

**KENDALL COUNTY PLANNING, BUILDING & ZONING COMMITTEE**

***Kendall County Office Building***

***Rooms 209 & 210***

***111 W. Fox Street, Yorkville, Illinois***

**6:30 p.m.**

**Meeting Minutes of November 12, 2019**

**CALL TO ORDER**

The meeting was called to order by Chairman Prochaska at 6:30p.m.

**ROLL CALL**

Committee Members Present: Elizabeth Flowers (arrived at 6:45 p.m.), Scott Gengler, Matthew Prochaska (Chairman), and Robyn Vickers

Committee Members Absent: Judy Gilmour and Matt Kellogg (Vice-Chairman)

Also Present: Matt Asselmeier (Senior Planner), Thomas Zurliene, Tyler Zurliene, Caitlin Paloian, Dr. Amaal Tokars, and Steve Gengler

With two (2) members of the Committee present, Chairman Prochaska exercised County Rule 14.D and appoint Member Vickers to create a quorum.

**APPROVAL OF AGENDA**

Member Gengler made a motion, seconded by Member Vickers, to approve the agenda with an amendment to move Petition 19-35 to the second item under Petitions. With a voice vote of four (4) ayes, the motion carried.

**APPROVAL OF MINUTES**

Member Gengler made a motion, seconded by Member Vickers, to approve the minutes of the October 7, 2019, meeting. With a voice vote of four (4) ayes, the motion carried.

**PUBLIC COMMENT**

None

**EXPENDITURE REPORT**

*Review of Expenditures from the Prior Month*

The Committee reviewed the Expenditure Report. Member Gengler made a motion, seconded by Member Vickers, to forward the expenditures to the Finance Committee. With a voice vote of four (4) ayes, the motion carried.

**PETITIONS**

*19 – 26 – Edward Baltz and Robert Baltz on Behalf of Erb Properties (Owner) and Thomas and Zurliene and Tyler Zurliene on Behalf of TZ Landscaping (Tenant)*

Mr. Asselmeier summarized the request.

Edward and Robert Baltz, on behalf of Erb Properties, LLC, and Thomas and Tyler Zurliene, on behalf of TZ Landscaping, LLC are requesting an A-1 Special Use to operate their landscaping business at the subject property.

In January 2019, a complaint was filed with the Planning, Building and Zoning Department that a  
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landscaping business was operating at the subject property without a special use permit. The Petitioners desire to lawfully operate a landscaping business at the subject property.

TZ Landscaping, LLC wants to purchase the property from the current owners. The landscaping business currently does not have access to the house on the property.

The area subject to the special use permit is approximately ten (10) acres in size, but the business will be operating only on a small portion of the property.

The property is zoned A-1 and is used as an agricultural/farmstead. The future land use of the property is commercial.

Route 52 is a State maintained highway. The City of Joliet has a trail planned along Route 52.

No floodplains or wetlands are present.

The adjacent land uses and zoning classifications are agricultural, with residential uses planned in the future.

A new Minooka School District High School was planned at the northeast corner of Route 52 and Line Road.

The A-1 SU to the east is for fertilizer sales and storage and the A-1 SU to the west is probably for an airstrip.

The EcoCAT Report was submitted and consultation was terminated.

The Natural Resource Inventory application was submitted on June 17, 2019. The LESA Score was 214 indicating a medium level of protection.

Petition information was sent to Seward Township on June 24, 2019. The Seward Township Planning Commission met on July 22, 2019. Discussion occurred regarding burning of material onsite, the placement of a berm along Route 52, the placement of trees along the east, west, and south sides, organization and storage of materials, maintenance of buildings, proper parking, and well and septic concerns. The Petitioner told the Commission that they will clean up the property. The Seward Township Planning Commission recommended approval with one (1) member absent. The Seward Township Board also met on July 22, 2019 and discussed similar concerns as the Seward Township Planning Commission. Discussion occurred regarding placing a berm on three (3) sides of the property and demolishing one (1) of the barns and replacing it with a new barn. The Seward Township Board recommended approval with one (1) member absent.

Petition information was sent to the Village of Shorewood on June 24, 2019. On July 2, 2019, the Village of Shorewood submitted objections to the proposal. They requested an eight foot (8') tall privacy fence to fully screen the materials stored outdoors, properly maintain the existing structures and cleanup debris, and ensure adequate stormwater management of existing and impervious surfaces. The Village opposed any variances to the sign ordinance.

Petition information was sent to the City of Joliet on June 24, 2019. They declined to submit comments per their boundary agreement with the Village of Shorewood.

Petition information was sent to the Minooka Fire Protection District on June 24, 2019. To date,

no comments have been received.

ZPAC reviewed this proposal at their meeting on July 2, 2019. Greater specificity was needed regarding the location and size of berms and other screening. Concerns were expressed regarding stormwater runoff control. The Kendall County Health Department requested that the septic field be located. The Petitioners withdrew their request for a sign variance; they intend to install a two (2) sided sign. The consensus of ZPAC members was to forward the proposal to the Kendall County Regional Planning Commission.

The Kendall County Regional Planning started their review of this proposal at their meeting on July 24, 2019. Discussion occurred regarding the nature, location, and timing of installation of fencing, berming, and plantings. Discussion also occurred regarding the location and timing for construction of a new pole barn on the building. The Petitioners requested a layover in order to add greater specificity to their site plan and landscaping.

