County Clerk