On August 23, 2019, the Petitioners submitted a revised site plan, which was provided. Also on August 23, 2019, Staff responded with an email outlining several defects with the site plan and with additional questions. This email was provided. The matter was laid over until the September meeting.

On September 18, 2019, the Petitioners submitted another revised site plan, which was provided. This site plan did not include contours and the proposal was laid over until the October meeting.

On October 15, 2019, the Petitioners submitted another revised site plan, which was provided. The Kendall County Regional Planning Commission reviewed this Petition at their meeting on October 23, 2019, with the revised site plan of October 15<sup>th</sup>. The Petitioners agreed with the proposed Findings of Fact and conditions proposed by Staff. The Kendall County Regional Planning Commission recommended approval of the proposal with the conditions proposed by Staff by a vote of seven (7) in favor and zero (0) in opposition. Two (2) members of the Commission were absent.

The Kendall County Zoning Board of Appeals opened the public hearing on this proposal on July 29, 2019. Because of site plan defects, the hearing was continued until September 30, 2019, and October 28, 2019. The minutes of the July 29<sup>th</sup> and September 30<sup>th</sup> hearings for this Petition only were provided. At the October 28, 2019, portion of the hearing, nobody testified in opposition to the request and the Petitioners agreed to follow the proposed conditions and restrictions. The Kendall County Zoning Board of Appeals recommended approval with conditions proposed by Staff with a vote of five (5) in favor and zero (0) in opposition with two (2) members absent. The minutes of the hearing/meeting were provided.

The Petitioners submitted revised site plans on September 18<sup>th</sup> and October 15<sup>th</sup>. According to these site plans, the Petitioners will demolish the crib on the east side of the property and construct a new sixty foot by one hundred twenty foot (60'X120') building at approximately the same location as the crib. The new building will be approximately thirty-one feet (31') feet off of the eastern property line. Restrooms will be placed inside the building; portable restrooms will be used until completion of the new building. No date was provided regarding the demolition of the crib. The construction of the new building will occur within three (3) years of the landscaping business acquiring ownership of the property.

The site plans also provided for storage area for sand, rock, gravel, soil, and mulch. The concrete storage area will be ninety feet by fifteen feet by six feet (90'X15'X6') and will be

installed by March 2020. Two (2) shipping containers will be onsite. The containers will each be eight feet by forty feet (8'X40'). A brick area will be thirty feet by thirty feet (30'X30'). A thirty foot by sixty foot (30'X60') debris area is also planned to store concrete waste, brick waste, grass clippings, and branches. This debris eventually will be hauled offsite. The debris area will use the same type of encasements as the gravel, soil, and mulch area. A new gas area measuring ten feet by fifteen feet (10'X15') will be installed.

Any new buildings constructed onsite will require building permits. If the existing buildings are going to be used for storage and not repair of vehicles or office operations, no change in occupancy is required.

The site plan shows parking east of the existing house. This parking area will need to comply with the one hundred fifty foot (150') setback requirement in the A-1 Zoning District. The parking area will be gravel. The parking area will be forty-five feet by sixty feet (45'X60'). No customers will come to the property.

Currently, one (1) pole light and one (1) exterior barn light are located on the property. The Petitioners plan to install security lights with the new building. No specifics about the lights was provided.

The Petitioners plan to install one (1) five foot by six foot (5'X6') sign north of the berm. No information was provided regarding the height of the sign.

According to the site plans, the Petitioners plan to install one hundred twenty-four (124) Techny Arborvite along the western, eastern, and southern portions of the site. The Arborvitae will be three feet (3') in height at the time of planting. They will be planted approximately ten feet (10') apart and will be fifteen to twenty feet (15'-20') from the property line. They will grow approximately fifteen feet (15') in height. Planting will occur by October 2020.

None of the existing trees along Route 52 will be removed.

A berm three feet (3') in height and six feet (6') in width will be installed for a length of fifty feet (50') east of the driveway. The berm will be made of dirt and seed. The berm will be installed by October 2020.

The property drains to the south of the proposed business operations. The Petitioners did not provide any additional information regarding contours, drainage, or dimensions of impervious surface. A stormwater management permit will be required.

The approved Findings of Fact were as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided that landscaping materials are properly stored, that appropriate screening is installed, that the well and septic systems are operational and sized to handle the proposed use, and that applicable building and stormwater permits are secured, the proposed use will not be detrimental to or endanger the public, health, safety, morals, comfort, or general welfare.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general

area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. The subject property is shown as commercial on the future land use map. Provided that landscaping materials are properly stored and that appropriate screening is installed, the proposed use should not adversely impact adjacent uses.

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

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. Provided the Petitioners comply with all applicable laws, the proposed business and site plan conform to all other applicable regulations of the A-1 Zoning District.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. The LRMP encourages agriculture and agribusiness (Page 3-3). The proposed use is consistent with the purpose and objectives of the LRMP.

Staff recommends approval of the requested special use permit subject to the following conditions:

1. The site shall be developed substantially in accordance with the attached site plan (dated October 14, 2019).
2. Any new structures constructed on the property shall not be considered for agricultural purposes and must secure applicable building permits.
3. One (1) business related five foot by six foot (5'X6') sign shall be allowed on the subject property as shown on the attached site plan. The sign will not be illuminated.
4. The parking area shown on the site plan shall be located to comply with the Kendall County Zoning Ordinance, shall be gravel, and shall be approximately forty-five feet by sixty feet (45'X60') in size.
5. A berm three feet (3') in height as measured from the top of the berm to the base of the berm shall be erected east of the driveway as shown on the site plan. The berm shall be six feet (6') wide at the base, shall extend approximately fifty feet (50'), and shall be made of dirt and seed. The berm shall be installed by October 2020.
6. One hundred twenty-four (124) Techny Arborvitae shall be planted in substantially the locations shown on the attached site plan. The arborvitae shall be three feet (3') tall at the time of planting and shall grow to approximately fifteen feet (15'). The arborvitae shall be installed by October 2020. Damaged or dead arborvitae shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.

7. Any materials associated with the landscaping business stored outdoors, including the debris area and brick area, must be stored on concrete pads with blocks on three sides of the materials in substantially the same locations as shown on the site plan. The concrete pads must be installed by March 2020.
8. Equipment and vehicles related to the business may be stored outdoors.
9. Within sixty (60) days of the approval of this special use permit, the Petitioners shall supply the Kendall County Health Department with the locations of the existing well and septic systems on the property. This deadline may be extended by mutual agreement between the Petitioners and the Kendall County Health Department.
10. No landscape waste generated off the property can be burned on this site.
11. A maximum of fifteen (15) employees of the business allowed by this special use permit may report to this site for work. No employees shall engage in the sale of landscaping related materials on the property.
12. No customers of the business allowed by this special use permit shall be invited onto the property by anyone associated with the use allowed by this special use permit.
13. The hours of operation of the business allowed by this special use permit shall be Monday through Saturday from 6:00 a.m. until 8:00 p.m. between the months of April and November. The business allowed by this special use permit may operate at any time between the months of December and March.
14. The property owner and operator of the business allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business.
15. Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permit.
16. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

A draft ordinance was provided.

Chairman Prochaska asked if Erb Properties, LLC agreed to these conditions. One of the Zurlienes responded that they (TZ Landscaping) intends to purchase the property. They agreed with the proposed conditions.

Member Vickers made a motion, seconded by Member Gengler, to forward this Petition to the County Board.

The votes were as follows:

Yeas (3): Gengler, Vickers, and Prochaska  
Nays (0): None  
Abstain (0): None

Absent (3): Flowers, Gilmour, and Kellogg

The motion carried. The proposal will go to the County Board on November 19, 2019.

19 – 35 – John and Laura Gay

Mr. Asselmeier summarized the request.

John and Laura Gay would like to establish a kennel, The Pets Home Pet Resort and Spa, at the subject property which they own at 3601 Plainfield Road. They are also requesting a variance to allow the kennel to be approximately thirty feet, six and one half inches (30'-6 ½") from property zoned other than residential at the kennel's closest point with neighboring property.

The property is approximately five (5) acres in size and the special use area is approximately four point seven (4.7) acres in size.

The existing land use is agricultural and single-family residential. The future land use is suburban residential. There are no trails planned in the area. There are no floodplains or wetlands on the property, but Morgan Creek runs along the northern boundary of the property.

The adjacent land uses are agricultural, farmstead, and single-family residential. The adjacent zoning is A-1. The Land Resource Management Plan calls for the area to be suburban residential with commercial to the south of the property. The adjacent zonings are A-1 and R-1 in the County and R-2 inside the Village of Oswego.

The Ashcroft Place subdivision is located within one half mile (1/2) to the north.

The Deerpath Trails and Morgan Crossing subdivisions are located within one half (1/2) mile to the west.

EcoCat submitted on July 22, 2019, and found no protected species or sites in the vicinity.

NRI application submitted on September 12, 2019. The LESA Score was 170 indicating a low level of protection.

Oswego Township was emailed information on September 23, 2019. On October 9, 2019, Oswego Township submitted comments regarding this proposal. They do not object to the proposal, but would like adequate screening around the property.

Oswego Fire Protection District was emailed information on September 23, 2019. They requested the building to be fire alarmed. They requested the building to be sprinkled. They also requested turn-around capabilities for fire apparatus on the subject property. The Petitioners agreed to amend their site plan to have a turn-around area and submitted a revised site plan to that effect.

The Village of Oswego was emailed information on September 23, 2019.

ZPAC met on this proposal on October 1, 2019. Discussion occurred regarding the Oswego Fire Protection District's requests. The Petitioners stated they would examine the Oswego Fire Protection District's requests. The Highway Department requested a fifteen foot (15') right-of-way dedication along the entire existing frontage of Plainfield Road to be used as Plainfield Road right-of-way. Discussion occurred regarding the number of vehicle trips at the property. The

Health Department requested to work with the Petitioners regarding their well and septic systems. ZPAC recommended approval by a vote of seven (7) in favor, zero (0) in opposition, and three (3) members absent. The ZPAC minutes were provided.

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on October 23, 2019. Discussion occurred about future land uses in the area, the need for appropriate screening and fencing, having the animals inside after dusk to reduce noise, and the number of employees at the site during and after hours of operation. A neighbor, John Constantine, requested that the Commission approve the requested special use permit. The Kendall County Regional Planning Commission recommended approval of the requested special use permit and variance with the conditions proposed by Staff with a vote of seven (7) in favor and zero (0) in opposition. Two (2) members of the Commission were absent.

The Kendall County Zoning Board of Appeals held a public hearing on this request on October 28, 2019. No members of the public testified in favor or in opposition to the request. The Kendall County Zoning Board of Appeals recommended approval with conditions by a vote of five (5) in favor and zero (0) in opposition with two (2) members absent. The minutes of this hearing/meeting were provided.

The Petitioners currently reside in the one-story frame house on the property.

Because of the shape of the property, a variance is required to the distance from the kennel to non-residentially zoned property.

According to the information provided to the County, the Petitioners plan to offer pet daycare, boarding, and grooming services. The proposed hours of operation are Monday through Sunday from 6:00 a.m. until 6:00 p.m. However, the Petitioners would like to have the option to be closed on weekends and to allow boarders to drop-off and pick-up pets on the weekends on a pre-scheduled basis. The Petitioners plan to hire five (5) employees. The maximum number of pets planned for the site is one hundred (100). Per the Kendall County Zoning Ordinance, all animals will be indoors by sunset. The Petitioners believe the area is lacking this type of service.

As noted in the site plan, the Petitioners plan to construct an approximately four thousand, one hundred fifty (4,150) square foot building southeast of the existing home on the property. The building shall consist of fourteen (14) rooms including a lobby, manager's office, restroom, bathroom, break room, laundry, pet bathing room, three (3) pet suites, and pet areas for small, medium, and large pets. A six foot (6') tall wood fence would be located approximately fifteen feet (15') from the building to the southeast and northeast. The fenced area would be approximately six hundred twenty (620) square feet in size and serve as a play area for the pets.

Building and Occupancy Permits will be required for the new building.

The Petitioner indicated that they are working with the Health Department regarding well and septic facilities.

The property fronts Plainfield Road and curb cut already exists for the proposed driveway for the kennel. The Petitioners are going to remove an existing driveway connection on the property. If this removal occurs, there would be one (1) dedicated entrance for the residence and one (1) dedicated entrance for the kennel.

The Petitioners believe most of the traffic generated by the proposed business will occur in the

morning and early evening when patrons drop-off and pick-up their pets.

The Petitioners propose to install an eleven (11) spot parking lot. One (1) of the spaces would be handicapped accessible. The parking lot would access Plainfield Road through a twenty-two foot (22') wide asphalt driveway.

The Petitioners plan to installed three (3) lights along the driveway and in the parking lot. These lights are twelve feet (12') in height. Two (2) wall pack will be installed along the east side of the building. Four (4) wall lights will be installed on the building; three (3) will be on the north side of the building and one (1) will be on the east side of the building. The description of the types of lighting that might be installed were provided. The exact light fixtures are not known.

The Petitioners plan to have one (1) sign along Plainfield Road.

The Petitioners plan to install eight (8) canopy trees, six (6) deciduous shrubs, twenty-eight (28) evergreen shrubs, and six (6) groundcovers, grass, and perennials. The specific location of the plants can be found on the site plan.

The Petitioners believe the distance of their facility to existing houses combined with having the pets indoors by sunset will prevent any noise issues.

The Petitioners plan to install an eight foot by ten foot (8' X 10') refuse enclosure at the northeastern end of the parking lot. The enclosure is proposed to be six feet (6') tall surrounded by brick with a steel gate for access. Refuse will be picked up weekly.

If approved, this would be the fifth active special use permit for a kennel in unincorporated Kendall County.

The approved Findings of Fact for the special use permit were as follows:

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 operation of the special use will not be detrimental to the public health, safety, morals, comfort, or general welfare. The immediately adjacent properties are also zoned A-1. There are no existing structures on adjacent properties within one hundred feet (100') of the property line. Taking into account the residential properties to the west and southwest of the property, the proposed kennel location will be situated on the east end of the property, thereby well-exceeding the two hundred fifty foot (250') setback requirement from any residential district set forth in the Zoning Ordinance. In addition, the Petitioners have a waste management plan and have considered the impact of noise on surrounding properties. A six foot (6') tall fencing is planned around the outdoor play area. The Petitioners intend to follow the Kendall County Zoning Ordinance as it relates to having all pets inside by dusk.

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. As noted in the previous finding, the proposed special use

will be setback further than the required setback for residentially zoned properties. The Petitioners plan to install a fence and security lighting. The Petitioners agreed to have animals indoors by sunset. The proposed of hours of operation will also prevent injury to neighboring land uses.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. This is true. An existing curb cut is already located off of Plainfield Road at the subject property. The Petitioners will have to secure applicable permits related stormwater, drainage, well, and septic systems.

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 the variance is approved regarding distance to non-residentially zoned or use properties, 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 6-34 of the Kendall County Land Resource Management Plan which calls for “a strong base of agricultural, commercial and industrial uses that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents” through the encouragement “. . . of locally owned businesses.”

The approved Findings of Fact for the variance were as follows:

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. The subject property is triangular in shape and combined with its size of approximately five (5) acres makes it difficult for any use to be greater than one hundred fifty feet (150') from any non-residentially zoned property.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. The configuration of this property is unique among A-1 zoned properties. Most A-1 zoned properties are larger and more rectangular in shaping than the subject property giving them more space for uses to be away from non-residentially zoned property.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The Petitioners did not create the configuration of 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. Provided the site is developed as proposed, the granting of the variation will not be detrimental to the public welfare or substantially injurious to other property or improvements 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. Provided all applicable permits are secured, no threats to public safety should arise. The proposed use will not cause an impairment of light or air to adjacent property.

Increased traffic congestion is not anticipated. If developed as proposed, property values should not be impaired.

Staff recommends approval of the requested special use permit for a kennel and variance subject to the following conditions and restrictions:

1. The site shall be developed substantially in accordance with the attached site plan, security plan, landscaping plan, and lighting plan (provided in the application materials). The site plan shall be adjusted to accommodate a turn-around area for emergency vehicles (shown in the revised site plan). The previously listed plans may be slightly altered to meet the right-of-way dedication mentioned in condition 2.
2. Within one hundred eighty (180) days of approval of this special use permit ordinance, the property owners shall convey a strip of land along the entire Plainfield Road portion of the property to Kendall County to be used as Plainfield Road right-of-way. This dedication shall have a depth of fifteen feet (15') as measured from the right-of-way line that existed on the date of adoption of this special use permit ordinance.
3. A variance is granted to Section 7.01.D.27 of the Kendall County Zoning Ordinance allowing the kennel operation granted by this special use permit to be placed thirty feet, six and one half inches (30' 6 1/2") at its closest point to lot lines of properties zoned other than residential or shown on the Land Resource Management Plan (LRMP) map as non-residential.
4. The use allowed by this special use permit shall be located a minimum of two hundred fifty feet (250') from the lot line of lots zoned residential or shown as Residential on the Land Resource Management Plan (LRMP) map.
5. One (1) non-illuminated sign may be installed on the subject property in substantially the location shown on the site plan (provided in the application materials). The specific location of the sign may be adjusted slightly to reflect the right-of-way dedication in condition 2.
6. A maximum of one hundred (100) pets may be on the subject property at any time.
7. All pets shall be indoors between the hours of sunset and sunrise except for the purposes of owners dropping-off and picking-up pets.
8. The hours of operation for the business allowed by this special use permit shall be Monday through Sunday from 6:00 a.m. until 6:00 p.m. The operator(s) of the business allowed by this special use permit may reduce these hours of operation. Pets experiencing medical emergencies may be tended to outside the hours of operation.
9. The maximum number of employees for the business allowed by this special use permit shall be seven (7), including the business owners.
10. Refuse shall be removed from the subject property at least one (1) time per week or as necessary to prevent litter or odors from emanating from the subject property.
11. Any construction on the property related to the use allowed by this special use permit shall not be considered as agricultural purposes and shall secure applicable permits.
12. The operator(s) of the kennel allowed by this special use permit may sell ancillary items related to their kennel operations.
13. The operator(s) of the kennel acknowledge and agree to follow Kendall County's Right to Farm Clause.

14. The operator(s) of the kennel allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business.
15. Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permit.
16. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

The draft ordinance was provided.

The Petitioners had two (2) changes to the site plan, one (1) regarding the fence and the other change regarded the turn-around area.

Member Flowers arrived at this time (6:45 p.m.).

Caitlin Paloian, Attorney for the Petitioners, explained that the Petitioners wanted to install an eight foot (8') tall vinyl fence instead of a six foot (6') tall wood fence around the pet play area. The Petitioners believe that this change is in harmony with Oswego Township's request for proper screening. The fence would be a vinyl cover over wood. The fence would be white in color. The Petitioners would like to retain the turn-around area. No new access onto Plainfield Road would be required and no additional traffic would be generated by retaining the turnaround area. The Petitioners also do not want to back out of their driveway onto Plainfield Road.

The building will be alarmed and sprinklered.

Member Flowers made a motion, seconded by Member Gengler, to recommend approval of the Petition with the conditions proposed by Staff, the fence amendment requested by the Petitioner, and the access amendment requested by the Petitioner.

The votes were as follows:

Yeas (4):      Flowers, Gengler, Vickers, and Prochaska  
Nays (0):      None  
Abstain (0):   None  
Absent (2):    Gilmour and Kellogg

The motion carried. The Petitioners will revise their site plan for the County Board meeting. The proposal will go to the County Board on November 19, 2019.

19 – 31 – Kendall County Planning, Building and Zoning Committee

Mr. Asselmeier summarized the request.

On June 25, 2019, the Governor signed the Cannabis Regulation and Tax Act (Public Act 101-027). This Act legalized certain recreational cannabis uses and allowed the County to enact reasonable zoning regulations related to these uses.

On August 9, 2019, the Governor signed an Act related to Banking-Cannabis Businesses (Public Act 101-363). Among other actions, this Act amended the Compassionate Use of Medical

Cannabis Pilot Program Act by removing the expiration deadline of medical cannabis related uses and changing the location where a medical cannabis dispensary may locate.

On August 26, 2019, the Kendall County Planning, Building and Zoning Committee voted to initiate text amendments to the Kendall County Zoning Ordinance pertaining to medical and recreational cannabis uses. The Committee wanted medical cannabis related uses to be regulated similarly as recreational cannabis uses from a zoning perspective. The Committee also wanted to have these regulations in place by January 1, 2020.

In summary the changes are as follows:

1. The previously adopted zoning regulations for medical cannabis uses are repealed in their entirety.
2. Definitions of Adult-Use Cannabis Business Establishment, Adult-Use Cannabis Craft Grower, Adult-Use Cannabis Cultivation Center, Adult-Use Cannabis Dispensing Organization, Adult-Use Cannabis Infuser Organization or Infuser, Adult-Use Cannabis Processing Organization or Processor, Adult-Use Cannabis Transporting Organization or Transporter, Medical Cannabis Cultivation Center or Cultivation Center, and Medical Cannabis Dispensing Organization or Dispensing Organization or Dispensary were added to the Zoning Ordinance. These definitions come from the Cannabis Regulation and Tax Act and the Compassionate Use of Medical Cannabis Program Act.
3. Adult-Use Cannabis Craft Growers are proposed to be special uses in the A-1, M-1, M-2 Zoning Districts. They are to be at minimum one thousand feet (1,000') from the property lines of pre-existing public or private nursery schools, preschools, primary or secondary schools, day care centers, day care homes, residential care homes, pre-existing properties zoned or used for residential purposes, pre-existing forest preserves, public parks, and places of worship. This distance requirement is the same distance requirement for outdoor shooting ranges.
4. Adult-Use Cannabis Cultivation Centers and Medical Cannabis Cultivation Centers are proposed to be special uses in the M-1 and M-2 Zoning Districts and will be minimum two thousand five hundred feet (2,500') from the protected uses listed in number 3 previously. Medical Cannabis Cultivation Centers are currently special uses in the M-1 and M-2 Zoning Districts. The distance requirement was set by the Compassionate Use of Medical Cannabis Program Act.
5. Adult-Use Cannabis Dispensing Organizations and Medical Dispensing Organizations are proposed to be special use in the B-3, M-1, and M-2 Zoning Districts and will be at least one thousand feet (1,000') from the uses listed in number 3 previously except pre-existing properties used or zoned residentially. They can be at minimum two hundred fifty feet (250') from residentially used or zoned property. Public Act 101-363 removed the distance requirements for Medical Dispensing Organizations. Onsite consumption of cannabis by the public is not allowed. Hours of operation will be from 6:00 a.m. until 8:00 p.m.
6. Adult-Use Cannabis Infuser Organizations are proposed to be special use in the B-3, M-1, and M-2 Zoning Districts and will be at least one thousand five hundred feet (1,500') from the uses listed in number 3 previously except pre-existing properties used or zoned residentially. They can be at minimum two hundred fifty feet (250') from residentially used or zoned property.

7. Adult-Use Cannabis Processing Organizations are proposed to be special use in the B-3, M-1, and M-2 Zoning Districts and will be at least one thousand five hundred feet (1,500') from the uses listed in number 3 previously except pre-existing properties used or zoned residentially. They can be at minimum two hundred fifty feet (250') from residentially used or zoned property.
8. Adult-Use Cannabis Transporting Organizations are proposed to be special use in the M-1 and M-2 Zoning Districts and will be at least one thousand five hundred feet (1,500') from the uses listed in number 3 previously except pre-existing properties used or zoned residentially. They can be at minimum two hundred fifty feet (250') from residentially used or zoned property. They can only transport cannabis unless allowed by the special use permit.
9. The proposal updates Appendix 9 to reflect the addition of cannabis related uses and correct citation errors caused by adding these uses to the Zoning Ordinance.

At least one (1) Planning, Building and Zoning Committee member favored having cannabis uses in stand-alone buildings.

ZPAC met on this proposal on September 3, 2019. ZPAC issued a neutral recommendation and requested that information regarding surveillance, security, and security related structural requirements be added to the proposed amendment. ZPAC also requested that cannabis uses not be allowed in the B-3 District. The vote was five (5) in favor and one (1) in opposition. Fran Klaas said the County should not create zoning regulations for cannabis because it is illegal federally. The minutes of this meeting were provided.

On September 10, 2019, the Kendall County Regional Planning Commission and Planning, Building and Zoning Committee held a combined meeting. The changes made to the proposal were as follows:

1. Fix the incorrect section reference for craft growers (special uses in the A-1 is Section 7.01.D not Section 7.01.C as was found in the original proposal).
2. Clarify that craft growers may co-locate with dispensing organizations and infuser organizations in the M-1 and M-2 Districts only.
3. Clarify that dispensing organizations may co-locate with craft growers and infuser organizations in the M-1 and M-2 Districts and only with infuser organizations in the B-3 District.
4. Clarify that infuser organizations may co-locate with craft growers and dispensing organizations in the M-1 and M-2 Districts and only with dispensing organizations in the B-3 District.

The minutes of the September 10<sup>th</sup> meeting were provided.

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on September 25, 2019. The consensus of the Commission was to have stricter regulations in place as a starting point. These regulations could be relaxed at some point in the future, if deemed appropriate (i.e. it is easier to grant a land use right than to take away a land use right). The

Kendall County Regional Planning Commission unanimously recommended approval of the proposal with an amendment that all cannabis uses allowed on B-3 zoned property (adult-use and medical dispensing organizations, adult-use infuser organizations, and adult-use processing organizations) be located a maximum one thousand feet (1,000') from an interstate highway. The minutes of this meeting were provided.

The Kendall County Zoning Board of Appeals held a public hearing on this proposal on September 30, 2019. Planning, Building and Zoning Committee Chairman Matthew Prochaska, Commander Jason Langston of the Kendall County Sheriff's Department, and Kendall Township Supervisor Steve Gengler were the only members of the public in attendance. The Zoning Board of Appeals recommended approval of the proposal with the amendment that cannabis business be in stand-alone buildings and that certain cannabis uses be in the B-3 District. The minutes of the meeting were provided.

Townships were notified of this proposal and a combined meeting of the Regional Planning Commission and Planning, Building and Zoning Committee scheduled for September 10<sup>th</sup> on August 28, 2019. On October 1, 2019, the townships were notified of the recommendation of the Kendall County Zoning Board of Appeals and their right to file a formal objection to this proposal. No township filed a formal objection. However, Oswego Township requested that no cannabis sales related business be located in Boulder Hill. Kendall Township requested that adult-use cannabis businesses not be allowed in the B-3 District, but they had no objection to medical cannabis business being allowed in the B-3 District. The correspondence from Oswego Township and Kendall Township were provided.

It has come to Staff's attention that the Cannabis Regulation and Tax Act set the hours of operation for adult-use cannabis dispensing organization at 6:00 a.m. until 10:00 p.m. Accordingly, we request that the proposal be amended to remove the hours of operation of 6:00 a.m. until 8:00 p.m.

The proposed changes to the Kendall County Zoning Ordinance with changes proposed by ZPAC, changes made at the September 10<sup>th</sup> meeting, the change proposed by the Kendall County Regional Planning Commission, and the recommendation of the Kendall County Zoning Board of Appeals were provided.

Maps showing the potential location of cannabis uses were provided.

Dr. Amaal Tokars, Kendall County Health Department, provided information on cannabis dispensary locations in California.

Steve Gengler, Kendall Township Supervisor, said a that neighbor to the township building is considering a cannabis related business license.

The consensus of the Committee was that setbacks be measured from the cannabis use and not the property line of the cannabis use.

Chairman Prochaska left the meeting at this time and Member Flowers assumed the Chair (7:10 p.m.).

Chairman Prochaska returned to the meeting at this time (7:12 p.m.).

Chairman Prochaska made a motion, seconded by Member Flowers to have cannabis uses in

stand-alone buildings only. Discussion occurred regarding the variance process and the text amendment process. Discussion occurred regarding security for stand-alone buildings. Discussion occurred regarding possible locations for cannabis uses and the availability of stand-alone buildings. The consensus of the Committee was craft growers should be in stand-alone buildings. The Committee did not take a formal position on stand-alone buildings for other cannabis uses.

The consensus of the Committee was to include the language requested by the Kendall County Sheriff's Department regarding security systems in each cannabis use.

The consensus of the Committee was to approve craft growers as special uses in the A-1, M-1, and M-2 Districts and the setback should be one thousand feet (1,000') as measured from the cannabis use.

The consensus of the Committee was to add public libraries and game arcades to which admission is not restricted to persons twenty-one (21) years of age or older to the list of protected establishments.

The consensus of the Committee was to have setbacks be two thousand five hundred feet (2,500') as measured from the cannabis use for adult-use cannabis cultivation centers and medical cannabis cultivation centers.

The consensus of the Committee was to remove the barbed wire fencing requirement; the fence would remain at eight feet (8') in height for adult-use cannabis cultivation centers and medical cannabis cultivation centers.

The majority opinion of the Committee was that adult-use cannabis cultivation centers and medical cannabis cultivation centers should be special uses in the M-1 and M-2 Districts. The minority report of the Committee was that adult-use cannabis cultivation centers and medical cannabis cultivation centers should also be a special use in the A-1 District in addition to the M-1 and M-2 Districts.

The consensus of the Committee was to change the hours of operation for adult-use cannabis dispensing organizations and medical dispensing organizations to 6:00 a.m. until 10:00 p.m. to comply with State law.

The consensus of the Committee was to have the setbacks be one thousand feet (1,000') from protected uses and two hundred fifty feet (250') from residentially zoned or used properties as measured from the cannabis use for adult-use cannabis dispensing organization and medical dispensing organizations.

The consensus of the Committee was to have the setbacks be one thousand five hundred feet (1,500') from protected uses and two hundred fifty feet (250') from residentially zoned or used properties as measured from the cannabis use for adult-use cannabis infuser organizations, adult-use cannabis processing organizations, and adult-use cannabis transporting organizations.

The consensus of the Committee was to have adult-use cannabis dispensing organizations, medical dispensing organizations, adult-use cannabis infuser organizations, and adult-use cannabis processing organizations as special uses in the M-1 and M-2 Districts.

Chairman Prochaska favored that cannabis uses on B-3 zoned properties should be within one

thousand feet (1,000') of an interstate highway interchange. Member Gengler favored not allowing certain cannabis uses in the B-3 District entirely. Members Vickers and Flowers favored allowing certain cannabis uses in the B-3. A minority report will be prepared regarding the placement with the one thousand foot (1,000') location restriction or outright restriction of adult-use cannabis dispensing organizations, medical dispensing organizations, adult-use infuser organizations, and adult use cannabis processing organizations as special uses in the B-3 District.

The consensus of the Committee was not to allow onsite consumption of cannabis products by members of the public.

Steve Gengler, Kendall Township Supervisor, reminded the Committee that cannabis uses were never considered when the County zoned certain properties B-3.

The consensus of the Committee was that adult-use cannabis transporting organizations should be special uses in the M-1 and M-2 Districts with setbacks be at fifteen hundred feet (1,500') from protected uses and two hundred fifty feet (250') from residentially zoned and used properties as measured from the cannabis use. The Committee also agreed that this use can only transport cannabis unless allowed by the special use permit.

Member Flowers made a motion, seconded by Member Vickers, to issue a neutral recommendation and inclusion of the minority reports.

The votes were as follows:

Yeas (4): Flowers, Gengler, Vickers, and Prochaska  
Nays (0): None  
Abstain (0): None  
Absent (2): Gilmour and Kellogg

The motion carried. The proposal will go to the Committee of the Whole on November 14, 2019.

### **NEW BUSINESS**

#### **Recommendation on 2019 Noxious Weed Annual Report**

Member Flowers made a motion, seconded by Member Gengler, to recommend approval of the Annual Report.

The votes were as follows:

Yeas (4): Flowers, Gengler, Vickers, and Prochaska  
Nays (0): None  
Abstain (0): None  
Absent (2): Gilmour and Kellogg

The motion carried. The proposal will go to the Committee of the Whole on November 14, 2019.

#### **Review of Fiscal Year 2019-2020 Application Timetable**

The Committee reviewed the application timetable.

Member Flowers made a motion, seconded by Member Gengler, to approve of the application timetable.

The votes were as follows:

Yeas (4): Flowers, Gengler, Vickers, and Prochaska  
Nays (0): None  
Abstain (0): None  
Absent (2): Gilmour and Kellogg

The motion carried.

Approval of Plumbing Inspection Contract Between Kendall County and Randy Erickson, D.B.A. Erickson Construction

Mr. Asselmeier summarized the request.

Kendall County's contract with Randy Erickson, D.B.A Erickson Construction expires in December 2019.

The redlined and clean copies of the contract were provided. The proposed contract is for three (3) years with an additional one (1) year option.

The only change from the current contract is the insurance language. As was discussed with the Committee in June and July. Mr. Erickson would need to raise his fee from One Hundred Forty Dollars (\$140) per inspection to One Hundred Fifty Dollars (\$150) per inspection. Accordingly, the County would need to raise the plumbing inspection fee to One Hundred Sixty Dollars (\$160) to cover the Ten Dollar (\$10) difference. This fee increase will be discussed when the Building Codes are reviewed later this winter.

Member Flowers made a motion, seconded by Member Gengler, to forward the contract to the County Board with the inspection fee increase amendment.

The votes were as follows:

Yeas (4): Flowers, Gengler, Vickers, and Prochaska  
Nays (0): None  
Abstain (0): None  
Absent (2): Gilmour and Kellogg

The motion carried. The proposal will go to the County Board on November 19, 2019.

Approval to Authorize the Chairman of the Planning, Building and Zoning Committee to Send a Letter to the United City of Yorkville Requesting that the United City of Yorkville Amend Their Future Land Use Map for Properties Along Eldamain Road

Chairman Prochaska summarized the issue.

Due to the Illinois Department of Transportation's funding of the Eldamain Road bridge, Chairman Prochaska felt sending the request to the United City of Yorkville was appropriate.

Member Vickers made a motion, seconded by Member Gengler, to authorize the Chairman to send the letter as requested.

The votes were as follows:

Yeas (4): Flowers, Gengler, Vickers, and Prochaska  
Nays (0): None  
Abstain (0): None  
Absent (2): Gilmour and Kellogg

The motion carried.

### **OLD BUSINESS**

#### **Zoning Ordinance Project Update**

Mr. Asselmeier has completed his review of the document. The Comprehensive Land Plan and Ordinance Committee has reviewed Sections 1,2, 3, 4, 5, 6, 7, 8, 9, 10, and 12; they will be reviewing Sections 11, 13, and 14 at their meeting in December.

#### **Update on Amendment to Zoning Ordinance Pertaining to Citation Authority**

The Committee reviewed the proposed changes and felt that the procedure outlined in the proposal was satisfactory, including abolishing the Code Hearing Unit. They also felt that having the enforcement and fine information in one (1) location in the Zoning Ordinance was preferred.

Without objection, the Committee agreed to initiate a text amendment to the Zoning Ordinance as outlined in the proposal.

### **NEW BUSINESS**

#### **Approval of Setting a Date and Time for a Second Meeting of the Planning, Building and Zoning Committee in the Month of November 2019**

A second meeting was not necessary.

### **REVIEW VIOLATION REPORT**

The Committee reviewed the Violation Report. The Committee requested an update on 45 Cheyenne Court.

### **REVIEW NON-VIOLATION COMPLAINT REPORT**

The Committee reviewed the report.

### **UPDATE FROM HISTORIC PRESERVATION COMMISSION**

Mr. Asselmeier reported that the Illinois Historic Preservation Agency completed their review of the Historic Preservation Ordinance and the Historic Preservation Commission will be meeting on November 18<sup>th</sup> to discuss the comments.

### **REVIEW PERMIT REPORT**

The Committee reviewed the report.

### **REVIEW REVENUE REPORT**

The Committee reviewed the report.

**CORRESPONDENCE**

None

**COMMENTS FROM THE PRESS**

None

Mr. Asselmeier noted that the Land Cash Ordinance will be discussed at the Committee of the Whole on November 14, 2019.

**ADJOURNMENT**

Member Flowers made a motion, seconded by Member Gengler, to adjourn. With a voice vote of four (4) ayes, the motion carried. Chairman Prochaska adjourned the meeting at 8:13 p.m.

Minutes prepared by Matthew H. Asselmeier, AICP, Senior Planner